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MONDAY, JUNE 14, 1976

highlights

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reminders

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

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

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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	CSC			CSC
	LABOR			LABOR

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

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

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

Title 7—Agriculture

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

[Lime Regulation 36, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Requirements

The amendment to Lime Regulation 36 continues on and after June 20, 1976, the same grade and size requirements for the handling of fresh Florida limes as are currently in effect through June 19, 1976. The amendment reflects the composition of the currently available supply of limes and is necessary to provide consumers with acceptable size and quality fruit.

On May 6, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 18678), regarding a proposed amendment to said regulation to be made effective pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The proposed amended regulation was recommended by the Florida Lime Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid notice allowed interested persons until May 14, 1976, to submit written data, views, or arguments for consideration in connection with the proposed amended regulation. None were received.

The amended regulation is based upon an appraisal of current and prospective crop and market conditions for Florida limes. Florida lime production for the 1976–77 season is estimated at 1.76 million bushels, which would equal the previous record crop. Fresh shipments for the 1976–77 season began on April 1, 1976, and shipments in increased volume are being made as the season progresses. Total fresh shipments are now expected to require about 950,000 bushels of such production. Ample supplies of acceptable sizes and grades of limes are available to fill fresh market demands. The reestablishment of the regulation is designed to prevent the handling of lower grade and smaller limes, which do not provide consumer satisfaction, and to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Florida Lime Administrative Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that the amended regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amended regulation until July 14, 1976 because the time intervening between the date when information upon which it is based became available and the time when it must become effective in order to effectuate the declared policy of the act is insufficient; and a reasonable time is permitted, under the circumstances, for preparation for such effective time. Shipments of Florida limes are presently subject to grade and size regulation, pursuant to the amended marketing agreement and order; the amended regulation herein specified, except for the new effective dates, is identical with that currently in effect; the recommendation and supporting information for regulation were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on April 7, 1976; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting and thereafter with respect to the May 6, 1976, notice of proposed rulemaking; the provisions of this amended regulation are identical with the proposed regulation contained in said notice, and information concerning such provisions and effective time has been disseminated among handlers of such limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of Florida limes, and compliance with the amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of § 911.338 (Lime Regulation 36; 41 FR 16547) are hereby amended to read as follows:

§ 911.338 Lime Regulation 36.

Order. (a) During the period June 20, 1976, through April 30, 1977, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Provided,* That true limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof:

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further,* That Persian limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescribed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1⅞ inches in diameter.

(b) Notwithstanding the provisions of paragraph (a)(3), not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided,* That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000–51.1016).

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

Dated: June 9, 1976.

Effective date: June 20, 1976.

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

[FR Doc.76–17159 Filed 6–11–76;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1250—EGG RESEARCH AND PROMOTION

Rules and Regulations

Correction

In FR Doc.76–16586, appearing at page 22923, in the issue for Tuesday, June 8, 1976, make the following changes:

1. In § 1250.523(a)(2), change the words "names", "addresses" and "numbers" to read "name(s)", "address(es)" and "number(s)".

2. In the fourth line of § 1250.530(c) insert a comma after the word "days", in the fifth line of the same paragraph, change the word "who" to read "whom".

3. In the twenty-fourth line of § 1250.542, insert a comma after the word "fiscal".

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grains Price Support Regulations, 1976 Crop Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Rice Loan and Purchase Program

A notice of proposed rulemaking was published in the FEDERAL REGISTER on March 2, 1976, (41 F.R. 8978), stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1976 crop rice. Such determinations included determining loan rates, premiums and discounts for grades, classes, other qualities, location differentials, and other provisions as may be needed to carry out the program. Interested persons were given until March 15 to submit recommendations, views, and comments. No responses were received.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops and the 1976 and Subsequent Crops Rice Loan and Purchase Program Regulations are further supplemented, as stated herein, for the 1976 crop of rice. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in §§ 1421.325 through 1421.328 are revised to read as follows:

Sec.
1421.325 Purpose.
1421.326 Availability.
1421.327 Maturity of loans.
1421.328 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note and 1421).

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the regulations specified in § 1421.300–312 of the 1976 and Subsequent Crops Rice Loan and Purchase Program Regulations, apply to loans and purchases for the 1976 crop rice.

§ 1421.326 Availability.

(a) *Loans.* A producer must request a loan on his 1976 crop eligible rice on or before March 31, 1977.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must execute and deliver to the county ASCS office prior to April 30, 1977, a purchase agreement (Form CCC–614) indicating the approximate quantity of rice they will sell to CCC.

§ 1421.327 Maturity of loans.

Unless demand is made earlier, loans on rice will mature on April 30, 1977.

§ 1421.328 Loan and purchase rates.

(a) *Farm-storage loans.* The loan rate for farm-storage rice shall be $6.00 per hundredweight for any class. The settlement rate shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provision of this section and §§ 1421.310 and 1421.22.

(b) *Warehouse-storage loans and purchases.* The loan rate for rice stored modified-commingled and identity-preserved in an approved warehouse shall be the applicable basic rate specified in paragraph (c) of this section, adjusted as provided in paragraphs (e) and (f) of this section. The loan rate for rice stored commingled in an approved warehouse and for settlement for modified-commingled and identity-preserved loans and purchases shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.310 and 1421.22.

(c) *Basic rates.* The basic rate per 100 pounds of rice shall be computed as follows: Multiply the milling yield (in pounds per hundredweight) of whole kernels by the applicable loan rate for whole kernels (as shown in the table below according to class) and round the result to the nearest hundredth. Similarly, multiply the difference between the total milling yield and the whole kernels yield (in pounds per hundredweight) by the applicable loan rate for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of these two computations to obtain the basic loan and purchase rate per 100 pounds of rice and express such rate in dollars and cents.

Loan rates for whole kernels and broken rice [1]

[In cents per pound]

Rough rice class	Whole kernels	Broken rice
Long grains	10.44	4.60
Medium grains	8.94	4.60
Short grains	8.94	4.60

[1] These loan rates may be changed. Such changes, if any, will be made by an amendment to this section issued shortly after Aug. 1, 1976.

(d) *Premium.* The basic rate determined under paragraph (c) of this section shall be adjusted by the following premium:

	Cents per 100 lbs.
Grade U.S. No. 1	5

(e) *Discounts—(1) Grade.* The basic rate determined under paragraph (c) of this section shall be adjusted for grades below U.S. No. 2 by the following discounts:

	Cents per 100 lbs.
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	30

(2) *Smut damage.* The rate for rice evidencing smut damage shall be further adjusted by the following discounts:

PERCENT SMUT DAMAGE

	Cents per 100 lbs.
Trace	0
0.1 to 1.0	5
1.1 to 2.0	10
2.1 to 3.0	15
3.1 and over	25

(f) *Location differentials.* For rice produced in the areas specified below, discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic rate determined under paragraph (c) of this section and shall be in addition to any adjustment under paragraphs (d) and (e) of this section. *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

DIFFERENTIAL TABLE

Area:	*Discount per 100 lbs.*
Imperial County, California, and adjacent counties in Arizona and California	$1.99
State of Florida	2.17
States of North Carolina and South Carolina	1.97
Counties of Marion, Pike, and St. Charles, Mo.	1.30
Counties of Lafayette, Little River, and Miller, Arkansas; Bowie, Texas; McCurtain, Oklahoma; and Bossier Parish, Louisiana	.13

Effective date: This amendment takes effect on June 11, 1976.

Signed at Washington, D.C., on June 4, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-17155 Filed 6-11-76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Codes and Standards for Nuclear Power Plants

On February 12, 1976, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (41 FR 6256) amendments of the Commission's regulation 10 CFR Part 50, which, among other changes, modify the inservice inspection requirements applicable to components and systems of nuclear power reactors through the service life of the facility.

The prefatory language of § 50.55a published on February 12, 1976 states that "each operating license for a utilization facility shall be subject to the conditions in paragraph (g) * * *." The code incorporated by reference in paragraph (g) applies solely to boiling and pressurized water-cooled nuclear power facilities. It appears that use of the overly broad term "utilization facility" in the prefatory language can be construed to apply the ASME Code to facilities not presently covered by it. It was not intended that § 50.55a expand the applicability of section XI of the ASME Code to facilities other than those power reactors to which this Code applies.

Accordingly, the Commission is issuing clarifying amendments to the prefatory language of § 50.55a and to § 50.55a (g) to clarify this intent.

Inasmuch as the amendments set forth below are of a minor nature, good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary, and for making the amendments effective June 14, 1976.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

In § 50.55a, the prefatory language is amended as set forth below. In paragraphs (g)(1), (g)(2), (g)(3), the prefatory sentence of paragraph (g)(4), paragraphs (g)(4)(v) and (g)(5)(i) are amended by adding the term "boiling or pressurized water-cooled nuclear power" before the term facility.

§ 50.55a Codes and Standards.

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55.

* * * * *

Effective date: These amendments become effective on June 14, 1976.

(Secs. 103, 104, 1611, Pub. Law 83-703; Stat. 936, 937, 948, (42 U.S.C. 2133, 2134, 2201(i).)

Dated at Bethesda, Maryland this 3d day of May 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76-17287 Filed 6-11-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0029; Reg. C]

PART 203—HOME MORTGAGE DISCLOSURE

Implementation Regulations

By notice of proposed rulemaking published in the FEDERAL REGISTER on March 31, 1976 (41 F.R. 13619), the Board of Governors of the Federal Reserve System proposed for comment a new Part 203 (Regulation C) to implement the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89 Stat. 1125 et seq.) [hereinafter referred to as "the Act"], which requires the disclosure of mortgage loan data by depository institutions that both make federally related mortgage loans as determined by the Board and are located in standard metropolitan statistical areas. These proposals were issued pursuant to section 305 of the Act which requires the Board to prescribe implementing regulations. A public hearing regarding the proposals was held on April 22, 1976. Comments were received through May 3, 1976.

After consideration of all comments received, statements made at the hearing, and staff analyses and recommendations, the Board has determined to adopt the regulations substantially as proposed. The purposes of the regulations are, among other things, to describe the mortgage loan data to be disclosed, indicate the extent to which such data are to be itemized by census tracts or ZIP codes, suggest a guideline mortgage loan disclosure statement form, specify the dates by which mortgage loan disclosure statements are to be made available to the public, and establish procedures to be followed by State-chartered depository institutions seeking an exemption from the Act. Nothing in the regulations is intended to encourage unsound lending practices or the allocation of credit.

The most significant changes made in the regulations since they were proposed are the following:

1. The category of mortgage loans to be disclosed has been narrowed to exclude junior lien loans (except for home improvement purposes) and first lien loans where the lien arises incidentally in connection with a business loan. Two kinds of mortgage loans will be required to be reported: "residential mortgage loans" and "home improvement loans." Residential mortgage loans are defined to include only first lien loans to purchase or improve residential real property. Home improvement loans will include loans that the depository institution records on its books as home improvement loans and that are unsecured, or secured by collateral other than the property to be improved, or secured by junior liens on the property to be improved.

2. The deadline for making available the initial mortgage loan statements has been extended by one month to September 30, 1976.

3. Depository institutions will be required to take affirmative action to notify their depositors of the availability of the mortgage loan disclosure statements and to designate in their mortgage loan disclosure statements the name and address of their respective Federal enforcement agency.

A discussion of the regulations, including the substantive changes made since the proposals were announced, follows.

SECTION 203.2—DEFINITIONS

Definition of "depository institution."—"Depository institution" is defined to mean any commercial bank, saving bank, savings and loan association, building and loan association, homestead association (including cooperative banks), or credit union, which makes federally related mortgage loans. Any majority-owned subsidiary of a depository institution is deemed to be part of its parent depository institution for the purposes of the home mortgage disclosure regulations.

As proposed, the Board has exercised its general regulatory authority pursuant to the Act to bring the mortgage lending operations of majority-owned subsidiaries under the coverage of the Act. Without such a provision, the Board believes that an inaccurate and incomplete picture of the mortgage lending practices of a depository institution might be presented if the institution conducts all or part of its mortgage lending operations in a subsidiary. Moreover, without this provision, a depository institution might avoid the Act entirely by originating all its federally related mortgage loans through its subsidiary. This approach is consistent with other provisions of Federal law that, in effect, treat a depository institution and its subsidiary as one entity. However, the Board does not believe that it is necessary to extend coverage to collateral affiliates of depository institutions.

The proposed definition was amended to clarify the following:

1. A depository institution is subject to the Act if either it or its majority-owned subsidiary makes federally related mortgage loans.

2. The assets of the majority-owned subsidiary are to be combined with the assets of the parent in determining whether the depository institution meets

the total asset limitation of $10,000,000 to qualify for an exemption.

3. In view of the definition of "branch office" (discussed hereinafter), none of the offices of the majority-owned subsidiary would be considered to be a home or branch office of the parent for the purpose of determining for which standard metropolitan statistical area ("SMSA") the parent must prepare statements. If a majority-owned subsidiary is located in a SMSA in which the parent does not have a home or branch office, loans originated or purchased by the subsidiary on property in that SMSA are to be included in the aggregate mortgage loan data relating to loans on residential real property located outside the relevant SMSA (or SMSAs).

4. Mortgage loans originated or purchased by a majority-owned subsidiary must be included in the mortgage loan disclosure statements to be made available at offices of the parent depository institution. A depository institution may decide, at its option, whether to show loans of the subsidiary separately, or on a consolidated basis, in its disclosure statement.

Definition of "branch office."—This section was adopted without change. A "branch office" is defined to mean any office approved as a branch of the depository institution by that depository institution's federal or State supervisory agency. Administrative offices, data processing offices, and loan production offices are excluded because these offices are not approved as branches. Electronic banking machines, such as automated tellers and point-of-sale terminals, are excluded because the Board does not regard machines as "offices."

Definition of "federally related mortgage loan."—The definition of "federally related mortgage loan" adopted by the Board is essentially the definition of that term in the Real Estate Settlement Procedures Act of 1974. The result is that every depository institution (with assets of more than $10,000,000) located in a SMSA is subject to the home mortgage disclosure regulations if (i) it makes first lien mortgage loans on one- to four-family residences in the United States or Puerto Rico, and (ii) it is federally insured or regulated, or originates loans that are insured or guaranteed by HUD, or are intended to be sold to FNMA, GNMA, or the FHLMC.

The only change made in the definition is the addition of the phrase "located in a State" to exclude loans on property located outside the United States and Puerto Rico. It would be unduly burdensome to require depository institutions to review their foreign loan files for the few mortgage loans they may make outside the country, and reporting of such loans does not appear necessary to effectuate the purposes of the Act.

Definitions of "mortgage loan" and "residential mortgage loan."—"Mortgage loan" is defined in the regulation to mean any "residential mortgage loan" or any "home improvement loan." The narrower term "residential mortgage loan," in turn, is defined as a loan which is secured by a first lien on residential real property located in a State, including a first lien refinancing of an existing loan, but does not include (i) temporary financing, (ii) purchase of an interest in a pool of mortgage loans, or (iii) a loan made primarily for purposes other than the purchase, repair, rehabilitation or remodeling of residential real property, but in connection with which a first lien on the residential real property is taken as collateral.

In adopting the final definitions, the Board made the following changes from the proposals:

1. The proposals did not have a definition of "residential mortgage loan" but included such loans in the definition of the broader term "mortgage loan." The adoption of the term "residential mortgage loan" is a technical device that permits a clearly identifiable segregation in the disclosure statement of home improvement loans from other statutorily-defined "mortgage loans" and minimizes the use in the disclosure statement of the term "mortgage loan," which is not generally understood as including home improvement loans.

2. There was general agreement among depository institutions and consumer and public interest groups that inclusion of mortgage loans unrelated to housing needs would distort the data from the standpoint of the purposes of the Act and that first lien loans should be separately identified. The Board believes that repeated references in the legislative history of the Act to "homeownership and home repair" support a narrower definition of mortgage loan than was proposed. Accordingly, the final regulations exclude mortgage loans secured by junior liens (except loans secured by junior liens that are undertaken for home improvement purposes) and loans made primarily for business or consumer purposes but in connection with which a first lien is taken as collateral. For example, the latter exclusion would apply to loans made in the following kinds of situations: (1) a commercial loan is made to a small business and a lien is taken on the property of the officer or owner as additional collateral; (2) a loan is undertaken by the borrower for business purposes and he executes a confession of judgment note which, when recorded, effects a lien upon all real property of the borrower in the county where the note is recorded; and (3) a commercial or consumer loan is initially unsecured but the borrower subsequently encounters problems causing the depository institution to demand collateral.

3. Rather than excluding from mortgage loans to be reported all refinancings involving no increase in the unpaid principal amount which was the proposal, the Board has decided that different treatment is appropriate for originations and purchases. Purchasers of refinanced residential mortgage loans will report all refinanced loans since, from their standpoint, there is no reason to distinguish between an original loan and a refinanced loan. An originator of a refinanced residential mortgage loan, however, will not be permitted to report a refinanced loan if the depository institution and the borrower were the same parties to the loan being refinanced and no additional principal is advanced. If the originator advances additional principal, the loan would be reported in the full principal amount of the refinanced loan since, in effect, it is an entirely new loan. The Board has implemented this distinction by defining all first lien refinancings as residential mortgage loans but providing in section 203.4(a)(4)(i)(A) of the regulations for the exclusion of originated refinancings in the circumstances described herein.

4. For the reason discussed earlier, the phrase "located in a State" has been added.

5. There were several requests for the Board to clarify the term "temporary financing." The intent of the lender and borrower would be determinative in a particular case, but essentially the term refers to short-term lending where a source of permanent financing will later be required. For example, in addition to construction loans, it would also apply to "bridge financing" where a purchaser of a new home needs temporary financing to provide payment for the new home pending the sale and receipt of the proceeds from his prior residence. Whether or not there is a firm take-out commitment for permanent financing, the Board regards these temporary loans as commercial or consumer loans rather than mortgage loans and believes their inclusion in the term "mortgage loan" would distort the data contrary to the purposes of the Act.

Definition of "home improvement loan."—"Home improvement loan" is defined to mean an unsecured loan or a loan secured by collateral other than a first lien on residential real property that meets both of the following conditions: (i) the proceeds of the loan are to be used for the purpose of repairing, rehabilitating, or remodeling an existing residential dwelling located in a State as stated by the borrower to the lender at the time of the loan transaction, and (ii) that is recorded on the books of the depository institution as a home improvement loan.

The definition has been amended to clarify that both conditions must be met and that condition (ii) refers to the recording of the loan as a home improvement loan rather than the recording of the statement of the borrower. The two substantive changes made in the final definition are:

1. A loan that might be used for home improvement purposes and that is secured by a first lien on the property is to be reported as a "residential mortgage loan" rather than a "home improvement loan." The Board has decided that it is preferable that the nature of the collateral take precedence over the purpose of the loan in this case for the purpose of the disclosure statement because of the emphasis placed on first lien loans by consumer and public interest groups and in the light of similar treatment in

financial statements required to be filed with federal supervisory agencies. The Board believes that the mortgage loan data will not be significantly affected by this classification because first lien loans for home improvement purposes are comparatively rare.

2. For the reason discussed earlier, the phrase "located in a State" has been added.

Some depository institutions have classified loans on their books as home improvement loans for the purpose of State law that do not meet the purpose statement (i.e., condition (i)) of the Board's definition. It would be very burdensome and, perhaps, impossible for such institutions in preparing their initial mortgage loan disclosure statements to isolate those loans that meet the State law definition but do not meet the Board definition. Accordingly, the Board has provided in section 203.4(a)(4)(ii)(A) that, with respect to the disclosure statement for a full fiscal year ending prior to July 1, 1976, depository institutions may elect to follow the State law definition that they used in classifying home improvement loans provided they make clear in the statement that the State law definition is being utilized.

Some depository institutions objected to the inclusion of unsecured home improvement loans. The Board's review of the legislative history of the Act does not lend support to that view, and the Board is adhering to its proposal in that regard. A technical change has been made in several places in the regulations by adding the phrase "or, in the case of home improvement loans, the property to be improved" to conform to the inclusion of unsecured loans.

A question has also been raised as to whether home improvement installment sales contracts that are discounted by depository institutions should be considered to be "home improvement loans." It is the Board's view that where a depository institution has an arrangement with a vendor whereby the institution will investigate the creditworthiness of the consumer prior to the services being rendered and purchase the installment sales contract when it has approved the credit, such contracts should be considered to be home improvement loans if recorded on the books of the depository institution as home improvement paper or a home improvement loan.

Definition of "residential real property."—The only change made in the definition of "residential real property" is to make clear that the term includes dwellings for from two to four families, as well as single-family homes, multi-family dwellings, and individual units of condominiums and cooperatives.

Definition of "State."—For the reason discussed earlier, the term "State" has been added and is defined to include any State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

SECTION 203.3—EXEMPTIONS

This section has been adopted without change. It provides for the exemption of depository institutions that (1) have no more than $10,000,000 in total assets, or (2) do not have a home or branch offices in standard metropolitan statistical areas ("SMSAs"), or (3) are State-chartered institutions that the Board determines are subject to similar State mortgage disclosure laws. A depository institution that loses its exemption must make available a mortgage loan disclosure statement for each year beginning with its last full fiscal year prior to the loss of the exemption and will be permitted to use ZIP code itemization in its initial statement.

There are not likely to be many changes in the definitions of SMSAs prior to the expiration date of the Act that would cause a depository institution to lose its exemption. However, to apprise institutions of such changes, the Board is undertaking to issue a timely announcement in the event any changes are made by the Office of Management and Budget. A list of the currently defined SMSAs as of the effective date of these regulations is available from the Board or the Reserve Banks and is being distributed to the other Federal enforcement agencies for their use and the use of the institutions they supervise.

SECTION 203.4—COMPILATION OF MORTGAGE LOAN DATA

Breakdowns of required mortgage loan data.—This section establishes six categories of mortgage loan data: (i) FHA, FmHA, or VA loans except on multi-family dwellings; (ii) all other residential mortgage loans except on multi-family dwellings; (iii) total residential mortgage loans except on multi-family dwellings (which is the sum of the preceding two categories); (iv) total home improvement loans except on multi-family dwellings; (v) total mortgage loans on multi-family dwellings; and (vi) all mortgage loans to non-occupants of the property, except loans on multi-family dwellings. (The first five categories include loans to both occupants and non-occupants, and the last category is merely an addendum item.) Each of these categories must be broken down into originated loans and purchased loans, and further broken down into loans on property located within the relevant SMSA and loans on property located outside the relevant SMSA (or SMSAs).

A number of technical and conforming changes discussed above and certain clarifying changes have been made in the final regulations regarding the breakdowns. The significant changes are the following:

1. The addendum category for non-occupant loans has been eliminated only with respect to mortgage loan data relating to residential real property located outside the relevant SMSA (or SMSAs). The data on outside SMSA loans are aggregate figures without further geographical itemization. Elimination of the aggregate figure for such loans made to non-occupants will not diminish the usefulness of the data, but will significantly reduce the reporting burden on depository institutions.

2. In recognition of the need to clarify the term "reside" for the purpose of the non-occupant loan category, the Board has indicated in the regulation that the term refers to principal dwelling. Accordingly, a loan or a second home or summer home would be regarded as a loan to a non-occupant. The Board believes that such interpretation of the term best effectuates the purposes of the Act.

3. A category for total residential mortgage loans except on multi-family dwellings has been added to supply a simple calculation for those who are not interested in a breakdown of residential mortgage loans between conventional loans and FHA, FmHA, and VA loans. The Board believes that such a category is more useful than the category proposed in the guideline disclosure statement form for "total mortgage loans" that summed up residential mortgage loans, home improvement loans, and loans on multi-family dwellings.

Geographical itemization of the data.—The Board has adhered to its proposed approach regarding geographical itemization of mortgage loan data. Prospective mortgage loan data relating to residential real property located within the relevant SMSA must be further itemized by the census tract in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located; itemization may be by ZIP codes, in lieu of census tracts, only to the extent that the area in which the property is located is not tracted on the PHC–(1) census tract maps prepared by the Bureau of the Census. However, with respect to a full fiscal year ending prior to July 1, 1976, mortgage loan data relating to residential real property located within the relevant SMSA may be itemized by ZIP codes, in lieu of census tracts, in all cases; ZIP code itemization of the data for a part of a fiscal year is also permissible if that part ends on June 30, 1976, provided that a separate statement for such a short year is furnished. The reasons that the Board has adhered to this approach are discussed at length later in this notice.

The PHC–(1) Series reports containing the tract maps may be ordered through the U.S. Government Printing Office at prices ranging from $.45 to $12.75, (with 97 per cent of the reports priced at less than $4.00). There has been some difficulty in the past in obtaining the reports for certain SMSAs. To assure that maps will be available, the Bureau of the Census has undertaken to become another public source of the maps at a similar price range. (Inquiries should be addressed to Customer Services Branch, Data User Services Division, Bureau of the Census, Washington, D.C. 20233.) Census block maps, providing greater geographical detail for urbanized core areas of SMSAs, may also be ordered through the Government Printing Office or the Bureau of the Census. There are

also commercial firms that produce the maps, frequently with special overlay features, including at least one company that publishes an atlas for all SMSAs.

Materials are available for use in conjunction with census tract maps that will facilitate itemization of loans by census tracts for each SMSA. The Census Bureau provides address coding guides for matching street addresses to census tracts (at $65 per reel to produce a printed copy and $80 per reel of computer tape). Directories similar to ZIP code directories may be available for this purpose from some local governmental agencies or from commercial firms. In addition, there are data processing firms in the business of furnishing computer services for automatically matching addresses to census tracts.

The Board has declined to make an exception, as requested, to permit the use of the billing address, rather than the address of the property, in itemizing retrospective mortgage loan data. A billing address that is not the same as the property address frequently means that a loan was made to a non-occupant. Whether or not there is a high correlation between billing addresses and property addresses in a depository institution's total portfolio, one of the principal purposes of the Act is to ascertain whether there is a high correlation in particular areas of the SMSA. Furthermore, in reviewing its mortgage loan files to determine whether loans are made to non-occupants, a depository institution incurs little additional burden in comparing the billing address and the property address.

The Board has not adopted the literal reading of the Act that was sought by some groups to require a depository institution operating on a July 1–June 30 fiscal year to compile data beginning with the last half of 1974. The use of July 1, 1976, rather than June 28, 1976, as the division between prospective and retrospective data, is a de minimis adjustment and conforms to normal accounting practices whereby a fiscal quarter ends on June 30. Furthermore, in view of the difficulties of compiling retrospective data, requiring some institutions to compile 1974 data is, in the Board's opinion, not justified.

Mortgage loans excluded from disclosure statements.—Loans that were both originated and sold or both purchased and sold during a full fiscal year ending prior to July 1, 1976, may be kept in the depository institution's inactive files. To require a depository institution to review all its inactive files for the few loans likely to be in this category seems unduly burdensome. As long as the depository institution consistently either includes or excludes such loans, there should be no distortion of its lending patterns within its relevant SMSA, and the exception has been modified to mandate such consistent treatment if the option is selected. Furthermore, the requirement that a depository institution make clear in its disclosure statement that this option has been selected will indicate to the public that the institution's total morgage loans may be somewhat understated and will enable an appropriate evaluation to be made on that basis.

The Board has also expanded the exception somewhat to include loans that were both originated and paid in full or both purchased and paid in full during a full fiscal year ending prior to July 1, 1976. Again, this category is likely to be small, and the treatment of such mortgage loans logically should be the same as the category of loans discussed in the preceding paragraph.

An exception has been added for a loan originated or purchased by the depository insitution acting as trustee or in some other fiduciary capacity. Obviously, only loans that the institution originates or purchases for its own account should be counted.

The exceptions for certain refinancings and for home improvement loans as defined under State law are discussed above in the section of this notice regarding definitions.

Amount of mortgage loan to be reported.—A depository institution will report the original principal amount of a loan originated by the depository institution to the extent of its interest, where the loan is made jointly or cooperatively, and the unpaid principal balance of a loan purchased by the institution to the extent of its interest in the purchased loan.

The Board has adopted an exception that was not in the proposals to permit the inclusion of unpaid finance charges in the case of purchased home improvement loans. This will facilitate reporting by depository institutions which receive the data in this form and will not significantly affect the data in the mortgage loan disclosure statements.

Applicable presumption.—A depository institution must review its mortgage loans to determine which were made to non-occupants. If the depository institution does not have that information in its records pertaining to that loan and the loan was originated by the depository institution prior to July 1, 1976, or purchased at any time, the institution may presume that the loan was made to a resident if the loan relates to a one- to four-family residence. This provision has been adopted with conforming changes only.

Section 203.5—Disclosure Requirements

Dates disclosure statements due.—The deadline for the disclosure statement with respect to a full fiscal year ending prior to July 1, 1976, and for the part-year disclosure statement through June 30, 1976, has been extended one month to September 30, 1976. (A corresponding extension of one month has been made for the initial disclosure statement of a depository institution that loses its exemption.) The original deadline was projected on the basis of certain estimates given by depository institutions. It has become apparent to many institutions that providing the data breakdowns will require more processing of the data than was originally thought. Many questions of interpretation have already been presented which the Board is seeking to answer in this notice, but other questions may be forthcoming as depository institutions work with the data. The Board anticipates that some depository institutions would not be able to comply with the deadline originally proposed; furthermore, the granting of an additional month to prepare the initial statement would not detract from the basic purposes of the Act. However, in view of the fact that the Board, in the final regulations, has narrowed somewhat the category of mortgage loans to be disclosed, any further extension of time beyond that provided appears unnecessary.

Offices at which mortgage loan data would be made available.—In the case of a depository institution that has offices in only one SMSA, complete mortgage loan data would be made available at the home office of the depository institution and at least at one branch office in that SMSA. In the case of a depository institution that has offices in more than one SMSA, at least one branch office in each SMSA would be required to make available data itemized by census tracts (or ZIP codes, where permissible) relating to mortgage loans on property in that particular SMSA, as well as aggregated data (i.e., not itemized by census tracts or ZIP codes) relating to mortgage loans on property located elsewhere. If a depository institution operates in more than two SMSAs, aggregated figures to be made available at a branch office in one SMSA must be given separately for each other SMSA. Of course, the depository institution may simply make the entire disclosure statement available in each SMSA where it has offices, if it so desires.

The change represented since the proposals were announced is the requirement that, in the case of a multi-SMSA depository institution, the data available at a branch in one SMSA must also include aggregate data for loans on property in the institution's other SMSAs. The final regulations are designed to provide complete mortgage loan data at an office in each SMSA where the depository institution operates but without the detail of census tract itemization of loans on property located in other SMSAs. A conforming change has been made in the provisions regarding limited public access depository institutions, such as credit unions in private industrial plants or in restricted Government areas, which are permitted to make the data available by mail or at designated places conveniently accessible to the general public.

The Board believes it is unnecessary to provide for a central location in each SMSA where the data for all depository institutions in that SMSA would be made available. The issue was considered during the legislative process regarding the Act but was not adopted. The administrative complexities of establishing such a system outweigh, in the Board's opinion, the minimal increase in convenience that would be of benefit to only a small segment of the public.

However, since it is recognized that depositors generally will be unaware of the availability of the mortgage loan data, the Board has added a requirement that each depository institution shall make appropriate efforts at least once each year to notify its depositors of the availability of its mortgage loan data. The Board has indicated in the regulations examples of the kinds of steps that it believes to be appropriate.

Manner of making disclosure statements available.—The mortgage loan disclosure statements must be made available for inspection or copying during the normal business hours of the office of the depository institution that has the data. If a depository institution makes reproduction facilities available, it may impose a reasonable charge for the cost of reproduction of the data. These provisions were adopted without change.

The Board believes it is unnecessary further to define "reasonable charge" as used in the regulations; but it emphasizes that the charge must be related to the cost of reproducing the data and not the cost of compiling the mortgage loan data. Nor does the Board believe it is necessary to mandate that offices maintain supplies of copies to be handed out. The Board expects that depository institutions will furnish copies of the data upon request to their depositors as a matter of customer relationships and to others if the statements are lengthy. If it develops that depository institutions are attempting to frustrate the purposes of the Act, the Board will give consideration to amending the regulations.

SECTION 203.6—SANCTIONS FOR VIOLATIONS

This section was adopted without change. It states that a violation is subject to sanctions as provided in section 305 of the Act and provides relief for an unintentional error in compiling mortgage loan data provided that the depository institution maintains procedures reasonably adopted to avoid any such error.

Several requests were received that the Board adopt additional regulations relating to enforcement of the Act. The Board believes that it is not appropriate for it to determine enforcement procedures for the other federal supervisory agencies. Each of the federal agencies has its own enforcement procedures established and their decisions as to how to enforce the Act should be respected.

EFFECTIVE DATE

The effective date of the regulation is June 28, 1976, as proposed.

It is the Board's normal practice to delay the effective date of its regulations, if the delay is not contrary to the public interest, for a period of at least 30 days after the final regulations are promulgated. The Board has not done so in this case principally for the following reasons:

1. The Act becomes effective on June 28, 1976, and the Board believes it is desirable to have the effective date of the regulations coincide with the effective date of the Act.

2. The regulations have been adopted substantially as proposed. The changes that have been made have not increased the reporting burden for depository institutions.

3. No immediate action will be required at the time the regulations go into effect. The first mortgage loan disclosure statement required pursuant to the regulations is not due until September 30, 1976.

SUPPLEMENT TO PART 203

The Supplement sets forth the procedures to be followed by State-chartered depository institutions in seeking an exemption from the Act on the grounds that they are subject to the mortgage loan disclosure laws (statutes or regulations) of a State or subdivision thereof that contain (i) requirements substantially similar to those imposed under the Act and (ii) adequate provisions for enforcement.

The only change made in the Supplement is to provide in paragraph (d) thereof that a copy of a notice of an exemption will be furnished by the Board to each interested person who has participated in the proceeding relating to a request for a State exemption.

APPENDIX TO PART 203

The Appendix contains the guideline mortgage disclosure statement form with certain instructions on page 2 of the form.[1]

Changes have been made in the final form to conform to changes in the regulations previously discussed. In addition, lines have been provided for each depository institution to insert the name and address of its respective Federal enforcement agency under the Act. A mortgage loan disclosure statement that does not contain this information would not be regarded as "in a format similar to guideline Form HMDA–1" within the meaning of section 203.4(a)(1) of this Part.

The Board continues to believe it is desirable to permit some flexibility in the format, provided that the kind of detailed data required by the regulations are clearly and conspicuously disclosed in the mortgage loan disclosure statement. For example, the order of the columns may be rearranged; or each of the columns may be stated as separate schedules; or greater detail than that required may be provided by dividing the "FHA, FmHA, or VA loans" column into separate columns for FHA loans, FmHA loans, and VA loans. Separate schedules might be useful for depository institutions that maintained retrospective home mortgage loan data by census tracts, but wish to report retrospective residential home improvement loans by ZIP codes. Nothing in the regulations is intended to preclude a depository institution from disclosing additional mortgage loan data, provided that any such additional data are stated separately from required data.

[1] Filed as part of the original document.

ITEMIZATION BY CENSUS TRACTS AND ZIP CODES

In general, there was agreement with the Board's position as represented in the notice of proposed rulemaking, that itemization of prospective data by census tracts is feasible and that the materials for doing so are available. By adopting the PHC–(1) series of maps as the basic census tract tool and providing for ZIP code itemization of loans on property located in an area of a currently defined SMSA that is not tracted in that series of maps, the Board has fulfilled its directive pursuant to section 304(a)(2) of the Act to make a determination regarding the feasibility of census tract itemization. The fact of the matter is that census tract itemization of loan data has been accomplished in several States. It can be reasonably expected that, largely as a result of the Board's adoption of the regulation, additional developments will occur to facilitate the process of census tract itemization.

A number of depository institutions asked that census tract itemization of data be delayed until 1977. The Board notes, however, that the Act was approved on December 31, 1975, containing the statutory preference for census tract itemization. In the notice of proposed rulemaking, the Board indicated the source and costs of census tract maps and depository institutions will have had three months since the date of the Board's proposals to begin preparing for the use of census tract itemization. Furthermore, the initial mortgage loan disclosure statements containing census tract itemization will not be due until the end of March 1977, for depository institutions that are on a calendar year basis. The Board believes that a delay in the implementation of census tract itemization is not justified.

However, the Board has adhered to its approach of permitting ZIP Code itemization, rather than census tract itemization, in all cases with respect to the initial mortgage loan disclosure statement relating to full fiscal years ending prior to July 1, 1976 (as well as to the portion of the current fiscal year for a period that ends on June 30, 1976, if a statement for such period is made available by September 30, 1976, and to the initial statement due from a depository institution that becomes subject to the Act in the future). The Board summarized its reasons for this position in the notice of proposed rulemaking; and, it has reviewed its position in the light of comments received on the proposal. For the following principal reasons, the Board continues to believe that the exception is fully warranted.

1. The Board's determination pursuant to section 304 of the Act is based upon the feasibility of using the PHC–(1) census tract maps for census tract itemization. These maps are merely outline maps of the tract boundaries containing no interior detail, such as streets or addresses. They can be used for prospective data because the geocoder has the assistance of the loan applicant to

pinpoint the property within the tract boundaries and of the appraiser who actually visits the property. It is quite different when the geocoder is given a list of addresses and has no such assistance. Attempts to use the maps for retrospective data will surely result in a high degree of inaccuracy. A number of surveys, such as the Fair Housing Survey, demonstrate this point. Indeed, one commission chartered by a local government to gather mortgage loan data testified at the hearing that, in view of the difficulties involved in gathering restrospective data, it agreed with the Board's approach and had, in fact, modified its own survey on the basis of such considerations.

2. Supplemental tools for census tract itemization are helpful but inadequate. Block maps contain interior street detail but not street addresses. Furthermore, unlike census tract maps which use readily identifiable boundaries such as county, city or town boundaries, many block maps do not use such boundaries so that they are more difficult to work with. Address coding guides are incomplete and unavailable for many SMSAs.

3. With the difficulties attendant in the use of census tract materials for itemizing retrospective data, many institutions would have to turn to automated services, and this means of geocoding would disproportionately increase the costs for many of them. Geocoding is cost efficient in high volume, but virtually every data processing firm imposes relatively high minimum charges.

4. Additional time would be needed if census tract itemization of retrospective data were required. A reasonable estimate would be that the statements could not be required before the end of 1976 without creating great burden and substantially increasing costs to the depository institutions. Extending the deadline to that degree would appear to be inconsistent with the purpose of requiring a year's restrospective reporting, which was to make the Act have an impact this year. Furthermore, an extension of time would not solve the problem of the high degree of inaccuracy and other problems associated with retrospective census tract itemization. In the Board's judgment, there is little justification for requiring disclosure of inaccurate, incomplete data on an untimely and costly basis when there is an accurate, complete, timely, and less costly alternative in the form of ZIP code itemization of retrospective data.

5. ZIP code itemization of data is not useless; otherwise the Act would not have provided for this alternative. Several communities have already had some success (without the aid of census tract data) in identifying areas which were not receiving mortgage credit and were able to obtain agreements from local depository institutions to commit funds to those areas.

6. The principal reason given by some groups that are urging census tract itemization is to have retrospective data comparable with prospective data. The Board believes that the concern for comparability is incidental, not fundamental, to the Act. The purpose of the Act is disclosure so that the lending practices of a depository institution may be evaluated each year, and this evaluation may be made with or without regard to its past practices. Analysis of trends may be useful for analytical purposes but are not essential to the purposes of the Act.

7. ZIP code itemization of retrospective data would clearly be cheaper. Data are generally already geocoded by ZIP codes, and obviously it will be considerably more expensive to geocode the data by census tracts. Based upon presently available information, the Board estimates that cost of census tract itemization of retrospective loan data is likely to be double that of ZIP code itemization, depending upon the size of the institution involved.

Future Study

Pursuant to section 308 of the Act, the Board is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas to make disclosures comparable to those required by this regulation. The experience of depository institutions presently subject to the Act should provide valuable information in this respect, as well as information that might serve as the basis of other legislative recommendations for amendment of the Act.

With this objective in mind, the Board welcomes the submission of information by depository institutions and the public regarding the costs of compiling mortgage loan data and itemizing the data by ZIP codes or census tracts; the number of requests received to inspect the data or to make copies; the use made of the information by the public; and changes in lending practices that may have been adopted as a result of evaluation of the data.

Text of the Final Regulations

Pursuant to the authority granted in the Home Mortgage Disclosure Act of 1975 (Title III of Public Law 94-200, 89 Stat. 1125 et seq.), the Board is adopting the following regulations:

1. A new Part 203 (Regulation C) is added, as follows:

Sec.
203.1 Authority, Scope, and Enforcement.
203.2 Definitions.
203.3 Exemptions.
203.4 Compilation of Mortgage Loan Data.
203.5 Disclosure requirements.
203.6 Sanctions for Violations.

Authority: Home Mortgage Disclosure Act of 1975 (Title III, Pub. L. 94-200; 89 Stat. 1125, et seq.).

§ 203.1 Authority, scope, and enforcement.

(a) *Authority and scope.* This Part comprises the regulations issued by the Board of Governors of the Federal Reserve System pursuant to the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89 Stat. 1125 et seq.). This Part applies to depository institutions which make federally related mortgage loans. Nothing in the Act or this Part is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

(b) *Administrative enforcement.* As set forth more fully in sections 305 and 306 of the Act, compliance with the provisions of the Act and this Part shall be enforced by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), and the Administrator of the National Credit Union Administration.

§ 203.2 Definitions.

For the purposes of this Part, the following definitions apply unless the context indicates otherwise:

(a) "Act" means the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89 Stat. 1125 et seq.).

(b) "Branch office" means any office approved as a branch of the depository institution by that depository institution's federal or State supervisory agency.

(c) "Depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, homestead association (including cooperative banks), or credit union, which makes federally related mortgage loans. Any majority-owned subsidiary of a depository institution shall be deemed to be part of its parent depository institution for the purposes of this Part.

(d) "Federally related mortgage loan" means any loan (other than temporary financing such as a construction loan) which (i) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives) that is designed principally for the occupancy of from one to four families and is located in a State; and (ii) (A) is made in whole or in part by a depository institution the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by a depository institution which is regulated by any agency of the Federal Government; or (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by any other such officer or agency; or (iii) is intended to be sold by the depository institution that originates the loan to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation.

(e) "FHA, FmHA, or VA loans" means mortgage loans which are insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or which are guaranteed under Chapter 37 of Title 38, United States Code.

(f) "Home improvement loan" means a loan, unsecured or secured by collateral other than a first lien on residential real property, (i) the proceeds of which are to be used for the purpose of repairing, rehabilitating, or remodeling an existing residential dwelling located in a State as stated by the borrower to the lender at the time of the loan transaction, and (ii) that is recorded on the books of the depository institution as a home improvement loan.

(g) "Mortgage loan" means a "residential mortgage loan" as defined in paragraph (h) of this section or a "home improvement loan" as defined in paragraph (f) of this section.

(h) "Residential mortgage loan" means a loan which is secured by a first lien on residential real property located in a State, including a first lien refinancing of an existing loan, but shall not include (i) temporary financing (such as a construction loan), or (ii) purchase of an interest in a pool of mortgage loans (such as mortgage participation certificates issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Farmers Home Administration), or (iii) a loan made primarily for business or consumer purposes (other than to purchase, repair, rehabilitate or remodel residential real property) but in connection with which a first lien on residential real property is taken as collateral.

(i) "Residential real property" means improved real property used or to be used for residential purposes, including single-family homes, dwellings for from two to four families, multi-family dwellings, and individual units of condominiums and cooperatives.

(j) "State" means any State of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 203.3 Exemptions.

(a) The following categories of depository institutions are exempt from the compilation of data and disclosure requirements of sections 203.4 and 203.5 of this Part:

(1) Any depository institution that has total assets as of the last day of its last full fiscal year of $10,000,000 or less; or

(2) Any depository institution that has neither a home office nor any branch office located in a standard metropolitan statistical area ("SMSA") as currently defined by the Office of Management and Budget of the United States Government; or

(3) Any State-chartered depository institution subject to the mortgage loan disclosure laws (statutes or regulations) of a State or subdivision thereof that the Board determines, in accordance with the procedures set forth in the Supplement to this Part, contain (i) requirements substantially similar to those imposed under the Act, and (ii) adequate provisions for enforcement.

(b) A depository institution that was exempt on or after the effective date of this Part on the basis of paragraph (a) of this section and that subsequently becomes no longer exempt shall compile the data described in section 203.4 of this Part for each fiscal year beginning with its last full fiscal year ending prior to the date it was no longer exempt, and that last full fiscal year shall be deemed to be a "full fiscal year ending prior to July 1, 1976" for the purposes of section 203.4 of this Part.

§ 203.4 Compilation of mortgage loan data.

(a) *Data to be included.*—(1) Each depository institution shall aggregate, separately for each standard metropolitan statistical area ("SMSA") in which it has a home office or branch office, its mortgage loan data for each fiscal year beginning with its last full fiscal year ending prior to July 1, 1976, with the exception of mortgage loans described in (a)(4) of this section. Mortgage loan data relating to residential real property located within the relevant SMSA (i.e., the SMSA where a home or branch office is located) shall be segregated from mortgage loan data relating to residential real property located outside the relevant SMSA and shall be itemized by the census tract in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located (except as provided in paragraph (a)(2) of this Section) according to the following classifications in a format similar to guideline Form HMDA-1, which is set forth in the Appendix to this Part: [1]

(i) FHA, FmHA, or VA loans, except on multi-family dwellings (i.e., dwellings for more than four families), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(ii) Residential mortgage loans other than FHA, FmHA, or VA loans and other than loans on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(iii) All residential mortgage loans, except on multi-family dwellings, (i.e., sum of classifications (i) and (ii)), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(iv) Home improvement loans, except on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(v) All mortgage loans (home improvement loans and residential mortgage loans) on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year; and

(vi) All mortgage loans (home improvement loans and residential mortgage loans), except on multi-family dwellings, made to any borrower who did not, at the time of the loan transaction intend to reside as his principal dwelling in the property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year.

Classifications (i) through (v) include loans to both occupants and non-occupants of the property. Mortgage loan data relating to residential real property located outside the relevant SMSA (or relevant SMSAs in the case of a depository institution with home or branch offices in more than one SMSA) shall also be itemized according to classifications (i) through (v) set forth above, but further itemization of that data by census tracts or United States Postal Service ZIP codes is not required.

(2) Mortgage loan data relating to residential real property located within the relevant SMSA may be itemized, according to the classifications specified in (a)(1) of this section, by United States Postal Service ZIP codes for the area in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located, in lieu of census tracts, to the extent that such data relate to:

(i) A full fiscal year ending prior to July 1, 1976; or

(ii) A part of a fiscal year if that part ends on June 30, 1976, provided that a mortgage loan disclosure statement for that part of the fiscal year is made available by the depository institution by September 30, 1976, and a separate mortgage loan disclosure statement for the remaining part of that fiscal year (itemizing mortgage loan data relating to residential real property within the relevant SMSA by census tracts) is made available by the depository institution within ninety days of the end of that fiscal year; or

(iii) Residential real property located in an area of a currently defined relevant SMSA that is not tracted on the maps (as a portion of then-defined SMSAs or otherwise) in the series "1970 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC(1) Series" prepared by the Bureau of the Census of the United States Department of Commerce.

(3) Mortgage loan data to be compiled as described in this paragraph shall be in terms of number of loans and total dollar amounts (original principal amounts of loans originated by the institution to the extent of its interest, where the loan is made jointly or cooperatively and unpaid principal balances of loans purchased by the depository institution, to the extent of its interest in such purchased loans), except that, in the case

[1] Form HMDA-1 is filed as part of the original document.

of purchased home improvement loans, the amount to be reported may include the unpaid finance charges. The compilations shall be on an annual basis and relate to mortgage loans originated or purchased solely during the relevant fiscal year.

(4) (i) A depository institution shall not include in its mortgage loan data to be compiled pursuant to paragraph (a) of this section:

(A) A refinancing that it originates involving no increase in the outstanding balance of the principal due on the existing loan where the depository institution and the borrower are the same parties to the existing loan and the refinancing; and

(B) A loan originated or purchased by the depository institution acting as trustee or in some other fiduciary capacity.

(ii) For the purpose of compiling mortgage loan data pursuant to paragraph (a) of this section with respect to a full fiscal year ending prior to July 1, 1976, a depository institution may—

(A) Notwithstanding the definition contained in section 203.2(f) of this Part, itemize as home improvement loans those loans that it has classified as home improvement loans for the purposes of State law, provided that no loans secured by first liens on residential real property shall be included as home improvement loans in the mortgage loan disclosure statement and reference is made in the disclosure statement to the State law definition of home improvement loan that is being utilized; or

(B) Omit, at its option, any mortgage loan that was (*1*) both originated and either sold or paid in full during such fiscal year, or (2) both purchased and either sold or paid in full during such fiscal year, provided that the depository institution consistently applies this option with respect to all loans in those categories and clearly states in its mortgage loan disclosure statement for that year that such data have been omitted.

(b) *Applicable SMSAs, census tracts and ZIP codes.*—(1) For the purpose of determining whether a mortgage loan is to be included in the classifications relating to residential real property within the relevant SMSA as described in paragraph (a) of this section (but not for the purpose of determining exemptions pursuant to § 203.3(a)(2) of this Part), the applicable areas of the relevant SMSA shall be those as defined by the Office of Management and Budget of the United States Government and in effect on June 28, 1976, or the first day of the fiscal year to which the mortgage loan disclosure statement relates, whichever is the later date.

(2) Applicable census tract numbers and boundaries shall be those appearing on the census tract maps in the series "1970 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC (1) Series" prepared by the Bureau of the Census, United States Department of Commerce. If the number itself would be duplicated in the mortgage loan disclosure statement for the relevant SMSA, the county, city, or town that uniquely identifies the census tract shall be identified in that disclosure statement.

(3) An applicable ZIP code shall be that for the area in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located. No depository institution is obligated to revise its mortgage loan data to reflect official changes of ZIP code numbers or boundaries made after the ZIP code for a particular loan is recorded.

(4) Nothing contained in this paragraph is intended to prohibit the use of maps, directories, computer programs, or the like that have more recent definitions of the applicable SMSA areas than those specified in paragraph (b)(1) of this section, provided that every mortgage loan relating to residential real property within the applicable areas of the relevant SMSA as specified in paragraph (b)(1) of this section or within the areas of the relevant SMSA as more recently defined shall be included in the data to be itemized by census tracts or ZIP codes as required by paragraph (a) of this section. If such updated revisions are utilized, the mortgage loan disclosure statement shall indicate the source of the revision.

(c) *Applicable presumption.*—For the purpose of compiling mortgage loan data described in paragraph (a) of this section, a depository institution may presume (unless its records relating to that loan contain information to the contrary) with respect to any mortgage loan originated prior to June 28, 1976, or purchased at any time, that the borrower intended, at the time of the loan transaction, to reside as his principal dwelling in the property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved), if such property is a residential dwelling used or to be used by from one to four families.

§ 203.5 Disclosure requirements.

(a) *Dates disclosure statements due.*—(1) Each depository institution shall make available to the public by the following dates mortgage loan disclosure statements required to be compiled pursuant to § 203.4 of this Part:

(i) September 30, 1976, in the case of a disclosure statement relating to a full fiscal year ending prior to July 1, 1976, except as provided in (a)(2) of this section;

(ii) Within ninety days of the end of the relevant fiscal year in the case of a disclosure statement that relates to a full fiscal year ending subsequent to June 30, 1976; and

(iii) Within ninety days of the date a depository institution becomes no longer exempt in the case of the initial disclosure statement required pursuant to § 203.3(b) of this Part.

(2) If an application for an exemption is filed by September 30, 1976, pursuant to § 203.3(a)(3) of this Part, a State-chartered depository institution subject to the mortgage disclosure laws of a State or subdivision thereof being considered in the application shall not be required to compile and make available to the public a mortgage loan disclosure statement relating to a full fiscal year ending prior to July 1, 1976, while the application is pending before the Board. If the State-chartered depository institution is not granted an exemption by the Board's determination on the application, that depository institution shall make the disclosure statement for that fiscal year available within sixty days of the date of the Board's determination.

(3) Any mortgage loan disclosure statement required to be made available shall be maintained and made available for a period of five years after the close of the first fiscal year during which that disclosure statement is required to be maintained and made available.

(b) *Offices at which disclosure statements to be made available.*—(1) Except as provided in paragraph (b)(2) of this section, each depository institution shall make available to the public disclosure statements required to be compiled pursuant to § 203.4 of this Part, by the dates specified in paragraph (a) of this section, at its home or branch offices, as follows:

(i) In the case of depository institutions that have home or branch offices in only one SMSA, the entire mortgage loan disclosure statement shall be made available at the home office and at least at one branch office (if there is such a branch office) within that SMSA; and

(ii) In the case of depository institutions that have home and branch offices in more than one SMSA, (A) the entire mortgage loan disclosure statement (relating to all SMSAs with respect to which the depository institution is required to compile mortgage loan data) shall be made available at the home office and (B) the entire mortgage loan disclosure statement shall also be made available at least at one branch office within every SMSA where the depository institution has branch offices (including the SMSA where the home office is located), except that the disclosure statement at a particular branch office need not include census tract or ZIP code itemizations with respect to relevant SMSAs other than the SMSA in which the particular branch office is located, provided that aggregated data from the disclosure statement with respect to each of those other relevant SMSAs (i.e., the column totals of Section I of the Appendix to this Part) are furnished.

(2) Any depository institution all of whose offices (home and branch) are located where there is no general public access shall make available mortgage loan disclosure statements required to be compiled pursuant to § 203.4 of this Part, by the dates specified in paragraph (a) of this section, in either of the following ways:

(i) It shall designate a place convenient and eccessible to the public within the SMSA of its home office where the entire mortgage loan disclosure state-

ment (relating to all SMSAs with respect to which it is required to compile mortgage loan data) will be available at reasonable times, and shall designate a convenient and accessible place within every other SMSA where it has a branch office, at which designated place will also be made available the entire mortgage loan disclosure statement except for the omission, at the option of the depository institution, of census tract or ZIP code itemizations with respect to relevant SMSAs other than the SMSA where the particular branch is located provided that aggregated data from the disclosure statement with respect to each of those other relevant SMSAs (i.e., the column totals of Section I of the Appendix to this Part) are furnished; or

(ii) It shall promptly furnish by mail to anyone requesting the information a copy of a required mortgage loan disclosure statement, imposing no more than a reasonable charge for the cost of reproduction of the data.

(3) A depository institution shall make appropriate efforts at least once each year to notify its depositors of the availability of its mortgage loan data, such as by (i) inserting a notice in a periodic account statement or other communication to depositors, (ii) posting a notice in the lobbies of its home and branch offices located in SMSAs for at least one month, or (iii) publishing a notice in a newspaper or newspapers of general circulation in the SMSAs in which its home and branch offices are located.

(4) Upon request, any office of a depository institution shall promptly provide information regarding the location of any office or designated place of that depository institution at which mortgage loan disclosure statements are available.

(c) *Manner of making disclosure statements available.*—Each office or designated place of a depository institution that is required pursuant to paragraph (b) of this section to make a mortgage loan disclosure statement available shall make such a mortgage loan disclosure statement available to anyone requesting it for inspection or copying during the hours in which such office or designated place is normally open to the public for business. If a depository institution makes reproduction facilities available, it may impose a reasonable charge for the cost of reproduction of the data.

§ 203.6 Sanctions for violations.

(a) A violation of the Act or this Part is subject to sanctions as provided in section 305 of the Act.

(b) An error in compiling or disclosing required mortgage loan data shall not be deemed to be a violation of the Act or this Part if the error was unintentional and resulted from a bona fide mistake notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

2. A new Supplement to Part 203 (Regulation C) is added, as follows:

PROCEDURES FOR AN APPLICATION FOR EXEMPTION PURSUANT TO PARAGRAPH (a)(3) OF SECTION 203.3

(a) *Application.*—Any State or subdivision thereof,[1] State-chartered depository institution, or association of State-chartered depository institutions, may make application to the Board pursuant to the terms of this Supplement and the Board's Rules of Procedure (12 CFR 262) for a determination that, under the laws of that State or municipality,[2] a State-chartered depository institution is subject to requirements substantially similar to those imposed by Regulation C (12 CFR 203) and that there is adequate provision for enforcement of such requirements.

(b) *Supporting documents.*—The application, which may be made by letter, shall be accompanied by (1) a copy of the full text of the laws of the State or municipality which are claimed by the applicant to impose requirements substantially similar to those imposed by this Regulation; (2) a statement of reasons to support the claim that applicable requirements of the laws of the State or municipality are substantially similar to all requirements imposed under this Regulation including an explanation of reasons as to why any differences are not significant; (3) a copy of the full text of the laws of the State or subdivision thereof which provide for enforcement of the State laws referred to in subparagraph (1) of this paragraph; and (4) an undertaking to inform the Board within 30 days of the occurrence of any change in the applicable law or regulations of the State or municipality.

(c) *Public notice of filing.*—In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b), notice of such filing will be published by the Board in the FEDERAL REGISTER, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which the applicant is situated. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application. Should multiple applications be received with respect to the laws of the same State or municipality, the Board may, in its discretion, (1) consolidate the notice of receipt of all such applications in one FEDERAL REGISTER notice, and (2) dispense with publication of the notice of applications received after the publication of an application relating to the laws of the same State or municipality.

(d) *Exemption from requirements.*—If the Board determines on the basis of the information before it that under the laws of a State or municipality some or all State-chartered depository institution(s) are subject to requirements substantially similar to those imposed by this Regulation, and that there is adequate provision for enforcement of such requirements, the Board will exempt those State-chartered depository institutions in that State or municipality that are subject to such requirements from the requirements of the Act and the Board's regulations in the following manner: (1) Notice of the exemption will be published in the FEDERAL REGISTER and the Board will furnish a copy of such notice to the applicant, to each State or municipal authority responsible for administrative enforcement of the laws of the State or municipality, to the regulatory authorities specified in section 305 (b)(1) of the Act, and to each interested person who has participated in the proceeding. (2) The Board will inform the appropriate official of any State or municipality in which State-chartered depository institutions that have received an exemption are located of any subsequent amendments of the Act (including the implementing provisions of this Part and published interpretations of the Board) which might call for amendment of the law, regulations or official interpretations of the State or municipality.

(e) *Revocation of exemption.*—(1) The Board reserves the right to revoke any exemption if it at any time determines that the laws of a State or municipality do not in fact impose requirements which are substantially similar to those imposed by this Regulation or that there is not in fact adequate provision for enforcement. (2) Notice of the Board's intention to revoke any exemption previously granted shall be published in the FEDERAL REGISTER and shall be transmitted to the appropriate official of the State or municipality. A period of time will be allowed from the date of publication for the Board to receive written comments from interested persons with respect to the proposed revocation. (3) In the event of revocation of such exemption, notice of such revocation shall be published by the Board in the FEDERAL REGISTER and a copy of such notice shall also be furnished to the appropriate official of the State or municipality and to regulatory authorities specified in section 305(b)(1) of the Act.

Effective: June 28, 1976.

By order of the Board of Governors, June 7, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-17163 Filed 6-11-76;8:45 am]

[1] Hereinafter referred to as a municipality.

[2] Any reference to the laws of a State or municipality in this Supplement includes a reference to any regulations which implement such laws and official interpretations thereof, and to regulations of a State or municipal agency or department having jurisdiction over a class or classes of depository institutions.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 76-SW-19; Amdt. 39-2640]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 204B and 205A-1 Helicopters

A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive requiring repetitive inspections at 25-hour intervals of the tail rotor pitch control chains, Part Number 204-001-739-3, on all Bell Models 204B and 205A-1 helicopters was published in 41 FR 75864.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One letter was received from an operator recommending an inspection interval of 50 or 100 hours and recommending continued use of chains with a specific number of cracked links, provided they are not adjacent, in conjunction with a reduced

inspection interval. Bell Helicopter Textron also submitted a letter recommending a 10-hour inspection interval to agree with their service bulletins, No.'s 204–75–4 and 205–75–9.

The agency responded to the operator's letter and noted that due to service experience and due to a possible jam of the tail rotor control their recommendations shall not be adopted. However, the agency accepts the operator's other recommendation to specifically limit the AD applicability to chains, P/N 204–001–739–3. The agency believes an inspection interval of 25 hours will be sufficient to maintain airworthiness of the chains since the inspection must be conducted by an appropriately rated mechanic.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 204B and 205A–1 helicopters certificated in all categories.

Compliance required within 25 hours' time in service after the effective date of this AD and, thereafter, at intervals not to exceed 25 hours' time in service from the last inspection.

To detect cracks in the tail rotor pitch change chain link segments and to prevent possible failure of the tail rotor pitch change chains, accomplish the following repetitive inspections on chains, Part Number 204–001–739–3.

(a) Remove the cover, if installed, from the chain assembly.

(b) Inspect each chain assembly for cracks in the link segments using a 10-power or higher magnifying glass. Particular attention should be placed on the portion of the chain that travels over the sprocket and that extends six inches each side of this area or portion.

(c) Remove chains with cracked or broken links or segments before further flight in accordance with the applicable maintenance manual or an eqivalent FAA approved procedure.

(d) Install chains with uncracked segments in accordance with the applicable maintenance manual and rig the controls as specified in the applicable maintenance manual or an equivalent FAA approved procedure.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, Flight Standards Division, FAA, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(f) This AD is applicable to only chains, P/N 204–001–739–3.

This amendment becomes effective July 19, 1976.

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

Issued in Fort Worth, Texas, on June 3, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76–16956 Filed 6–11–76;8:45 am]

[Docket No. 75–EA–91; Amdt. 39–2641]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller

On page 15863 of the FEDERAL REGISTER for April 15, 1976, the Federal Aviation Administration published a proposed rule which would issue an airworthiness directive applicable to Fairchild Hiller FH–227 type airplanes.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

This amendment is effective June 18, 1976.

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

Issued in Jamaica, N.Y., on June 4, 1976.

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

FAIRCHILD: Applies to FH–227 Type Airplanes Certificated in all categories.

Compliance required as indicated.

To detect the development of cracks in the wing area, accomplish the following:

(a) Within 25 hours time in service after the accumulation of the specified hours in service, unless already accomplished, inspect or continue to inspect in accordance with Fairchild Service Bulletin 51–1, as amended by Revision 6, of December 12, 1975 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region or with an approved equivalent inspection.

(b) Where a visual inspection may be accomplished in lieu of x-ray, at least a 10-power glass must be used.

(c) For those aircraft incorporating Fairchild Service Bulletin 51–1, Appendix No. 1, dated January 5, 1973, or an approved equivalent special structural inspection and alteration, the inspection interval for the outer wing panel without cracks remains at 1200 hours. If any cracks were discovered prior to the alteration the inspection interval will be that specified in paragraph 1.D(1) of the Appendix.

(d) If new cracks are found or if repaired cracks are found to be propagating, replace the cracked part with a part of the same part number or with an approved equivalent part, or incorporate an approved repair before further flight. However, upon request, with descriptive information of the crack and proposed operating limitations submitted through an FAA maintenance inspector, the flight of the airplane in accordance with FAR 21.197 to a base where the repair can be made, may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Equivalent inspection, repairs or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(f) Upon request, with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

[FR Doc.76–16957 Filed 6–11–76;8:45 am]

[Docket No. 15497; Amdt. 39–2563]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation Ltd., DH–114 "Heron" Airplanes

Correction

In FR Doc. 76–8757 appearing on page 12877 in the issue of March 29, 1976 the docket number should be designated as set forth above.

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N–0070]

PART 121—FOOD ADDITIVES

Acrylonitrile Copolymers Intended for Use in Contact With Food

The Food and Drug Administration (FDA) is establishing, on an interim basis, safe conditions for the use of acrylonitrile copolymers, pending resolution of certain safety questions. The requirements for those uses of acrylonitrile copolymers that are food additive uses are effective June 14, 1976; objections must be filed by July 14, 1976. The requirements for those uses of acrylonitrile copolymers that are "prior-sanctioned" are effective July 14, 1976.

In the FEDERAL REGISTER of November 4, 1974 (39 FR 38907), the Commissioner of Food and Drugs proposed: (1) To identify the uses of acrylonitrile copolymers that were sanctioned by FDA before the passage of the Food Additives Amendment of 1958 (sec. 409, Pub. L. 85–929, Sept. 6, 1958, 72 Stat. 1785–1788 (21 U.S.C. 348)), and hence are exempt from the requirements for food additives; (2) to prescribe, on an interim basis, conditions of safe use for all applications of acrylonitrile copolymers in food-contact articles; and (3) to require submission of chemical and toxicological data to support the continued use of acrylonitrile copolymers in food-contact articles. These actions were proposed because of recently developed evidence that more acrylonitrile monomer may migrate to food from food-contact articles than previously thought.

Ten comments were received in response to the proposal. In addition, five comments received in response to the draft environmental impact statement on plastic bottles for carbonated beverages and beer raised the issue of the safety of extractives of acrylonitrile bottles and are discussed in this document.

The specific questions raised in the comments and the Commissioner's responses are as follows:

ADMINISTRATIVE/LEGAL

1. One comment stated that all information concerning use of acrylonitrile copolymers as containers for alcoholic foods should be made public.

The Commissioner advises that only one regulation, § 121.2614 *Nitrile rubber modified acrylonitrile-methyl acrylate copolymers* (21 CFR 121.2614), permits the use of acrylonitrile copolymers in contact with alcoholic foods. The data submitted in support of § 121.2614 and other data and information related to a food additive are public and may be obtained by writing to the Public Records and Documents Center, HFC–18, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

2. One comment requested identification of those polymers that have been tested and found to meet the requirements of the interim regulation.

The Commissioner advises that the acrylonitrile copolymers regulated under § 121.2614, § 121.2625 *Acrylonitrile/styrene copolymer modified with butadiene/styrene copolymer* (21 CFR 121.2633) § 121.2627 *Acrylonitrile/butadiene/styrene/methyl methacrylate copolymer* (21 CFR 121.2627), § 121.2629 *Acrylonitrile/styrene copolymer* (21 CFR 121.2629), and § 121.2633 *Acrylonitrile/butadiene/styrene copolymer* (21 FR 121.2633) have been fully tested in accordance with the interim regulation and found to be in compliance with all the chemistry requirements of the regulation. The test data are available through the Public Records and Documents Center.

3. One comment proposed that a revised notice of proposed rule making should issue after all the information and data received in response to the original proposal had been evaluated, because additional comments on the revised proposal would form the basis for a better final regulation.

The Commissioner concludes that sufficient information has been received in response to the proposal to permit issuance of a final regulation without the need for further public comment.

4. Numerous comments were received requesting an additional 60 days to submit comments.

The Commissioner did not extend the comment period for the proposal but has given consideration to all pertinent comments received after the closing date for comments.

5. One comment stated that household items should be covered under proposed § 121.14 (21 CFR 121.14, proposed in the FEDERAL REGISTER of April 12, 1974 (39 FR 13285)), which would revoke the "housewares exemption," rather than under § 121.4010 (21 CFR 121.4010).

The Commissioner notes that the new § 121.14 would affirm that substances migrating from food-contact articles intended for use in the household, food service establishments, and food dispensing equipment are food additives that must be used subject to a food additive regulation if they are not generally recognized as safe (GRAS). When § 121.14 is made final, it will make subject to the food additive regulations a number of currently marketed acrylonitrile copolymer housewares. Continued marketing of these products will be permitted by the final § 121.14, pending promulgation of appropriate food additive regulations or denial of the petitions submitted. Petitions for use of acrylonitrile copolymers that are submitted in response to the issuance of § 121.14 will be evaluated on the basis of the data requested in § 121.4010. The failure to comply with the acrylonitrile monomer migration limits set forth in § 121.4010 may result in denial of the petitions. A general guideline for extraction studies of housewares will be set forth in the preamble to § 121.14 when it is published as a final regulation.

6. Two comments stated that the list in proposed § 121.2010(a) of the prior-sanctioned uses of acrylonitrile copolymers was too limited and ignored commercial reality. The comments suggested changing the prior-sanctioned uses from "films for wrapping food" to "films, sheet, and molded containers for packaging food."

The Commissioner concludes that the prior-sanctioned uses of acrylonitrile copolymers, in general, are not as broad as the uses suggested by the comments. The list of prior-sanctioned uses of acrylonitrile copolymers in proposed § 121.2010(a) was taken directly from the articles by A. J. Lehman referenced in the preamble to the proposal. These articles are the basis of the prior-sanctioned uses listed in proposed § 121.2010(a). Additional prior-sanctioned uses of acrylonitrile copolymers, determined from letters submitted with comments, are identified and discussed in paragraph 7 of this preamble.

7. One comment stated that the scope of the prior-sanctioned uses of acrylonitrile butadiene and acrylonitrile/butadiene/styrene resins listed in proposed § 121.2010(a), i.e., films for wrapping food, did not include all the uses approved at the time the Food Additives Amendment of 1958 was enacted. The comment supplied various prior-sanction letters as evidence of the widespread use of various acrylonitrile copolymers prior to 1958.

The Commissioner has reviewed the prior-sanction letters included in the comment, as well as other applicable correspondence on the matter, and agrees that the regulation should be revised to incorporate the following uses that were not recognized in the proposal as having been prior-sanctioned.

The Commissioner notes that the first inquiry concerning the use of an acrylonitrile copolymer that appears in FDA files was dated November 1, 1940. This correspondence did not result in a prior sanction but did lead to further correspondence indicating that FDA in 1943 conducted limited feeding tests for various rubber products, including an acrylonitrile copolymer. This work was done for the Office of Rubber Director, War Production Board. Details of the testing are sketchy, but analysis of later correspondence indicates no apparent observation of adverse effects.

The first prior sanction for an acrylonitrile resin is a letter from Dr. A. J. Lehman, Chief, Division of Pharmacology, FDA, dated November 18, 1948. In this letter, FDA offered no objection to the use of a resin composed of polyvinyl chloride/polyvinyl acetate copolymers, and acrylonitrile/butadiene copolymers for use as a film intended to wrap oleomargarine, provided it passed the solubility tests in use at the time. The maximum acrylonitrile content of the copolymer was less than 30 percent.

The second documented prior sanction for an acrylonitrile resin is a letter dated February 2, 1949, in which the Meat Inspection Division, U.S. Department of Agriculture (USDA) offered no objection to the use of a coating containing acrylonitrile/butadiene copolymer on papers intended to contact meat. The protocol for the extractions called for extraction up to 4 months or longer until equilibrium was reached on coatings ranging from 0.001 inch to 0.002 inch. The test solvents were analyzed for monomeric acrylonitrile, hydrogen cyanide, and total amount of the film soluble in the solvent. Literature submitted at the time indicates that the basic resin consisted primarily of polyvinyl chloride with the remainder being a butadiene/acrylonitrile rubber. The commercial literature indicated that these same resins were suitable for extrusion and molding as well as films, though extruded or molded products were not considered in the review of the polymer system. The prior sanction for this use was specifically for "Meade Wrap Paper" and "Meade Lard Liner Paper." Further extension of this approval to milk filter discs was denied by FDA in 1960.

A third prior sanction was issued by FDA on June 29, 1949. The letter covered the use of two films for "food packaging purposes." The material was tested for total solubility, acrylonitrile monomer extraction, and hydrogen cyanide extraction according to USDA protocol. The stated use of the film was as a wrapper for oleomargarine. As in the earlier USDA prior sanction, the polymers were vinyl chloride resins incorporating a butadiene/acrylonitrile copolymer. There was also an earlier letter issued by FDA stating that there was no objection to a change in the vinyl components formulation to include the use of polyvinyl acetate at a level of 5 percent in the vinyl resin component.

The first nonfilm prior sanction was a letter issued on January 21, 1955, offering no objection to the use of an acrylonitrile/butadiene/styrene copolymer in the making of containers and piping for handling food products. The early correspondence indicated that the container use would primarily be as tote boxes, i.e., essentially for repeated-use articles. Patent literature indicates that the acrylonitrile content of the copolymer was in the range of 0 to 30 percent.

On June 12, 1956, a letter was issued by FDA offering no objection to the use of either a resin consisting of polyvinyl chloride blended with acrylonitrile/butadiene copolymer or a resin consisting of neoprene blended with polystyrene and acrylonitrile/butadiene copolymer as components of conveyor belts for use with fresh fruit, vegetables, and fish.

On March 7, 1957, a letter was issued by FDA stating that a resin blend consisting of polyvinyl chloride and acrylonitrile/butadiene copolymer containing less than 9 percent acrylonitrile was acceptable as extruded pipe for use in food processing.

On March 27, 1957, a letter was issued by FDA stating that styrene/acrylonitrile copolymers were acceptable as food packaging. A similar letter on the same copolymer had been issued by USDA on March 15, 1957, permitting its use for packaging meat and meat food products. The acrylonitrile content of the copolymer was less than 30 percent.

On May 14, 1957, another letter was issued by FDA stating that the acrylonitrile/styrene copolymer was suitable for general food-contact use. Data available indicate that, again, the acrylonitrile content of the copolymer was less than 30 percent.

Additionally, there was a letter that issued on November 18, 1954, over the signature of Dr. A. J. Lehman, offering no objection to a basic copolymer of acrylonitrile/butadiene/styrene as a coating for paper or plastic intended to contact food but questioning the presence of a "soap" constituent in the copolymer. The acrylonitrile content of the copolymer did not exceed 30 percent.

The various prior-sanctioned uses of acrylonitrile copolymers discussed above have been identified in § 121.2010. Section 121.2010 expressly limits the content of the subject copolymers and resins to less than 30 percent acrylonitrile, since all prior-sanctioned applications were below that level.

The Commissioner is also aware of the presence in the marketplace of various acrylonitrile copolymer containers intended to contact food that are neither prior-sanctioned nor permitted by current regulations. These containers are primarily used as margarine tubs and apparently have been marketed in the belief that they were prior-sanctioned. The Commissioner notes that the scope of some of the pre-1958 approvals was not completely clear and is of the opinion that the industry used these products in good faith believing them to be the subject of prior sanctions. Thus, the Commissioner concludes that it is appropriate to authorize the continued use of acrylonitrile copolymers in food-contact applications where the user in good faith believed that the use was prior-sanctioned, subject to the requirement that each use meet the requirements for safe use established by the interim food additive regulation. In addition, each use that is not the subject of a prior sanction or of a current food additive regulation may continue only if: (1) by August 13, 1976, the user notifies FDA of the use and establishes that the product has been used in the good faith belief that it was prior-sanctioned; and (2) by December 13, 1976, the user files a food additive petition. If these requirements are met, the copolymers may continue to be marketed until appropriate food additive regulations are issued or until the applicable petition has been denied by FDA.

8. One comment contended that proposed § 121.2010(b) was inappropriate because it stated that food-contact articles containing acrylonitrile resins yielding unlawfully high extractives were deemed to be adulterated foods.

The Commissioner advises that food-contact articles are subject to regulatory action under the Federal Food, Drug, and Cosmetic Act as adulterated food if they contain components that may migrate to food at unsafe levels. (See *Natick Paperboard Corp.* v. *Weinberger*, 525 F.2d 1103 (1st Cir. 1975); *United States* v. *An Article of Food * * * Pottery * * * (Cathy Rose)*, 370 F. Supp. 371 (E.D. Mich., 1974).)

CHEMISTRY

9. One comment stated that acrylonitrile copolymers regulated in § 121.2520 *Adhesives*, § 121.2571 *Components of paper and paperboard in contact with dry food*, and § 121.2577 *Pressure-sensitive adhesives*, as well as those acrylonitrile copolymers regulated under § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* and restricted to type VIII foods (dry solids with the surface containing no free fat or oil) should be exempt from compliance with acrylonitrile extraction limitations.

The Commissioner concludes that acrylonitrile copolymers used in compliance with §§ 121.2520, 121.2571, and 121.2526 (type VIII food only) would not reasonably be expected to migrate to food and, therefore, that no extraction data are necessary for these uses. However, data available to FDA indicate that migration may reasonably be expected to occur from pressure-sensitive adhesives, and they should therefore be subject to the extraction limitations. Representative data in support of this conclusion are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

10. Two comments requested less stringent requirements for acrylonitrile copolymers intended as components of repeated-use articles such as conveyor belts, piping and storage boxes, than those established for components of single-use articles.

The Commissioner concludes that separate restrictions on the extraction of acrylonitrile monomer from acrylonitrile copolymers intended for use as components of repeated-use articles are appropriate. In repeated-use applications much less acrylonitrile monomer migrates to any specific quantity of food because the time of contact with the acrylonitrile food-contact article is much shorter than in the case of single-use articles. Additionally, extraction of acrylonitrile monomer from repeated-use articles is self-limiting; migration will thus be greatest at a time equivalent to initial batch usage. Therefore, §§ 121.2010 and 121.4010 have been modified to include specific restrictions on extraction of acrylonitrile monomer from repeated-use articles. Section 121.4010 also provides for the submission of additional data on acrylonitrile monomer extraction from repeated-use articles.

11. One comment questioned whether the use of GRAS substances should be permitted in acrylonitrile copolymers when there are no data on how such substances interact with acrylonitrile and/or the contents of the package.

The Commissioner concludes that the comment is insufficiently precise to permit a specific reply. Food additives are not ordinarily tested for their reaction products with GRAS substances unless there are specific data or reasons to indicate the formation of undesirable substances. Any reaction product of GRAS substances with acrylonitrile would be expected, with few exceptions, to be less extractable and less toxic than acrylonitrile monomer. Thus, the requirements of the regulation should ensure the safety of the food even if there is interaction like that suggested in the comment.

12. One comment asked if acrylonitrile copolymers should be subjected to the same testing as polyvinyl chloride.

The Commissioner concludes that separate test programs must be set forth for each of these polymer systems to provide the data necessary to answer the specific safety questions raised. The migration of vinyl chloride monomer from polyvinyl chloride is due primarily to the presence of unreacted monomer trapped in the polymer, whereas the acrylonitrile monomer migration is due both to a breakdown of reversible acrylonitrile/mercaptan complexes and to the presence of unreacted monomer trapped in the polymer.

13. Seven comments requested clarification of § 121.4010(b), which specifies the required testing. Specific comments concerning the testing for mercaptan complexes are as follows:

a. One comment asked if each end user must test for migration.

The Commissioner concludes that there is no necessity for each end user to test for migration of mercaptans, mercaptan/acrylonitrile complexes, or increased acrylonitrile monomer due to reversible complexes. The testing of the copolymers by the basic manufacturers will provide the data sought by the Commissioner.

b. One comment asked for identification of the scientific evidence upon which the conclusion was reached that mercaptans or any other materials form reversible complexes.

The Commissioner states that the presence of reversible acrylonitrile/n-dodecylmercaptan complexes in acrylonitrile copolymers was first reported by E.I. duPont de Nemours and Co. in food additive petition (FAP 3B2926). Further data submitted by Rohm & Haas and Vistron confirmed this phenomenon. These data are on file with the Hearing Clerk, Food and Drug Administration. Additionally, standard textbook references define this reaction.

c. Two comments stated that limitations on mercaptans are not necessary because of acrylonitrile end-test specifications.

The Commissioner finds that because the amount of acrylonitrile monomer available for migration is proportional, in part, to the level of complex in the acrylonitrile copolymer, it is necessary to prescribe limitations on the use of the mercaptan or on the level of the acrylonitrile/mercaptan complex present in the copolymer. Additionally, very little toxicological data are available on most mercaptans and their complexes. Therefore, their use can be permitted only under circumstances in which there is virtually no migration.

d. Two comments stated that quarterly reports on reversible complexes are unnecessary.

The Commissioner agrees that quarterly reports are not necessary. The regulation is revised to state that where reversible acrylonitrile/mercaptan complexes are encountered, reports will be required within 360 days after issuance of this regulation. Where accelerated testing shows the absence of the acrylonitrile/mercaptan complex or the formation of a stable acrylonitrile/mercaptan complex, such data should also be submitted.

e. One comment stated that extraction testing should be required only where reversible complexes are present.

The Commissioner agrees that long-term (6 months) testing is necessary only where accelerated tests described in the regulation show reversible complexes to be present. Otherwise, testing necessary to establish equilibrium acrylonitrile migration is adequate.

f. Questions have arisen as to the levels of acrylamide extractable from acrylonitrile copolymers.

The Commissioner concludes that, while there are no data to suggest that acrylamide is extractable from acrylonitrile copolymers at unsafe levels, data on the levels of acrylamide extractable from the copolymer should nonetheless be submitted to and reviewed by FDA. Section 121.4010(e) requires the submission of those data.

14. Five comments requested that, because there is no known use for acrylonitrile copolymer with highly alcoholic foods, 50 percent alcohol should be deleted as a mandatory test and made a requirement only where use of the copolymers with highly alcoholic foods is sought.

The Commissioner advises that interest has been expressed in the use of acrylonitrile copolymers as liquor bottles. Extraction testing with 50 percent alcohol is appropriate where petitioners are requesting this use. However, extraction testing with 50 percent alcohol is not necessary in all cases. Therefore, § 121.4010 is modified to delete the list of mandatory test solvents and to require testing with food simulating solvents appropriate to the intended conditions of use.

15. Three comments questioned the use of heptane as a food-simulating solvent because heptane attacks the polymer.

The Commissioner finds that heptane is an appropriate food-simulating solvent where the acrylonitrile copolymers are not attacked by heptane. When heptane, a solvent that exaggerates the extractions obtained from food oils, is used for extraction testing, the amount of additive extracted may be divided by a factor of five to approximate actual food oil extractions. The Commissioner concludes that where heptane is not suitable, oils should be used in place of heptane to determine the extent of migration. The results obtained using a food oil represent actual extraction and are not divided by a factor of five.

16. One comment stated that the method of acrylonitrile analysis should be validated by FDA.

The Commissioner points out that, in addition to the validation data submitted by the petitioners, the various methods submitted are currently undergoing evaluation and validation studies in the Bureau of Foods. In the meantime, copies of the methodologies submitted by various petitioners are available upon request from the Division of Food and Color Additives, HFF-330, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

17. Four comments requested clarification of proposed § 121.4010(a). Specific points raised by the comments are as follows:

a. The use of 212° F temperature for acrylonitrile/mercaptan complex decomposition testing was said to be unrealistic.

The Commissioner realizes that 212° F is not a realistic-use temperature for existing acrylonitrile copolymers. However, data from 212° F testing aids in the development of data for Arrhenius plots for extrapolation of acrylonitrile monomer migration. This type of data may aid in the reduction or elimination of long-term extractions and is useful in prescribing appropriate end-tests for the tested acrylonitrile copolymer. A protocol for development of Arrhenius plots is available from the Division of Food and Color Additives, HFF-330, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

b. One comment stated that the maximum temperature for acrylonitrile testing should be limited to 150° F.

The Commissioner finds that 150° F is not an appropriate temperature for testing all acrylonitrile copolymers. The Commissioner notes that in § 121.2627 (21 CFR 121.2627), use-temperatures up to 190° F are permitted. The extraction testing should be appropriate for the intended conditions of use.

c. One comment stated that allowances should be made in the permissible acrylonitrile levels to take into account the surface-to-volume ratio of large containers.

The Commissioner agrees with the thrust of the comment and has modified the regulations to include the volume to surface ratio factor in establishing appropriate limits on acrylonitrile monomer migration. A limit of 0.003 milligrams/square inch acrylonitrile monomer migration applies to single-use articles with volume to surface ratios of 10 milliliters or more per square inch of food-contact surface. For single-use finished food-contact articles with volume to surface ratios of less than 10 milliliters per square inch of food-contact surface, a limit on acrylonitrile monomer migration of 0.3 parts per million calculated on the basis of the volume of the container is established. Large volume finished food-contact articles are most frequently repeated-use articles; guidelines for acrylonitrile monomer migration testing of repeated-use articles are also included in the regulation.

TOXICOLOGY

18. One comment stated that 1-year subchronic acrylonitrile monomer feeding studies in nonrodent mammals would not be meaningful because they are not sufficient to determine carcinogenicity in the animal being studied. The comment suggested 90-day studies as a suitable substitute.

The Commissioner concludes that a 6-month acrylonitrile monomer feeding study in dogs would be appropriate in lieu of the 1-year proposed study. A 6-month study has in fact been completed. A shortened study is appropriate in part because of the demonstrated unwillingness of dogs to drink water containing acrylonitrile from bottles. Results of this study will be made available to the public when received by FDA.

19. One comment questioned the need for studying "synergistic toxic effects" between acrylonitrile monomer and the cyanide ion and suggested that the requirement be deleted from the regulation.

The Commissioner concludes that the requested study is pertinent for products like acrylonitrile copolymers where acrylonitrile monomer and hydrogen cyanide have been detected in extracts.

20. One comment suggested that, when protocols of toxicological testing are presented to FDA, they should be acknowledged in writing.

The Commissioner agrees with this statement and points out that it is standard procedure for the agency to respond in writing to toxicological protocols. Copies of protocols and all pertinent letters and memoranda have been made part of the administrative record of this regulation and are on file with the Hearing Clerk, Food and Drug Administration.

21. One comment stated that in using a 100-to-1 safety factor where there is a no-effect level of 38 parts per million (ppm), the interim safe level to be permitted in food for humans should be 0.4 ppm rather than 0.3 ppm.

The Commissioner concludes that under normal food-packaging conditions the allowable contribution of acrylonitrile monomer should be based on its contribution to the total daily diet. However, the growing use of acrylonitrile copolymers to package soft drinks, a use that may result in more substantial exposure of the consumer to acrylonitrile-copolymer-packaged foods, dictates use

of the more conservative figure of 0.3 ppm.

22. Five comments questioned the proposed acrylonitrile migration limit of 0.3 ppm because it is based on the assumption that all food in the diet would be exposed to acrylonitrile copolymers. Since this level of exposure would never be approached, the comments proposed that a more realistic safe figure under current acrylonitrile copolymer food-packaging practices could be as high as 4 to 5 ppm of permitted acrylonitrile monomer migration.

The Commissioner notes that FDA requests exaggerated extraction and feeding studies for most indirect food additives to anticipate any future developments. These precautions are particularly pertinent in a rapidly developing field like acrylonitrile copolymer food packaging. Because of the rapidly expanding use of acrylonitrile, a conservative judgment is appropriate at this time. The Commissioner concludes that revision in the level of permissible migration should await the receipt of final toxicological testing results, a complete evaluation of the extraction and analytical testing in the numerous acrylonitrile copolymer petitions, and a comprehensive analysis by industry of the total daily dietary exposure to acrylonitrile copolymer packaging.

The Commissioner acknowledges that the limit of 0.3 ppm acrylonitrile monomer migration established in the regulation does not allow for the relatively small part of the food in the total diet currently packaged in acrylonitrile copolymers. However, petition data have shown that polymers can readily be prepared that result in acrylonitrile migration levels much below 0.3 ppm. Therefore, it is not reasonable at this early stage in the expanding use of acrylonitrile copolymers to revert to less pure copolymers yielding 4 to 5 ppm acrylonitrile migration levels. When the requested toxicological and chemical testing are completed and the analysis of acrylonitrile use in packaging is completed by industry, the Commissioner will be able to evaluate thoroughly the toxicological significance of the present feeding studies in relation to the actual ingestion of acrylonitrile monomer.

23. One comment stated that acrylonitrile copolymer systems have been used in food-contact applications for 20 years without any history of ill effects.

The Commissioner is aware of the history of use of acrylonitrile copolymers, but concludes that, in the absence of well-controlled animal studies, one cannot assume the safety of a food-packaging formulation.

24. One comment on the draft environmental impact statement stated that the proposed 0.3 ppm extractive limit was based on one unpublished animal feeding study conducted 22 years ago and stated further that FDA has admitted that the study was inadequate to demonstrate the carcinogenic property of acrylonitrile or to establish a no-effect level.

The Commissioner concludes the statements in the comment do not accurately interpret the statements made in the preamble to the proposal of November 4, 1974. The Commissioner notes that the proposal states specifically that there have been no findings that demonstrate a carcinogenic potential for acrylonitrile monomer. Both the older 2-year rat feeding study at George Washington University and the 2-year rat feeding study done by the Public Health Service failed to show carcinogenic potential for acrylonitrile monomer at the levels fed. Although no final report was written on the Public Health Service feeding study, one of the two scientists conducting the study was subsequently employed by FDA as a toxicologist and was able to supply the agency with information concerning certain conclusions of the study, including the conclusion that acrylonitrile was not found to be a carcinogen. In addition to these two studies, the carcinogenic potential of acrylonitrile is being tested by Dr. Cesare Maltoni in Italy in a rat feeding study that will be completed in 1976, and will also be tested in rat feeding studies undertaken by the Manufacturing Chemists Association, in response to the November 4, 1974 proposal.

The Commissioner stated in the proposal that the data on hand, in view of current toxicological test standards, are inadequate to set a definitive no-effect level for acrylonitrile monomer. However, no data have been presented indicating that the previously accepted no-effect level (highest level fed at which no statistically significant effects were noted) of 38 ppm is not safe. The finding of hind leg paralysis in pregnant rats in the Public Health Service feeding study was observed only when the animals were fed at a level of 500 ppm of the diet. Therefore, the Commissioner concludes that the data available are adequate to support this interim action while more definitive data are being developed.

25. One comment compared the chemical similarity of acrylonitrile to vinyl chloride, drawing the conclusion that because vinyl chloride has been found to be a carcinogen FDA should question the safety of acrylonitrile.

The Commissioner, as stated in paragraph 24 of this preamble, has no data indicating that acrylonitrile monomer is a carcinogen. The Commissioner concludes that the question of structural similarity is most relevant in judging the potential for carcinogenicity where there is an absence of data derived from studies where the compound has been studied directly in chronic feeding studies.

26. Five comments questioned in general the migration of acrylonitrile monomer from acrylonitrile copolymer bottles. Specific comments were as follows:

a. One comment quoted migration data from food additive petitions indicating up to 0.52 ppm acrylonitrile monomer for the duPont NR–16 copolymer and up to 0.3 ppm for the Lopac II polymer and stated that these levels were not properly considered before regulating these copolymers.

The Commissioner states that all data available to the agency were considered in the evaluation of these two polymers. The Commissioner notes that both of these polymers have been tested in accordance with § 121.4010. In the opinion of FDA, neither polymer will migrate in excess of the limit specified in § 121.4010, when used to package food in accordance with regulations issued for their use. No specific response can be made to the contention that the migration levels cited in the comment were not considered; the levels cited appear in a number of contexts in the data and the comment did not refer to any one in particular.

The Commissioner is of the opinion that the testing criteria for all indirect food additives are heavily weighted in favor of the consumer to assure the safety of the food additives. In the case of acrylonitrile copolymers, testing for 6 months at 120° F is a more severe situation than would be encountered in actual use. Degradation of the reversible acrylonitrile/mercaptan complexes is considerably greater at 120° F than at the average 72° F temperature of the home. Moreover, degradation of reversible complexes and the release of trapped monomeric acrylonitrile from a copolymer are correspondingly lower at refrigeration temperatures.

Also, some tests, like accelerated aging at higher temperatures than would normally be encountered, are requested for the purpose of establishing rapid maximum extraction tests for the polymer. These tests will ordinarily produce migration data that to the untrained reviewer might appear to be excessive migration.

The Commissioner has placed on public display in the office of the Hearing Clerk, Food and Drug Administration, the only data thus far received on long-term storage of soft drinks in acrylonitrile bottles. These data were presented by the Vistron Corp. after analysis of samples of Seven-Up and Pepsi Cola stored in laboratories and offices without refrigeration for 4 years. The data indicate no acrylonitrile migration in excess of 0.01 ppm.

b. One comment questioned the safety of the migration of hydrogen cyanide from acrylonitrile bottles and cited levels of up to 0.4 ppm in 3 percent acetic acid, stating that FDA has not established safety standards for this compound.

The Commissioner finds, as in the case of the acrylonitrile monomer extractions, that the hydrogen cyanide extractions were performed under conditions more severe than those that will be encountered in ordinary storage or use. The acrylonitrile copolymers under the conditions of use prescribed in their respective regulations would not be expected to produce any significant hydrogen cyanide migration to foods. This is further discussed in paragraph 27 of this preamble.

c. One comment stated that FDA had not established safety standards for *n*-dodecylmercaptan, the chain transfer

agent used in manufacturing a number of acrylonitrile copolymers.

The Commissioner advises that a 30-day pilot feeding study and a progress report on a 2-year feeding study, including reproduction data, on *n*-dodecylmercaptan have been submitted to FDA. These data are available from the Public Records and Documents Center, Food and Drug Administration, HFC–18, 5600 Fishers Lane, Rockville, MD 20852. Under the conditions of use specified in § 121.2625, there would be virtually no migration of this additive.

27. In addition to comments on the proposal and the draft environmental impact statement, an objection was made concerning the regulation for acrylonitrile/butadiene/styrene copolymer under § 121.2633 (21 CFR 121.2633) published in the FEDERAL REGISTER of September 4, 1975. The objection was not received within the time allotted for comment on the regulation, but will be discussed here because it bears on the safety of acrylonitrile copolymers. The objection questioned the safety of hydrogen cyanide (HCN) that may migrate in small quantities from acrylonitrile copolymers into food packaged in acrylonitrile containers.

The Commissioner is aware that HCN is formed during the manufacture of acrylonitrile copolymers and that small amounts of it are trapped within the polymer. Under highly exaggerated extraction testing conditions (120° F for 6 months), HCN was found at levels up to 0.5 ppm in acetic acid test solutions used to test a specific, rubber modified, acrylonitrile copolymer. When tested under more realistic conditions (73° F for 6 months), migration of HCN from the copolymer was found to be less than 0.1 ppm. Under actual use conditions the Commissioner expects even less migration of this substance.

The Commissioner, recognizing that there exists the potential for low level migration of both HCN and acrylonitrile monomer from certain of the acrylonitrile copolymers, set forth in the proposal a requirement for tests to determine whether there exists a synergistic effect from the simultaneous ingestion of low levels of these two substances. That requirement is made final in this document.

The toxicity of HCN has been widely studied. In the opinion of the Commissioner, HCN poses no acute health hazard at the level of migration found even during the exaggerated extraction testing of the acrylonitrile copolymer bottle. However, the Commissioner, after reviewing applicable food additive petitions, finds that the issue of the possible chronic toxicity of ingestion of small amounts of HCN over long periods of time, even though not considered a health hazard by FDA toxicologists, has not been fully documented by the petitioners. Therefore, the Commissioner is modifying § 121.4010(e) to include a requirement for a complete literature search on the issue of chronic toxicity of ingested HCN.

The potential for HCN migration is of concern primarily in those copolymers intended for use as beverage bottles. Of the four regulations permitting acrylonitrile copolymers as beverage bottles, only one, § 121.2629 *Acrylonitrile/styrene copolymer* (21 CFR 121.2629), is currently in use in the United States as a beverage bottle. The Commissioner notes with interest that the firm manufacturing this copolymer removes HCN from the copolymer prior to fabrication into a bottle. Extraction tests submitted in the petition for this bottle indicate no detectable HCN under exaggerated test conditions with analytical determinations in 3 percent acetic acid utilizing methodology sensitive to 50 parts per billion (ppb). The Commissioner urges other acrylonitrile copolymer manufacturers to develop similar procedures for the removal of HCN from their acrylonitrile copolymers. Although the HCN apparently presents no hazard, it is always good practice to eliminate contaminants if possible.

As there have been no data submitted to FDA defining any health hazard from the long-term ingestion of small quantities of HCN, it would be premature to require additional feeding studies at this time. The Commission will review chronic exposure data from the literature review and data submitted in response to the HCN and acrylonitrile monomer synergism study and will determine the need for additional feeding studies. Should such studies be deemed necessary, appropriate limitations on HCN will be included in § 121.4010 and additional toxicological feeding studies will be required.

Additionally, the Commissioner will institute studies within FDA to define the degree of exaggeration represented by 120° F storage of beverages for a 6-month period and will consider the results when prescribing any limitation on HCN that may be included in § 121.4010.

The Commissioner has carefully considered the environmental effects of the regulations and, because the action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration. This assessment is separate from the environmental impact statement that is being prepared for plastic bottles, although that statement will discuss bottles made from acrylonitrile.

No inflation impact assessment has been prepared for the regulations as the proposed regulation was published prior to the requirement for consideration of the inflation impact of proposed regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In Subpart D, in § 121.1148 by adding new paragraph (e) to read as follows:

§ 121.1148 Ion-exchange resins.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

2. In Subpart E new § 121.2010 is added to read as follows:

§ 121.2010 Acrylonitrile copolymers and resins.

(a) Acrylonitrile copolymers and resins listed in this section, containing less than 30 percent acrylonitrile and complying with the requirements of paragraph (b) of this section, may be safely used as follows:

(1) *Films.* (i) Acrylonitrile/butadiene/styrene copolymers—no restrictions.

(ii) Acrylonitrile/butadiene/styrene copolymers—no restrictions.

(iii) Acrylonitrile/butadiene copolymer blended with vinyl chloride-vinyl acetate (optional at level up to 5 percent by weight of the vinyl chloride resin) resin—for use only in contact with oleomargarine.

(iv) Acrylonitrile/styrene copolymer—no restrictions.

(2) *Coatings.* (i) Acrylonitrile/butadiene copolymer blended with polyvinyl chloride resins—for use only on paper and paperboard in contact with meats and lard.

(ii) Polyvinyl chloride resin blended with either acrylonitrile/butadiene copolymer or acrylonitrile/butadiene styrene copolymer mixed with neoprene, for use as components of conveyor belts to be used with fresh fruits, vegetables, and fish.

(iii) Acrylonitrile/butadiene/styrene copolymer—no restrictions.

(iv) Acrylonitrile/styrene copolymer—no restrictions.

(3) *Rigid and semirigid containers.* (i) Acrylonitrile/butadiene/styrene copolymer—for use only as piping for handling food products and for repeated-use articles intended to contact food.

(ii) Acrylonitrile/styrene resin—no restrictions.

(iii) Acrylonitrile/butadiene copolymer blended with polyvinyl chloride resin—for use only as extruded pipe.

(b) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles having a volume to surface ratio of 10 milliliters or more per square inch of food-contact surface—0.003 milligram/square inch when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of single-use articles having a volume to surface ratio of less than 10 milliliters per square inch of food-contact surface—0.3 part per million calculated on the basis of the volume

of the container when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(3) In the case of repeated-use articles—0.003 milligram/square inch when extracted at a time equivalent to initial batch usage utilizing food-simulating solvents and temperatures appropriate to the intended conditions of use.

The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either *n*-heptane or an appropriate oil or fat.

(c) Acrylonitrile monomer may present a hazard to health when ingested. Accordingly, any food-contact article containing acrylonitrile copolymers or resins that yield acrylonitrile monomer in excess of that amount provided for in paragraph (b) of this section shall be deemed to be adulterated in violation of section 402 of the act.

3. In Subpart F, in § 121.2507 by adding new paragraph (e) to read as follows:

§ 121.2507 Cellophane.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

4. In Subpart F, in § 121.2514 by adding new paragraph (h) to read as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(h) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

5. In Subpart F, in § 121.2526 by adding new paragraph (e) to read as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010, except where the copolymers are restricted to use in contact with food only of the type identified in paragraph (c) table (2) under category VIII.

6. In Subpart F, in § 121.2536 by adding new paragraph (n) to read as follows:

§ 121.2536 Filters, resin-bonded.

* * * * *

(n) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

7. In Subpart F, in § 121.2543 by adding new paragraph (d) to read as follows:

§ 121.2543 Packaging materials for use during the irradiation of prepackaged foods.

* * * * *

(d) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

8. In Subpart F, in § 121.2562 by adding new paragraph (i) to read as follows:

§ 121.2562 Rubber articles intended for repeated use.

* * * * *

(i) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

9. In Subpart F, in § 121.2569 by adding new paragraph (d) to read as follows:

§ 121.2569 Resinous and polymeric coatings for polyolefin films.

* * * * *

(d) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

10. In Subpart F, in § 121.2577 by adding new paragarph (c) to read as follows:

§ 121.2577 Pressure-sensitive adhesives.

* * * * *

(c) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

11. In Subpart F, in § 121.2591 by adding new paragraph (e) to read as follows:

§ 121.2591 Semirigid and rigid acrylic and modified acrylic plastics.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

12. In Subpart F, in § 121.2597 by adding new paragraph (e) to read as follows:

§ 121.2597 Polymer modifiers in semirigid and rigid vinyl chloride plastics.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

13. In Subpart F, in § 121.2600 by adding new paragraph (e) to read as follows:

§ 121.2600 Vinylidene chloride copolymer coatings for polycarbonate film.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

14. In Subpart F, in § 121.2614 by adding new paragraph (c) to read as follows:

§ 121.2614 Nitrile rubber modified acrylonitrile-methyl acrylate copolymers.

* * * * *

(c) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

15. In Subpart F, in § 121.2625 by adding new paragraph (f) to read as follows:

§ 121.2625 Acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer.

* * * * *

(f) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

16. In Subpart F, in § 121.2627 by adding new paragraph (e) to read as follows:

§ 121.2627 Acrylonitrile/butadiene/styrene/methyl methacrylate copolymer.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

17. In Subpart F, in § 121.2629 by adding new paragraph (e) to read as follows:

§ 121.2629 Acrylonitrile/styrene copolymer.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

18. In Subpart F, in § 121.2633 by adding new paragraph (e) to read as follows:

§ 121.2633 Acrylonitrile/butadiene/styrene copolymer.

* * * * *

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

19. In Subpart F, in § 121.2634 by adding a new paragraph (f) to read as follows:

§ 121.2634 Ultra-filtration membranes.

* * * * *

(f) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

20. In Subpart H, new § 121.4010 is added to read as follows:

§ 121.4010 Acrylonitrile copolymers.

Acrylonitrile copolymers may be safely used on an interim basis as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles having a volume to surface ratio of 10 milliliters or more per square inch of food contact surface—0.003 milligram/square inch when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of single-use articles having a volume to surface ratio of less than 10 milliliters per square inch of food contact surface—0.3 part per million calculated on the basis of the volume of the container when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(3) In the case of repeated-use articles—0.003 milligram/square inch when extracted at a time equivalent to initial batch usage utilizing food-simulating solvents and temperatures appropriate to the intended conditions of use.

The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either *n*-heptane or an appropriate oil or fat.

(b) Where necessary, current regulations permitting the use of acrylonitrile copolymers shall be revised to specify limitations on acrylonitrile/mercaptan complexes utilized in the production of acrylonitrile copolymers. Such copolymers, if they contain reversible acrylonitrile/mercaptan complexes and are used in other than repeated-use conditions, shall be tested to determine the identity of the complex and the level of the complex present in the food-contact article. Such testing shall include determination of the rate of decomposition of the complex at temperatures of 100° F, 160° F, and 212° F using 3 percent acetic acid as the hydrolic agent. Acrylonitrile monomer levels, acrylonitrile/mercaptan complex levels, acrylonitrile oligomer levels, descriptions of the analytical methods used to determine the complex and the acrylonitrile migration, and validation studies of these analytical methods shall be submitted by June 9, 1977, to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, D.C. 20204, unless an extension is granted by the Food and Drug Administration for good cause shown. Analytical methods for the determination of acrylonitrile complexes with *n*-dodecylmercaptan, *n*-octyl mercaptan, and 2-mercaptoethanol are available upon request from the Division of Food and Color Additives.

(c) The following data shall be provided for finished food-contact articles intended for repeated use:

(1) Qualitative and quantitative migration values at a time equivalent to initial batch usage, utilizing solvents and temperatures appropriate to the intended conditions of use.

(2) Qualitative and quantitative migration values at the time of equilibrium extractions, utilizing solvents and temperatures appropriate to the intended conditions of use.

(3) Data on the volume and/or weight of food handled during the initial batch time period(s), during the equilibrium test period, and over the estimated life of the food-contact surface.

(d) Where acrylonitrile copolymers represent only a minor component of a polymer system, calculations based on 100 percent migration of the acrylonitrile component may be submitted in lieu of the requirements of paragraphs (a), (b), and (c) of this section in support of the continued safe use of acrylonitrile copolymers.

(e) On or before September 13, 1976, any interested person shall satisfy the Commissioner of Food and Drugs that toxicological feeding studies adequate and appropriate to establish safe conditions for the use of acrylonitrile copolymers have been, or soon will be, undertaken. Toxicity studies of acrylonitrile monomer shall include (1) lifetime feeding studies with a mammalian species, preferably with animals exposed in utero to the chemical, (2) studies of multigeneration reproduction with oral administration of the test material, (3) assessment of teratogenic and mutagenic potentials, (4) subchronic oral administration in a nonrodent mammal, (5) tests to determine any synergistic toxic effects between acrylonitrile monomer and cyanide ion, and (6) a literature search on the effects of chronic ingestion of hydrogen cyanide. Data on levels of acrylamide extractable from acrylonitrile copolymers shall also be submitted. Protocols of testing should be submitted for review to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, D.C. 20204.

(f) Acrylonitrile copolymers may be used in contact with food only if authorized in § 121.2010 or in Subpart F of this part, except that other uses of acrylonitrile copolymers in use prior to June 14, 1976, may continue under the following conditions:

(1) On or before August 13, 1976, each use of acrylonitrile copolymers in a manner not authorized by § 121.2010 or Subpart F of this part shall be the subject of a notice to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, DC 20204. Such notice shall be accompanied by a statement of the basis, including any articles and correspondence, on which the user in good faith believed the use to be prior-sanctioned. The Commissioner of Food and Drugs shall, by notice in the FEDERAL REGISTER, identify any use of acrylonitrile copolymers not in accordance with this paragraph. Those uses are thereafter unapproved food additives and consequently unlawful.

(2) Any use of acrylonitrile copolymers subject to paragraph (f)(1) of this section shall be the subject of a petition submitted on or before December 13, 1976, in accordance with § 121.51, unless an extension of time is granted by the Food and Drug Administration for good cause shown. Any application for extension shall be by petition submitted in accordance with the requirements of Part 2 of this chapter. If a petition is denied, in whole or in part, those uses subject to the denial are thereafter unapproved food additives and consequently unlawful.

(3) Any use of acrylonitrile copolymers subject to paragraph (f)(1) of this section shall meet the acrylonitrile monomer extraction limitation set forth in paragraph (a) of this section and shall be subject to the requirements of paragraph (b) of this section.

(g) In addition to the requirements of this section, the use of acrylonitrile copolymers shall comply with all applicable requirements in other regulations in this part.

Any person who will be adversely affected by the provisions of the foregoing order, other than the issuance of § 121.2010, may at any time on or before July 14, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall be effective June 14, 1976, except that § 121.2010 is effective July 14, 1976.

(Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371).)

Dated: June 8, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76–17121 Filed 6–9–76;11:02 am]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Chlortetracycline Soluble Powder

The Food and Drug Administration (FDA) approves new animal drug application (65–096V) filed by Philips-Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, proposing safe and effective use of chlortetracycline soluble powder as an aid in the control and treatment of bacterial pneumonia and bacterial enteritis of calves and swine. The approval is effective June 14, 1976.

The Commissioner of Food and Drugs is amending § 546.110c (21 CFR 546.110c) to reflect this approval.

In addition, the Commissioner concludes that the regulation should reflect those conditions of use for chlortetracycline that were evaluated by the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, and deemed to be effective by the Academy and the Food and Drug Administration. Those conditions of use are identified by a footnote. Submitted applications that include such conditions of use need not include data required by § 514.111 (21 CFR 514.111) to establish the effectiveness of the drug for such usage, but they may require bioequivalency and safety data.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the

safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 546 is amended in § 546.110c by revising paragraph (c)(2) and adding new paragraph (c)(5)(iii) and (iv) to read as follows:

§ 546.110c Chlortetracycline powder (chlortetracycline hydrochloride powder).

* * * * *

(c) * * *

(2) *Sponsor.* No. 010042 in § 510.600(c) of this chapter for conditions of use as in paragraph (c)(5)(i) and (ii) of this section; No. 000010 for conditions of use as in paragraph (c)(5)(iii) and (iv) of this section.

* * * * *

(5) * * *

(iii) Swine: It is used as chlortetracycline hydrochloride in drinking water as follows:

(*a*) *Amount.* One gram per gallon to provide approximately 10 milligrams per pound of body weight daily.[1]

(*b*) *Indications for use.* It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia associated with *Pasteurella spp., Hemophilus spp.,* and *Klebsiella spp.*[1]

(*c*) *Limitations.* Prepare a fresh solution twice daily, as sole source of chlortetracycline, administer for not more than 45 days, do not slaughter animals for food within 5 days of treatment.

(iv) Calves: It is used as a chlortetracycline hydrochloride drench as follows:

(*a*) *Amount.* One level tablespoonful per each 98 pounds of body weight every 12 hours to provide approximately 10 milligrams per pound of body weight daily.[1]

(*b*) *Indications for use.* It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia (shipping fever) associated with *Pasteurella spp., Hemophilus spp.,* and *Klebsiella spp.*[1]

(*c*) *Limitations.* As sole source of chlortetracycline, administer for not more than 5 days, do not slaughter animals for food within 24 hours of treatment.

[1] These claims are NAS/NRC reviewed and are deemed effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter.

Effective date: This amendment shall be effective June 14, 1976.

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

Dated: June 3, 1976.

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

[FR Doc.76-17122 Filed 6-11-76;8:45 am]

Title 23—Highways

CHAPTER II—HIGHWAY SAFETY PROGRAM STANDARDS, DEPARTMENT OF TRANSPORTATION

PART 1204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

Revision of Supplement C (Volume 103—Annual Work Program)

● The purpose of this notice is to extend and modify the provisions of Supplement C (Volume 103—Annual Work Program) to 23 CFR Part 1204 (40 FR 53730) ●

Each State carrying out a highway safety program pursuant to 23 U.S.C. 402 has been required by the National Highway Traffic Safety Administration and the Federal Highway Administration to submit an Annual Work Program consisting of the State's overall plan for achieving its objectives for the year of the program in order to receive its share of highway safety funds that year. This notice extends through Fiscal Year 1977 the policies and procedures for submission of Annual Work Programs set out in Supplement C. In addition, this notice announces certain revisions made to Supplement C by NHTSA and FHWA.

Beginning with Fiscal Year 1977, the fiscal year will commence October 1 instead of July 1. To reflect the new fiscal year, the date for submission of the Annual Work Program is hereby changed from May 1 to July 1.

A second revision concerns those States that are scheduled to participate in a Highway Safety Management System pilot program. NHTSA and FHWA hereby exempt the States that implement the pilot program from the requirement that they submit a Fiscal Year 1977 Annual Work Program.

A final revision allows the States to reduce the paperwork load imposed by the AWP by incorporating portions of their Comprehensive Plans by reference.

In consideration of the foregoing, Supplement C (Volume 103—Annual Work Program) to 23 CFR Part 1204 is amended as follows:

1. Paragraph 2 of Chapter III, *Annual Work Program Submission and Approval,* is amended as follows:

The Annual Work Program shall be submitted no later than July 1 to NHTSA and FHWA. This date will provide for an adequate review period and for executing the Federal-aid AWP agreement prior to October 1.

2. Paragraph 7 is added to Chapter III, *Annual Work Program Submission and Approval,* as follows:

7. A State that participates in the pilot program of the new Highway Safety Management System Plan is hereby exempt during the period of its participation from the requirement to submit a Fiscal Year 1977 Annual Work Program.

3. Paragraph 6 is added to Chapter IV, *Content of Annual Work Program,* as follows:

6. To avoid duplication of information previously provided in the Comprehensive Plan (CP) the States may use the following procedures to meet the provisions of Supplement C. To the extent that the following data are in the CP, they may be incorporated in the AWP by appropriate reference:

a. The Program Analysis Section (Chapter IV, Paragraph 3).

b. The Subelement Plan (Form HS-57) data for two future years (FY +1, FY +2).

c. The narrative discussion of activities in subelements implemented entirely with State and local funds where such funds are not used in matching Section 402 funds (Chapter IV, Paragraph 4.c).

(Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 401 et seq., delegations at 49 CFR 1.48 and 49 CFR 1.50.)

Issued on June 8, 1976.

Effective date: June 14, 1976.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76-17245 Filed 6-11-76;8:45 am]

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

This notice announces that the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) have adopted new guidelines for determining the extent of political subdivision participation in State Highway Safety Programs. These new guidelines replace the previous uncodified directive on this subject, NHSB Order 462-8, "Political Subdivision Participation in State Highway Safety Programs," dated November 21, 1968. The new guidelines (1) specify the NHTSA and FHWA field office policy and procedures to be followed in determining the extent of political subdivision program participation and expenditures, (2) interpret the intent of Congress in providing for political subdivision participation, and (3) provide examples of political subdivision expenditures of 402 funds.

Under the Highway Safety Act of 1966 (23 U.S.C. 402(b)(1)(C)), every State

highway safety program must provide that, at least 40 percent of all Federal funds apportioned to the State under that section for any fiscal year be expended by the State's political subdivisions. The only exception to this requirement is when the Secretary determines there is an insufficent number of local highway safety programs in the State to justify requiring such a percentage expenditure over a particular fiscal year. These guidelines are provided to assist the States in their compliance with the requirements of 23 U.S.C. 402(b)(1)(C).

The agencies plan to codify many of the existing directives in the highway safety program. These directives will be adapted to the CFR format, without any change in substance, and will be published in the FEDERAL REGISTER at a later date.

Chapter II of Title 23, Code of Federal Regulations, is hereby amended by adding Subchapter C—General Provisions, consisting of Part 1250—Political Subdivision Participation in State Highway Safety Programs, as set forth below.

Effective date: June 14, 1976.

Issued on: June 7, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.
JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

Sec.
1250.1 Scope.
1250.2 Purpose.
1250.3 Policy.
1250.4 Determining local share.
1250.5 Waivers.

AUTHORITY: 23 U.S.C. 315, 402(b); and delegations of authority at 49 CFR 1.48 and 1.50.

§ 1250.1 Scope.

This part establishes guidelines for the States to assure their meeting the requirements for 40 percent political subdivision participation in State highway safety programs under 23 U.S.C. 402 (b)(1)(C).

§ 1250.2 Purpose.

The purpose of this part is to provide guidelines to determine whether a State is in compliance with the requirement that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 will be expended by political subdivisions of such State.

§ 1250.3 Policy.

To assure that the provisions of 23 U.S.C. 402(b)(1)(C) are complied with, the NHTSA and FHWA field offices will:

(a) Prior to approving the State's Annual Work Program (AWP), review the AWP and each of the subelement plans which make up the AWP. The NHTSA Regional Administrator will review the 14½ safety standard areas for which NHTSA is responsible and the FHWA Division Administrator will review the 3½ safety standard areas for which FHWA is responsible. The narrative description for each subelement plan should contain sufficient information to identify the funds to be expended by, or for the benefit of the political subdivisions.

(b) Withhold approval of a State's AWP, as provided in Highway Safety Program Manual Volume 103, Chapter III, Paragraph 3c, where the program does not provide at least 40 percent of Federal funds for planned local program expenditures.

(c) During the management review of the State's operations, determine if the political subdivisions had an active voice in the initiation, development and implementation of the programs for which such sums were expended.

§ 1250.4 Determining local share.

(a) In determining whether a State meets the requirement that at least 40 percent of Federal 402 funds be expended by political subdivisions, FHWA and NHTSA will apply the 40 percent requirement sequentially to each fiscal year's apportionments, treating all apportionments made from a single fiscal year's authorizations as a single entity for this purpose. Therefore, at least 40 percent of each State's apportionments from each year's authorizations must be used in the highway safety programs of its political subdivisions prior to the period when funds would normally lapse. The 40 percent requirement is applicable to the State's total Federally funded safety program irrespective of Standard designation or Agency responsibility.

(b) When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision, such expenditures are clearly part of the local share. Local safety project related expenditures and associated indirect costs, which are reimbursable to the grantee local governments, are classifiable as the local share of Federal funds. Illustrations of such expenditures are the cost incurred by a local government in planning and administration of project related safety activities, driver education activities, traffic court programs, traffic records system improvements, upgrading emergency medical services, pedestrian safety activities, improved traffic enforcement, alcohol countermeasures, highway debris removal programs, pupil transportation programs, accident investigation, surveillance of high accident locations, and traffic engineering services.

(c) When Federal funds apportioned under 23 U.S.C. 402 are expended by the State or a State agency for the benefit of a political subdivision, such funds may be considered as part of the local share, provided that the political subdivision benefitted has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. In no case may the State arbitrarily ascribe State agency expenditures as "benefitting local government." Where political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, and a political subdivision which has not had such active voice agrees in advance of implementation to accept the benefits of the program, the Federal share of the cost of such benefits may be credited towards meeting the 40 percent local participation requirement. Where no political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, but a political subdivision requests the benefits of the program as part of the local government's highway safety program, the Federal share of the cost of such benefits may be credited towards meeting the 40 percent local participation requirement. Evidence of consent and acceptance of the work, goods or services on behalf of the local government must be established and maintained on file by the State, until all funds authorized for a specific year are expended and audits completed.

(d) State agency expenditures which are generally not classified as local are within such standard areas as vehicle inspection, vehicle registration and driver licensing. However, where these Standards provide funding for services such as: driver improvement tasks administered by traffic courts, or where they furnish computer support for local government requests for traffic record searches, these expenditures are classifiable as benefitting local programs.

§ 1250.5 Waivers.

While the 40 percent requirement may be waived in whole or in part by the Secretary or his delegate, it is expected that each State program will generate political subdivision participation to the extent required by the Act so that requests for waivers will be minimized. Where a waiver is requested, however, it will be documented at least by a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State and will recommend the appropriate percentage participation to be applied in lieu of the 40 percent.

[FR Doc.76-17045 Filed 6-11-76;8:45 am]

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-2030]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 40 FR 57210-212 and 41 FR 1062). A list of servicing companies is also available

from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

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

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

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

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
Alabama	Conecuh	Castleberry, town of	June 7, 1976, emergency	Apr. 4, 1975	010050
Illinois	Saline	Eldorado, city of	July 21, 1975, emergency; June 1, 1976, withdrawal.		170596A
Kentucky	Bullitt	Shepherdsville, city of	June 7, 1976, emergency	May 24, 1974 Mar. 5, 1976	210028A
Louisiana	Jefferson	Jean Lafitte, village of	Sept. 30, 1975, emergency; Mar. 26, 1976, regular.	Mar. 26, 1976	220371A
Michigan	Barry	Hope, township of	June 7, 1976, emergency		260681
Missouri	Ripley	Naylor, city of	do	Mar. 1, 1975 Nov. 21, 1975	290314A
Nebraska	Dixon	Newcastle, village of	do	Sept. 19, 1975	310306
New Hampsh re	Coos	Lancaster, town of	Nov. 12, 1971, emergency; Apr. 13, 1973, regular; July 20, 1975, suspended; June 1, 1976, reinstated.	Apr. 13, 1973	335277A
Pennsylvania	Delaware	Brookhaven, borough of.	May 26, 1976, suspension withdrawn.	Feb. 9, 1973	420403A
Utah	Tooele	Unincorporated areas	June 7, 1976, emergency		490140
Vermont	Lamoille	Hyde Park, town of	do	Dec. 6, 1974	500230
Do	do	Hyde Park, village of	do	Aug. 30, 1974	500231
*	*	*	*	*	*
Alabama	Marengo	Thomaston, town of	June 8, 1976, emergency	Jan. 10, 1975	010278
Louisiana	De Soto	South Mansfield, village of,	do	Mar. 26, 1976	220313
New Hampshire	Merrimack	Salisbury, town of	do	Feb. 21, 1975	330121
New York	Allegany	Angelica, village of	do	Dec. 6, 1974	360023
Do	Wayne	Wolcott, town of	do	June 28, 1974	360901
*	*	*	*	*	*
Kansas	Coffey	New Strawn, city of	June 11, 1976, emergency	Nov. 22, 1974	200067
Maine	Hancock	Brooksville, town of	do	Feb. 21, 1975	230276
Michigan	Eaton	Carmel, township of	do		[1] 260682
Minnesota	Crow Wing	Fifty Lakes, city of	do	Oct. 18, 1974	270096
Ohio	Fairfield	Pickerington, village of,	do	June 28, 1974	390162A
Pennsylvania	Fulton	Bethel, township of	do		422429
Do	Allegheny	Versailles, borough of	do	Mar. 29, 1974	420081

[1] New community number.

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

Issued: June 3, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-17050 Filed 6-11-76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-27]

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Imported Tobacco Statistics

● The purpose of these amendments to 27 CFR Part 275 is to relieve importers of cigars, cigarettes, cigarette papers, or cigarette tubes from the requirement that they prepare an extra copy of the customs importation form for the use of the Bureau of Alcohol, Tobacco and Firearms (ATF). ●

The preparation of these extra copies first became a requirement in the early 1960's. At the time, the procedures for taxpaying imported tobacco articles were changed so that importers would no longer be required to prepare two separate forms. Under the older procedures, an internal revenue tax return and a separate customs importation form had to be prepared. The internal revenue tax was paid to the internal revenue district director, whereas the customs duties were paid to Customs. Under the procedures instituted in 1961, however, the importer was required to prepare only the importation form, which would contain both internal revenue tax information and customs duty information. Thus, Customs was able to collect both the internal revenue tax and the customs duties. Since under the new procedures importers did not submit a copy of the tax return to ATF, it was required that they prepare one additional copy of the customs importation form for use by ATF.

A recent study by ATF concluded that the extra copies of the importation forms now serve only one useful purpose. They are used by ATF as source documents for statistics showing imported, taxable tobacco articles. The study further concluded that the requirement for the preparation of these extra copies could be eliminated if an acceptable, alternative source for tobacco statistics could be found. For any alternative source to be acceptable, it would have to show the eight internal revenue tax classes for cigars.

The Bureau of the Census also publishes statistics on imported tobacco articles, which it compiles from customs importation forms. Until recently, these census statistics reported imported cigars only according to the two categories by which customs duties are levied.

It has, therefore, been impractical for ATF to discontinue its statistics compiled from the extra customs importation forms since no alternative source of these statistics, based on tax classification, was available.

Through the efforts and cooperation of the Bureau of the Census, the U.S. Customs Service and the International Trade Commission, item 170.7200 of the Tariff Schedules of the United States (TSUS) was recently amended. As of January 1, 1975, TSUS item 170.7200, which is one of the two categories under which customs duties are levied on cigars, shows a further breakdown into TSUS items 170.7210 through 170.7280. These eight TSUS items correspond to the eight internal revenue tax classes, small cigars and class A through G large cigars, respectively. Since importers are required to indicate the TSUS item number on the importation forms, Census now compiles statistics on imported cigars according to the eight internal revenue tax classes. This will permit ATF to obtain statistics on imported tobacco articles directy from the Bureau of the Census and will eliminate the need for the extra customs importation form now required to be sent to ATF.

In consideration of the foregoing, 27 CFR Part 275 is amended as follows:

Paragraph 1. Section 275.11 is amended (1) by amending the definition of the obsolete term "collector of customs" to show that the current term is "district director of customs"; (2) by adding, in alphabetical order, a definition for the term "District director of customs" which reflects the current U.S. Customs Service organizational title; (3) by revising the definition of "Region" to show that the Bureau is no longer part of the Internal Revenue Service; and (4) by revising the definition of "This chapter" to show that the Bureau's regulations are now codified in Title 27. As amended, § 275.11 reads as follows:

§ 275.11 Meaning of terms.

* * * * *

Collector of customs. Wherever used in this part shall mean a district director of customs as defined in this section.

* * * * *

District director of customs. The district director of customs at the headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

* * * * *

Region. A Bureau of Alcohol, Tobacco and Firearms region.

* * * * *

This chapter. Chapter I, Title 27, Code of Federal Regulations.

* * * * *

Par. 2. Section 275.81 is revised (1) by deleting the requirement that importers prepare an extra copy of the customs entry form; (2) by changing the format of the entire section; and (3) by substituting the term "district director of customs" for the obsolete term "collector of customs". As revised, §275.81 reads as follows:

§ 375.81 Taxpayment.

(a) *General.* The provisions of this section apply to cigars, cigarettes, cigarette papers, and cigarette tubes upon which internal revenue tax is payable, and which are imported into the United States from a foreign country or are brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States.

(b) *Method of payment.* The internal revenue tax shall be determined and paid to the district director of customs before the cigars, cigarettes, cigarette papers, or cigarette tubes are removed from customs custody. The tax shall be paid on the basis of a return on the customs form by which the cigars, cigarettes, cigarette papers, or cigarette tubes are released from customs custody.

(c) *Required information.* When cigars, cigarettes, cigarette papers, or cigarette tubes enter the United States for consumption, or when they are removed for consumption, the importer shall include on the customs form internal revenue tax information. The internal revenue tax information will consist of the following:

(1) *For cigarette papers:* For books or sets of each different numerical content, the importer will show the number of books or sets, the number of papers in each book or set, the rate of tax, and the tax due.

(2) *For cigarette tubes:* The importer will show the number of tubes, the rate of tax, and the tax due.

(3) *For cigarettes:* The importer will show whether the cigarettes are small (class A) or large (class B), the number of cigarettes, the rate of tax, and the tax due.

(4) *For cigars:* For each TSUS item number under which the cigars are being reported, the importer will show the number of cigars, the rate of tax, and the tax due.

(d) *Exceptions.* The provisions of this section shall not apply to:

(1) Cigars, cigarettes, cigarette papers, or cigarette tubes released from customs custody and transferred in bond to a U.S. manufacturer of tobacco products or cigarette papers and tubes (see §§ 275.85 and 275.135);

(2) Puerto Rican products on which the tax is prepaid or deferred (see Subpart G); and

(3) Taxpayments of cigars from class 6, customs bonded manufacturing warehouses (see § 275.151).

(68A Stat. 907, as amended, 72 Stat. 1417 (26 U.S.C. 7652, 5703))

Because this Treasury decision relieves importers from the requirement that they prepare an extra copy of the customs form and is liberalizing in nature, it is found that it is not necessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, this Treasury decision shall become effective on June 14, 1976.

This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: April 19, 1976.

REX D. DAVIS,
Director.

Approved: June 4, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-17128 Filed 6-11-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-159]

PART 175—EQUIPMENT REQUIREMENTS

Personal Flotation Devices—Exceptions

This amendment will revoke the exception from Personal Flotation Device (PFD) carriage requirements granted to persons using a canoe or kayak that is enclosed by a deck and spray skirt when they are wearing a certain specified type of vest lifesaving device (33 CFR 175.17(a)).

Notice of proposed rulemaking was published on February 4, 1975 (40 FR 5167) proposing revocation of 33 CFR 175.17(a) on October 1, 1975. This action was to be taken under the authority of Sections 5 and 39 of the Federal Boat Safety Act of 1971 (46 USC 1454, 1488).

The original comment period was from February 4, 1975 to April 17, 1975. This comment period was extended to May 31, 1975 by the April 22, 1975 issue of the FEDERAL REGISTER (40 FR 17762) and extended again to July 15, 1975 by the June 12, 1975 issue of the FEDERAL REGISTER (40 FR 25026).

During the period of February 4, 1975 to July 15, 1975 written and oral comments from interested persons were received. The Coast Guard has considered these oral and written comments in preparing this final rule.

In the March 28, 1973 issue of the FEDERAL REGISTER, the Coast Guard published new requirements for the carriage of personal flotation devices (PFD's) on board recreational boats. These PFD regulations were established in Part 175 of Title 33, Code of Federal Regulations. Section 175.17 (Exceptions) of the PFD regulations provides that:

§ 175.17 Exceptions. (a) A person using a canoe or kayak that is enclosed by a deck and spray skirt need not comply with § 175.15(a) (Personal Flotation Devices required on canoes and kayaks) if he wears a vest-type lifesaving device that—

(1) Has no less than 150 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 13 pounds of positive buoyancy in fresh water, if worn by a person who weighs more than 90 pounds; or

(2) Has no less than 120 separate permanently inflated air sacs made of not less

than 12 mil polyvinylchloride film and has not less than 8½ pounds of positive bouyancy in fresh water, if worn by a person who weighs 90 pounds or less.

* * * * *

This exception was granted because white water canoeing requires special lifesaving equipment allowing maximum freedom of movement to manage the canoe and because the configuration of such canoes does not allow readily accessible stowage of lifesaving equipment. It was further recognized that, at the time of issuance of the regulations, there was no Coast Guard approved PFD of suitable characteristics on the market which would satisfy the requirements of the white water canoeist.

The Coast Guard, while granting this exception, considered that in the near future suitable PFD's would be developed which would be satisfactory for white water canoeing and which could be approved under existing PFD specifications (e.g. Type III). Therefore, in the preamble of the Notice of Proposed Rulemaking, dated 6 October 1972 (37 FR 21262), the Coast Guard served notice of its intent to allow the exception in § 175.17(a) to apply only until 1 July 1974.

Since promulgation of the PFD regulation, the Coast Guard has approved numerous Type III PFD's which, in the judgment of the Coast Guard, are suitable for use by white water canoeists.

In view of the presently approved devices and in the anticipation of further devices being submitted for approval, the Coast Guard is revoking the exception granted in 33 CFR 175.17(a). However, to allow additional time for operators to obtain approved PFD's this revocation will become effective on 1 October 1977, rather than 1 July 1974, as initially proposed, or 1 October 1975 as proposed in the February 4, 1975 notice of proposed rulemaking.

This amendment has been developed in accordance with the requirements of Section 6 of the Federal Boat Safety Act of 1971. The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered. The transcript of the proceedings of the meetings of the National Boating Safety Advisory Council at which this regulation was discussed are available for examination in Room 4224, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council at this address.

Several comments suggested that insufficient comment time was allowed on this regulation change. These comments were received early in the comment period and because of this the Coast Guard extended its comment period twice. The Coast Guard considers that the comment time, as extended, was adequate.

Several comments suggested that the Coast Guard should require the wearing of PFD's in white water because the requirement for carriage only is misleading. These comments emphasized that while boating in white water a PFD is useless unless worn. While the wearing of PFD's is much safer than just having one available, the requirement to wear PFD's at all times can be overly restrictive since there are times when one may rationally choose not to wear a PFD. The best way to insure the wearing of PFD's is through education, experience, and the designing of a more wearable PFD.

Several comments suggested that the Coast Guard should not require the wearing of PFD's not having Coast Guard approval that are described by 33 CFR 175.17(a). When the Coast Guard made the concession to allow the use of PFD's not having Coast Guard approval on these boats described by 33 CFR 175.17 (a) it was only with the stipulation that these devices be worn, thus settling for some margin of safety. After 1 October 1977 there will be no problem of the Coast Guard requiring the wearing of a PFD not having Coast Guard approval.

Several comments mentioned the economic burden that would result by removing the exception without a transition period. The Coast Guard agrees and has provided for the suggested transition period by changing the effective date from October 1, 1975 until October 1, 1977. In addition, there is no restriction on the use of additional equipment. This means that a person who has purchased a PFD not having Coast Guard approval can use that PFD as additional equipment as long as he also carries the required Coast Guard approved PFD.

Several comments suggested that Coast Guard approved PFD's that are suitable for use on kayaks or canoes with spray and deck skirts are not readily available for purchase. The Coast Guard agrees and has provided for a transition period by changing the effective date from October 1, 1975 to October 1, 1977 to allow time for a larger number of suitable PFD's to be introduced on the market and made available to the public.

Several comments mentioned that many white water enthusiasts wear a PFD not having Coast Guard approval and carry an approved PFD stowed in the boat. They commented that this puts them in compliance but is really a mockery of the regulation. It is important to have a consistent scheme of regulation within the framework of maximum personal freedom. The carriage requirement for PFD's provides a reasonable and necessary minimum safety standard, while still allowing choice as to what will be worn. In these cases PFD's not having Coast Guard approval are being used as additional equipment. This use is in compliance with regulations and is not a mockery of the law.

Several comments suggested that the exception is effectively no exception at all because it fails to recognize that the vast majority of white water vests not having Coast Guard approval use plastic foam as the buoyant material. These comments pointed out that the air cell type device described in § 175.17 (a) was in use at the time when the PFD regulation went into effect but since then many PFD's not having Coast Guard approval using plastic foam have become available. Many of these PFD's have now been submitted for approval or have been approved. These comments suggested that the Coast Guard extend the exception to cover these PFD's, allow these PFD's to be used for a period of two years or more and then revoke the exception. The Coast Guard carefully reviewed this course of action. After this review and consultation with NBSAC it was decided that broadening the exception would not encourage manufacturers to get their devices approved. Also broadening the exception would serve to increase the impact of eventual elimination of the exception in 1977. Therefore the idea was not adopted.

Several comments noted that white water enthusiasts use kits to design and build their own PFD's and some design their own PFD's. They wanted to know if it would be possible to have their individual kits approved and if field tests were possible. The Coast Guard approval process assures the user, within a certain probability, that the device will perform as it is designed and as required by Coast Guard Regulations. The basic design of the device is evaluated when submitted to the Coast Guard. Subsequently, an approval will be issued for the device based on this initial evaluation. Many of the tests performed on the device are destructive in nature and are intended to evaluate many aspects of the PFD design, such as seam width, seam strength, buoyancy, the strength of thread. In order to test all of these aspects of a PFD design it is not possible to conduct such evaluations in the field. The kits themselves cannot be approved because the varying levels of skill of the individuals constructing the kits creates construction variables. These variables make Coast Guard approval of the kits themselves impossible since there is no way to evaluate the performance of the completed PFD from an evaluation of the kit prior to construction. Testing and approval of an assembled kit, or an individual design, would destroy this one of a kind PFD as a necessary part of the approval process.

Several comments suggested that the cost for the approval process discriminates against the individual who makes his own device and the small manufacturer. As stated previously, it is not the cost that will not allow the Coast Guard to approve a device made by an individual for himself, it is the fact that the device will have to be destroyed in order to be tested for approval. The small manufacturer can obtain Coast Guard approval as well as the large. The cost for the initial evaluation must be the same for both a small manufacturer and a large manufacturer in that the same tests must be done on the same number of prototypes. For follow-up inspection a small manufacturer can utilize a procedure where he will call the inspector to his plant when he has produced enough devices for inspection. In this way, he will not be paying a continuing cost as would be the large manufacturer who has de-

vices ready for inspection almost every week. It is recognized that due to economies of scale the cost of approvals is proportionally lower for the large manufacturer than the small manufacturer, however, this problem exists in all industries. The Coast Guard tries to keep approval problems to a minimum and does not consider the difference enough to make a significant impact on the sales of the small manufacturer.

Several comments suggested that the PFD's that do not have Coast Guard approval are better for their activities than the Coast Guard approved devices. Many of these PFD's have been submitted for Coast Guard approval or have later models that have received CG approval. It is felt that by October 1, 1977 the majority of the PFD's on the market for these activities will have Coast Guard approval. The Coast Guard also allows additional equipment to be on board. As long as the boater carries adequate Coast Guard approved PFD's on board he may carry or wear any additional equipment he wishes. Part of the Coast Guard approval procedures for PFD's is the follow-up lot inspections. Therefore a PFD not having Coast Guard approval that appears to be identical to a later model of the same PFD that has Coast Guard approval would not be acceptable as a Coast Guard approved PFD because it was not subject to a lot inspection.

Several comments suggested that the flotation padding located in the areas may be needed at a different location. The Coast Guard requirements for personal flotation devices are performance requirements and the specific location of flotation padding or any other component of the PFD are not specified. The completed device must comply with the general performance requirements. There are several Coast Guard approved PFD's suitable for white water use with flotation padding for a white water PFD specified by the comments.

Several comments suggested that the Coast Guard does not test PFD's for use in the white water environment. These comments are, in part, correct. The Coast Guard approves personal flotation devices for use by the general boating public. These approval tests include general tests for construction and performance. In some cases additional tests are performed. For example, a PFD that is identified as a competition ski jump vest must pass a 75 mph impact test instead of the usual 35 mph impact test. The Coast Guard is encouraging white water groups to establish specifications they believe are necessary for white water PFD's and to submit these to the manufacturers and the Coast Guard. The Coast Guard will make an effort to get manufacturers to develop, and submit to the Coast Guard for approval, PFD's designed with these specifications in mind.

Several comments suggested that flotation requirements for PFD's vary with the volume of water. These comments indicated that high volume water requires greater flotation than low volume water. The Coast Guard requirements for personal flotation devices specify a minimum amount of flotation, however, there is no upper limitation on the flotation which may be provided by a particular device. Education and experience will enable the white water enthusiasts to determine the amount of buoyancy his PFD should have as he moves up from low volume water which may require a PFD with only the minimum amount of flotation to high volume water which may require a PFD that exceeds the minimum amount of flotation.

One comment suggested that there are no approved PFD's that are suitable for women that are appropriate for white water use. All PFD's that are submitted for Coast Guard approval are evaluated on both men and women in the appropriate size range for the particular device. Perhaps there may not be many approved personal flotation devices suitable for women that are appropriate for white water use. However, it must be left to the white water enthusiast and the manufacturers of personal flotation devices to develop PFD's that are suitable for white water use. The Coast Guard does not have the authority to require manufacturers to submit PFD's to the Coast Guard for approval, it can only evaluate those devices submitted to it. The Coast Guard will make an effort to get manufacturers to develop and subsequently submit to the Coast Guard PFD's for use by women in the white water environment. Most of this effort, however, must come from the white water enthusiast and the PFD manufacturer.

Several comments suggested that some Coast Guard approved devices are not suitable for use in white water. The Coast Guard requirements for carriage of Coast Guard approved devices have been developed so that they apply for use by the general boating public. Certain devices may not be as appropriate as others under certain circumstances. However, it is through a detailed education program as well as the experience of many of the white water enthusiasts that the proper choice of device to be carried will be made by the user. The adequacy of devices is something that must be left up to the user, as what one considers adequate in a particular instance is not what another will consider adequate under the same circumstances. The user's choice should not be limited by the Coast Guard.

Several comments suggested that sometimes the wearing of a PFD may be dangerous. The Coast Guard requirements specify only the carriage of Coast Guard approved personal flotation devices and only the wearing of the device listed under the present exception. The wearing of a PFD in general is not dangerous. What is dangerous is becoming trapped in a PFD while still in the water and not being able to remove it at will. The types of closures allowed under present Coast Guard regulations are simple to operate and are tested to assure that they can be operated by an individual while in the water so that the device can be removed in time of need. Additionally there will be no requirement that PFD's be worn—only carried.

A few comments suggested that if a wet suit is worn a PFD need not be worn. While the wet suit may provide the same buoyancy as does a Coast Guard approved personal flotation device, most wet suits do not provide the buoyancy in the same location as will be necessary to get Coast Guard approval for a PFD. Since the wet suit does not provide the same performance as would a PFD, the wearing of wet suits would not affect the requirement for carriage of personal flotation devices.

One comment mentioned a Coast Guard publication that instructed Coast Guard personnel not to wear a life preserver over a wet suit because it may be dangerous. The person wanted to know the effect of this instruction on the recreational boater. There are occasions when all Coast Guard personnel are required to wear life preservers. These life preservers are not approved for use on recreational boats. They have larger amounts of buoyancy and are more difficult to don than the Type I Coast Guard approved PFD. It was found that when these life preservers were worn over wet suits and the person remained still in the water, the life preserver tended to roll the person in the water and may cause an unconscious person to float face down. Because of this the Coast Guard has told their personnel not to wear a life preserver over a wet suit. Other experiments of Coast Guard personnel wearing Coast Guard approved PFD's of lesser buoyancy over wet suits indicate that this is not a problem with these devices. The recreational boater is not limited in his choice of PFD's as Coast Guard personnel are. In addition the recreational boater is not required to wear a PFD. In high volume white water enthusiasts have found that in PFD's worn over their wet suits are necessary. The recreational boater through experience will be able to determine for himself when it is more advantageous to wear a PFD than to carry it.

One comment mentioned that canoes and kayaks are used in surf as a form of surfboard. This person said that if surfboard users are not required to wear a PFD then canoes and kayak operators should not be required to wear a PFD. The Coast Guard has determined that canoes and kayaks are boats and therefore, subject to Coast Guard regulations. In addition, the only PFD required to be worn, until October 1, 1977, is the PFD described in § 175.17 of Title 33 CFR. Coast Guard approved PFD's are only required to be carried.

Some comments suggested the Coast Guard accept a PFD recognized by the International Canoe Federation (ICF) in lieu of a Coast Guard approved device. The Coast Guard approval system is more stringent than ICF requirements. For example, the ICF has a minimum buoyancy requirement of 6 kilograms/13.2 lbs, while the Coast Guard's minimum requirement is 15.5 lbs. Also ICF does not have factory inspections of

product runs at the manufacture site similar to the Coast Guard's approval program. Therefore, the Coast Guard cannot accept an ICF recognized device in lieu of a Coast Guard approved device.

Several comments suggested that if all persons in a canoe or kayak are wearing a helmet and flotation device, the approval requirement for the PFD should be waived. This suggestion is not acceptable because it allows for any form of flotation device without any check on the standards of construction or performance of that device.

Several comments suggested that the Coast Guard should not regulate white water craft. The Coast Guard has the authority and the responsibility to regulate all boats used on waters subject to the jurisdiction of the United States. In keeping with this responsibility and authority, the dangers associated with white water activity, justify the need for regulation.

Several comments suggested that this would be an unenforceable regulation. The Coast Guard will enforce the law on all waters that are subject to Coast Guard jurisdiction. It is anticipated that the majority of States will adopt this requirement into their state laws and that many states will enforce the regulation on waters subject to their exclusive jurisdiction as well as on waters subject to concurrent jurisdiction with the Federal Government. In addition all laws and regulations to a certain extent depend on the voluntary compliance of citizens.

Several comments suggested that education through the various white water clubs and associations is a better approach than a regulation. The Coast Guard has always put a great deal of emphasis on education and considers education the best method in the long run. However, in this case, a combination of a regulation and education is the best approach. This regulation provides the minimum PFD requirements and therefore is necessary to the combined approach.

Several comments suggested that white water enthusiasts endanger no one but themselves and that the Coast Guard is interfering with their personal freedom. The Coast Guard has been given the authority and responsibility to regulate boating safety on all waters subject to the jurisdiction of the United States. The requirement to carry a Coast Guard approved PFD or to wear a PFD described by § 175.17(a) is not an unreasonable infringement of personal freedom. A person using a boat improperly equipped is endangering other boaters and any potential rescuer. Additionally tragedies resulting from improper use can have social effects such as increased insurance rates, hospital costs, and public assistance costs to families left destitute.

Several comments suggested that the Coast Guard should exempt members of white water, canoe, or kayak clubs from the PFD regulations. Although club members may be safer boaters, the Coast Guard does not want to discriminate for or against any boaters because of their association with a particular group. In addition, the Coast Guard does not want to establish a precedent of allowing special groups special privileges.

Several comments suggested that the exception be extended to cover all canoes. The Coast Guard limited the exception to kayaks or canoes enclosed by a deck and spray skirt because this particular type of construction limits the type of PFD's available and in 1971 there were no Coast Guard approved PFD's available that filled this special requirement. There are and were more Coast Guard approved PFD's available that are appropriate for canoes not equipped with a deck and spray skirt and therefore it is not considered necessary to extend this exception to all canoes.

One comment suggested that the exception be written to read: canoe and kayak * * * instead of canoe or kayak. This comment said that the use of "or" implied that this regulation affects all canoes and only kayaks that were enclosed by a deck and spray skirt. The use of the word "or" may have been confusing so the text has been changed to read * * * "kayak or canoe" * * * to make clear that all kayaks and canoes with deck and spray skirts are covered by the exception.

One person commented that there is no representation for white water enthusiasts on the National Boating Safety Advisory Council (NBSAC). NBSAC consists of seven representatives from the States, seven representatives of the boating public, and seven representatives from the boating industries. In addition, NBSAC meetings are open to the public and public participation at these meetings is encouraged. There are many diverse types of recreational boating conducted within the United States. To have a representative from each specialized activity would not be feasible. Within the structure of public representation on NBSAC and public participation in the meeting, a reasonable representation of the boating public is achieved.

Several comments suggested that the same PFD law should apply to all recreational boats because it would cause less confusion for both the recreational boater and enforcement personnel. The Coast Guard agrees with this comment but believes it is important to allow for a transition period, which will permit manufacturer to develop appropriate equipment.

Several comments suggested that the real safety problems lie with "indiscriminate" canoe and kayak rental. These comments suggested that an inexperienced person could rent a canoe or kayak equipped with Coast Guard approved PFD's (usually type IV throwable devices that most white water enthusiasts consider to be useless in white water) and run white water with a false sense of security. These comments suggested that these are the people that are being killed in white water accidents. Although not directly related to this regulation, this is a problem that should be dealt with. This is an area where education is needed. Expert voluntary groups can provide invaluable assistance to the Coast Guard in this area.

In view of the presently approved devices the Coast Guard will revoke the exception granted in 33 CFR 175.17(a). However, to allow additional time for operators to obtain approved PFD's this revocation will become effective on October 1, 1977, rather than October 1, 1975 as proposed in the proposed Notice of rulemaking in the February 4, 1975 issue of the FEDERAL REGISTER (40 FR 5167).

In consideration of the foregoing 33 CFR § 175.17 paragraph (a) is revised to read as follows:

§ 175.17 Exceptions.

(a) Before October 1, 1977, a person using a kayak or canoe that is enclosed by a deck and spray skirt need not comply with § 175.15(a) if he wears a vest-type lifesaving device that—

(1) Has no less than 150 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 13 pounds of positive buoyancy in fresh water; if worn by a person who weighs more than 90 pounds; or

(2) Has no less than 10 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 8½ pounds of positive buoyance in fresh water, if worn by a person who weighs 90 pounds or less.

* * * * *

(46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1).)

This amendment shall become effective October 1, 1977.

Signed at Washington, D.C., on June 4, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.76-17203 Filed 6-11-76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

SALE OF STATE LOTTERY TICKETS

Miscellaneous Amendments

This document amends relevant postal regulations to be consistent with the Randolph-Sheppard Act Amendments of 1974 regarding the sale of State Lottery tickets at vending facilities operated by licensed blind persons. See section 203(a)(3) of Pub. L. 93-516, 20 U.S.C. 107a (Supp. IV, 1974).

In addition, regulations on philatelic windows and postal stores are amended to clarify postal procedures on the distribution of less-than-bulk quantities of commemorative stamps and to state postal policy on the sale of packaged stamps.

Other minor and editorial changes and corrections are also made to the regulations.

Accordingly, effective immediately, title 39, Code of Federal Regulations is amended as follows:

PART 232—POSTAL LOSSES AND OFFENSES

§ 232.3 [Amended]

1. In § 232.3, in the undesignated paragraph immediately before paragraph (a), and in paragraphs (h), (u) and (x), strike out the words "of this chapter" and insert "of the Postal Service Manual" in lieu thereof; in paragraph (b) strike out "§ 123.7 of this chapter" and insert "§ 123.44 of the Postal Service Manual" in lieu thereof; in paragraph (i) strike out "§ 123.3 of this chapter" and insert "§ 124.81 of the Postal Service Manual" in lieu thereof; in paragraph (l) strike out "§ 123.7 of this chapter" and insert "§ 123.44 of the Postal Service Manual" in lieu thereof; in paragraph (n) strike out "§ 124.5 of this chapter" and insert "§ 124.4 of the Postal Service Manual" in lieu thereof; in paragraph (w) strike out "§ 123.2 of this chapter" and insert "§ 124.2 of the Postal Service Manual" in lieu thereof; in paragraph (y) strike out "§§ 142.8, 144.2(b)(1), and 144.3(d)(1)(iii) of this chapter" and insert "§§ 142.8, 144.221, and 144.341c of the Postal Service Manual" in lieu thereof; in paragraph (z) strike out "§ 142.8(b) of this chapter" and insert "§ 142.82 of the Postal Service Manual" in lieu thereof; paragraph (p) is revised to read as follows:

§ 232.3 **Serious offenses.**

* * * * *

(p) *Lottery.* Immediately submit the mail matter or a report thereon. Report also any lottery operation within the post office or on Postal Service property, except the vending or exchange of State Lottery tickets at vending facilities operated by licensed blind persons, where such lotteries are authorized by state law. (See §§ 123.351 and 123.42 of the Postal Service Manual and §§ 232.6(f) and 243.2(g)(4)(i) of this chapter.)

* * * * *

2. Paragraph (f) of § 232.6 is revised to read as follows:

§ 232.6 **Conduct on postal property.**

* * * * *

(f) *Gambling.* Participating in games for money or other personal property, the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of lottery tickets, is prohibited on postal premises. This prohibition does not apply to the vending or exchange of State Lottery tickets at vending facilities operated by licensed blind persons where such lotteries are authorized by state law. (See §§ 123.351 and 123.42 of the Postal Service Manual and §§ 232.3(p) and 243.2(g)(4)(i) of this chapter.)

* * * * *

PART 243—CONDUCT OF OFFICES

3. Paragraph (g)(4)(i) of § 243.2 is revised to read as follows:

§ 243.2 **Quarters.**

* * * * *

(g) *Vending stands and vending machines.* * * *

(4) *Articles to be sold or vended*—(i) *Approved articles.* Vending of the following at vending facilities operated by licensed blind persons is approved: newspapers, periodicals, confections, tobacco products, foods, beverages and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the state licensing agency, and chances for any lottery authorized by state law and conducted by an agency of a state.

* * * * *

PART 257—PHILATELY

4. In § 257.1 strike out "17¢" in paragraph (c)(3)(ii) and insert "18¢" in lieu thereof; strike out the words "Philatelic Sales Division, Washington, D.C. 20036" in paragraph (c)(4) and insert "Philatelic Sales Branch, Washington D.C. 20265" in lieu thereof; revise paragraph (c)(3)(iii) and add new paragraph (c)(3)(iv) to read as follows:

§ 257.1 **Commemorative stamps.**

* * * * *

(c) *Sale of commemorative stamps.* * * *

(3) *Philatelic windows and postal stores.* * * *

(iii) *Availability of back-issue commemoratives.* Post offices which maintain or establish special philatelic windows should request the Stamp Management Branch, Stamps Division, U.S. Postal Service, Washington, D.C. 20260, to keep them informed of available back-issue commemoratives. Listings of available back issues will periodically appear in the Postal Bulletin.

(iv) *Packaged stamps.* Philatelic windows, postal stores, stamp collecting centers, and the Philatelic Sales Branch may sell stamps withdrawn from sale after the withdrawal date provided they are incorporated in a philatelic product such as the mint set or collecting kit.

* * * * *

(39 U.S.C. 401, 404.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-17117 Filed 6-11-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20566; RM-2479]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations (Albany, Eugene, and Grants Pass, Oregon)

1. Paragraph 10 of the *Report and Order* No. 40722, Docket No. 20566, released May 24, 1976 at 41 F.R. 21781 is revised to read:

10. Accordingly, *It is ordered,* That effective July 1, 1976, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) is amended with respect to the following enumerated communities:

City:	*Channel No.*
Albany, Oreg	260, 300
Grants Pass, Oreg	245, 262

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-17176 Filed 6-11-76;8:45 am]

[Docket No. 20070; RM-1970]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments

1. The Commission here considers the Notice of Proposed Rule Making in this docket, adopted May 29, 1974 (30 Fed. Reg. 20401), proposing amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) by assigning Channel 224A to Ogallala, Nebraska, as its second FM assignment. Commenting parties are Ogallala Broadcasting Company ("OBC"), petitioner and licensee of Ogallala's full-time AM Station KOGA,[1] and opposing party, Industrial Business Corporation ("IBC"), licensee of FM Station KIBC(FM) in Ogallala.

2. At the time the Notice of Proposed Rule Making was issued, OBC and IBC were in a comparative hearing as adversaries for use of the only FM channel assigned to Ogallala, Nebraska. In his initial decision, the Administrative Law Judge found for IBC on the grounds that to grant its application would:

* * * bring to Ogallala a much needed second aural service in contrast with the OBC proposal to primarily duplicate its existing KOGA programming * * * [T]he best practicable service to the public would result from [this] second aural local expression. FCC 73D-55 at para. 44 (October 11, 1973).

The grant has since become final and IBC has commenced operation of its FM station. It was after this that OBC obtained nighttime facilities for its AM station. Thus, each of the parties has one of Ogallala's two full-time aural services.

3. IBC opposes the current proposal, arguing that Ogallala (pop. 4,796) is too small to support three local radio stations. In support of its allegation, IBC has submitted a document, "An Economic Analysis of the Ogallala/Keith County, Nebraska Market," prepared by communications consultants Rolland C. Johnson and Robert T. Blair. This study, as reviewed and discussed by broadcast economist Richard P. Doherty, compares Ogallala with other three-station

[1] See Memorandum Opinion and Order granting OBC's application for permission to provide nighttime service, 48 F.C.C. 2d 1212 (1974).

(viz., 2 FM and 1 AM) markets not located near major markets. The study indicates that the average comparable city with one AM and two FM stations has 376% more people than Ogallala and is located in a county with a 602% larger population than Ogallala's county. Also, those average cities are said to have twice the number of retail establishments and triple the retail sales.[3] OBC presented a list of communities which are as small as Ogallala and have three local broadcast stations and argued that adoption of its request would further the objectives of this Commission in the asignment of FM channels.[3]

4. IBC also asserts that should Channel 224A be assigned to Ogallala and OBC be granted a license to operate a station on that channel, IBC's FM station (Channel 228A) would not be able to survive OBC's competition. It points to what it says is Ogallala's inadequate population and economic base as well as what it sees as significant competitive advantages flowing to OBC from its combined AM–FM operation. OBC does not accept this reasoning, nor does it view the community's situation in the same light. According to OBC, Ogallala is a growing community which warrants the assignment of a second FM channel.

5. Before we discuss the significance which attaches to the economic issues raised by IBC, we note that IBC did not question the view expressed in the Notice that the proposed assignment would be consistent with applicable engineering criteria. Our own subsequent review confirms the fact that except as the matters raised by IBC, there is no question that the assignment would be consistent with Commission policy. Thus, the issue becomes one of determining if the other points raised are sufficient to overcome this view.

6. Since much argument revolves about the question of Ogallala's ability to support another station, it is important to point out that it is not necessary for a petitioner to establish the ability of the community to support an additional station. The showing in rule making is directed to the need for an additional service, rather than to the economic support issue per se. Necessarily, the relative size of a community and its growth pattern is pertinent to the making of the assignment, for it offers some guidance on how many channels to assign and where to assign them. In those terms we have been provided a sufficient showing to justify assigning a second FM channel to a community of this size. That is not to say that the economic arguments offered in an effort to show that the community could not support the station would have no value or importance. Rather, this narrower issue is one which should be examined at the application stage. The line of cases regarding the ability of a community to support an additional station make it clear that the only point the Commission may properly consider is the impact on the public interest, not the effect on the competition position of one station or another. IBC's assertion that it may not be able to oppose an OBC application in a hearing on this issue cannot be dispositive. It is the responsibility of such a party alleging such an issue to connect its assertions about revenue impact with a resulting loss to the public in terms of public service programming. Examination of such a showing is better done when on a hearing record, with the testimony subject to cross examination. Resolving such issues on the pleadings alone, as would have to be the case in rule making, would be notably less effective. In terms of the criteria which are applied to rule making proceedings, the assignment has been shown to be warranted. It would provide a second local FM service to Ogallala and FM service to an area that has relatively few nighttime aural services available. While not all places of this size have two FM assignments, this is frequently due to congestion in the FM band or the preclusion such an assignment might cause. In this area of the country, neither of these matters argues against this proposal. Ogallala is the county seat and has grown 17.1% from 1960 to 1970. Thus, we believe that the assignment can properly be made in this instance.

7. In view of the foregoing, *it is ordered*, That effective July 16, 1976, the FM Table of Assignments (Section 73.-202(b) of the Commission's Rules and Regulations) is amended to read as follows:

City:	*Channel No.*
Ogallala, Nebr	224A, 228A

8. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

9. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307.)

Adopted: June 2, 1976.

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-17168 Filed 6-11-76;8:45 am]

[3] A considerable amount of additional data and arguments was offered by both parties. Much of this material was filed late, but in light of our decision to defer resolution of this economic issue, there is no need to decide the question of which party is responsible for causing the filing of unauthorized or late filed pleadings.

[3] See para. 4 of the Further Notice of Proposed Rule Making in Docket No. 14185, adopted July 25, 1962 (FCC 62-867), and incorporated by reference in para. 25 of the Third Report, Memorandum Opinion and Order (40 F.C.C. 754, 758 (1963)).

[Docket No. 20532; RM-2495]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations Table of Assignments

1. The Commission here considers a "Request for Reconsideration" submitted on behalf of the A–C Corporation which asks for review of the Report and Order[1] in Docket No. 20532 in which a request to assign Channel 237A to Mineola, Texas, was denied.

2. The Mineola portion of this proceeding was initiated after the Commission received a "Petition for Rule Making" filed by A–C Corporation (A–C) which sought the assignment of Channel 237A to Mineola as a first FM assignment to the community. An opposition to the A–C petition noted that Channel 244A could be assigned to Mineola and asked that Channel 237A be assigned instead to Gilmer, Texas. Thereafter, the Commission issued a Notice of Proposed Rule Making[2] seeking comments, inter alia, on the proposed assignment of Channel 244A to Mineola, Texas. The Commission failed to receive comments from A–C and, consistent with our policy and the procedures set forth in the Appendix, refrained in the Report and Order from making the assignment to Mineola. Immediately after the release of the Report and Order, A–C corresponded with the Commission indicating that on August 18, 1975, it had, in fact, forwarded comments to the Commission indicating continued interest in the assignment of Channel 244A at Mineola but that unexplainably, the comments had apparently never arrived at the Commission. A–C, quoting from the text of the comments it forwarded to the Commission, reiterated.

> The proposed new frequency of 244A for Mineola is very satisfactory to us since it is our intention to file for this frequency and serve our area with an FM service.

A–C, noting that the assignment of Channel 244A to Mineola would provide the opportunity for a first local nighttime service to the community, urged the Commission as part of its reconsideration to assign Channel 244A to Mineola as originally proposed in the Notice.

3. We continue to believe as we stated in the Notice that the public interest would be served by the assignment of Channel 244A to Mineola. Such an assignment would provide the community with its first full-time aural service. Although the whereabouts of A–C's comments which were mailed to the Commission remains unknown, we believe the requisite expression of interest and intent as manifested by the original petition and the prompt response to the action taken in our Report and Order has been sufficiently demonstrated and we

[1] FM Channel Assignments—Mineola, Gilmer and Canton, Texas, 41 Fed. Reg. 10066, March 9, 1976.

[2] 40 Fed. Reg. 28098, June 24, 1975.

will therefore assign Channel 244A to Mineola as proposed.[3]

4. To make the assignment of Channel 244A at Mineola, the channel must be deleted from Canton, Texas, which presents no problem since no interest in the operation of a station on Channel 244A at Canton has been expressed.[4] A preclusion study is not required since the proposal to assign Channel 244A would provide a first FM assignment to a community not located near a major population center.

5. Accordingly, *it is ordered*, That effective July 16, 1976, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended to read as follows:

City:	*Channel No.*
Canton, Tex	----
Mineola, Tex	244A

6. *It is further ordered*, That the "Petition for Reconsideration" filed by the A–C Corporation is granted.

7. Authority for the actions taken herein is found in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307.)

Adopted: June 2, 1976.

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.17169 Filed 6–11–76;8:45 am]

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

Editorial Amendments

1. A revised edition of Parts 73 and 74, Volume III of the Commission's Rules and Regulations, August 1976, will contain the following editorial amendments updating certain rules and deleting parts of others which no longer apply.

2. Concluding that the adoption of these amendments will serve the public interest, the prior notice of rule making, effective date provisions, and public procedure are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(b), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. Therefore, it is ordered, That pursuant to sections 4(i), 303(r), and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, Parts 73 and 74 of the Commission's Rules and Regulations are amended as set forth in the attached Appendix, effective June 21, 1976.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307.)

Adopted: June 4, 1976.

Released: June 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

§ 73.34 [Amended]

1. In § 73.34(a)(1) through (6) the year for renewal of license is changed to 1977; par (a)(7) through (12) changed to 1978; and par (a)(13) through (18) changed to 1979.

2. In § 73.69 par 3 of the Note following 73.69(d)(5) is amended to read as follows:

§ 73.69 Antenna (phase) monitors.

* * * * *

NOTE.—* * *.

(3) Each station operating by remote control, when adopting the schedule specified in § 73.114(a)(9)(iii) for observations at the transmitter, shall install a type-approved antenna monitor and provide phase indications at the remote control point, for observation and logging pursuant to § 73.113(a)(3)(ii).

* * * * *

§ 73.202 [Amended]

3. In § 73.202(b), Table of FM Assignments, footnote 1 for Dodgeville and Platteville, Wisconsin is deleted.

§ 73.518 [Amended]

4. In § 73.518(a)(1) through (6) the year for renewal of license is changed to 1977; par (a)(7) through (12) changed to 1978; and par (a)(13) through (18) changed to 1979.

§ 73.630 [Amended]

5. In § 73.630(a)(1) through (6) the year for renewal of license is changed to 1977; par (a)(7) through (12) changed to 1978; and par (a)(13) through (18) changed to 1979.

§ 73.906 [Amended]

6. In § 73.906 the Note following par (d) is deleted.

§ 74.15 [Amended]

7. In § 74.15(d)(1) through (6) the year for renewal of license is changed to 1977; par (d)(7) through (12) changed to 1978; and par (d)(13) through (18) changed to 1979.

[FR Doc.76–17170 Filed 6–11–76;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL PROVISIONS

PART 310—BRIDGE TOLL PROCEDURAL RULES

Procedures for Modifying Orders

● Purpose. A new section is being added to the Bridge Toll Procedural Rules to provide a mechanism for the modification of orders setting toll rates ●

A number of orders issued by the Federal Highway Administration dealing with the rates of tolls to be charged on bridges are now in effect. There is no procedure in the regulations for those operating under orders to raise or lower the tolls set by the order. This amendment is designed to afford such procedure.

The amendment provides that those operating under existing orders petition for modification of the order when they wish to raise or lower their toll rates. It requires that those wishing to modify the order present evidence of changed circumstances, certain financial data, and justify the reasonableness of the proposed new toll rates. The amendment also clarifies the burden of proof, provides that the proceedings will be conducted in accordance with the procedures set out in Part 310 and, unless complaints are received or the Administrator so orders, allows proposed new rates to go into effect automatically 60 days after publication of notice in the FEDERAL REGISTER.

Since this amendment relates to pleading and practice before the Federal Highway Administration and does not affect substantive rights or liabilities, notice and public comment are unnecessary. As such, the amendment is effective on the date of issuance.

In consideration of the foregoing, 49 CFR Part 310 is amended as follows:

1. A new section is added as follows:

§ 310.4a Modification of orders setting toll rates.

(a) This section establishes procedures by which respondents whose toll rates were set by the Administrator may petition for modification of the order setting the rates.

(b) Proceedings under this section are commenced by the respondent filing with the Administrator a petition for modification of an order, but no petition for modification of an order will be considered within the period of 6 months after the order setting the rates goes into effect, unless that order provides otherwise.

(c) The respondent shall give notice of the filing of a petition by publishing in newspapers of general circulation in the areas served by bridge or bridges in question a notice setting forth the rate proposed to be imposed if the order is modified.

(d) The petition for modification shall contain the following:

(1) The toll rate proposed to be charged if the order is modified, the basis of the proposed rate, an explanation of how the rate was derived, and an explanation of how it is just and reasonable, including a statement of the changed circumstances that justify the modification.

(2) The toll bridge revenue and use of such revenue, for the period since the imposition of the order, and the projected future toll revenues from the existing rate, for a 5-year period subsequent to the date the petition is filed.

[3] The transmitter site for a station operating on Channel 244A at Mineola must be located approximately 2.75 miles west of the community.

[4] Section 73.207(a) of the Commission's Rules requires a minimum mileage separation of 65 miles between stations operating on the same channel. Canton and Mineola are only 32 miles apart.

(3) The projected toll bridge revenue and use of such revenue from the proposed rate for the 5-year period subsequent to the date the petition is filed.

(4) The capital investment and debt structure of the bridge, including amortization schedules.

(5) The revenue, expenses, capital investment, and debt structure, including amortization schedules of all facilities and programs owned or operated by the respondent.

(6) A summary of all the evidence upon which the petitioner will rely in support of the petition for modification.

(7) Proof of publication of the Notice required by paragraph (c) of this section.

(e) The respondent petitioning for the modification of an order shall have the burden of proof as the proponent of an order under the Administrative Procedure Act, 5 U.S.C. section 556(d).

(f) Upon receiving a petition for modification, the Administrator shall publish a notice containing the petition in the Federal Register.

(g) The proposed toll rate shall become effective 60 days after the publication of the FEDERAL REGISTER notice unless:

(1) the Administrator orders otherwise, or

(2) one or more complaints are received pursuant to § 310.3.

(h) In the event the Administrator stays the proposed toll rate, or complaints are received pursuant to § 310.3, the Administrator shall proceed to investigate and decide the petition in accordance with procedures set out in this part.

(Sec. 133(b), Pub. L. 93-87, 87 Stat. 267 (33 U.S.C. 526(a)); Sec. 2, 6, Pub. L. 92-434, 86 Stat. 731, 732 (33 U.S.C. 535, 535(d).)

Issued: June 8, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76-17202 Filed 6-11-76;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Ravalli National Wildlife Refuge, Montana

The following special regulation is issued and is effective on June 1, 1976.

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

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

Sport fishing using only a single line and hook or hooks, with or without a pole, is permitted throughout the year on a portion of the Ravalli National Wildlife Refuge. The open area is approximately 4 miles of the Bitterroot River, which borders the refuge on the west, and the Burnt Fork Creek and its related oxbow (Francois Slough). Sport fishing shall be in accordance with all applicable State regulations.

The fishing area is designated by signs and delineated on maps available at refuge headquarters, No. 5 Third Street, Stevensville, Montana, and from the Area Manager, Fish and Wildlife Service, 711 Central Avenue, Billings, Montana.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through November 30, 1976.

R. C. TWIST,
Refuge Manager, Ravalli National Wildlife Refuge.

JUNE 1, 1976.

[FR Doc.76-17210 Filed 6-11-76;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Ozark National Scenic Riverways, Missouri Commercial Activities

A proposal was published in the FEDERAL REGISTER of March 31, 1976 (41 FR 13612) to amend § 7.83 of Title 36 of the Code of Federal Regulations. The purpose of the amendment is to specifically define the types of commercial activities which may not be engaged in within Ozark National Scenic Riverways, except in accordance with a permit, contract, or other written agreement with the United States, as provided in Part 5 of the general regulations.

Interested persons were given an opportunity to participate in this rulemaking by submission of written comments to the Regional Director, Midwest Region, National Park Service within 15 days after publication of the notice of proposed rulemaking in the FEDERAL REGISTER. In addition to this notice, a concentrated effort was made to make all persons known to be interested in this matter aware of this proposal by means of individual letters and through publication of notices in 13 newspapers.

Written comments were received in the form of letters and petitions There were 231 letters in favor of the regulation and five letters plus petitions containing 2,435 names opposing the regulation. The petitions, in addition to opposing the regulation, also requested a public hearing on the matter.

All comments received have been given careful consideration. This study has required delay of implementation of the regulation past the desirable effective date in late April or early May, but it has now been determined that the regulation should become final without substantive change from the proposed regulation.

Most comments received, whether favoring or opposing the regulation, were rather general in expressing a position. There were few specific comments on the effects of the regulation or suggestions for changes. The limited number of substantive questions and recommendations which were stated in the responses are summarized below.

A. The petitions submitted as comments state opposition to the proposal, claiming that it declares competition illegal.

This is not a correct interpretation of either the intent or the effect of this regulation. Competition to provide goods and services in the vicinity of and within Ozark National Scenic Riverways now exists and will continue to exist under the new regulation. It is only on lands and waters within the Riverways that commercial enterprises will be subject to control. Within this area, as in all other areas of the National Park System, the National Park Service has been assigned, by law, responsibility for safeguarding against unregulated and indiscriminate commercial use. The process of providing such safeguards necessarily involves some restriction on competition within park areas, but this has been found by the Federal courts to be within the authority granted to the National Park Service by the Act of October 9, 1965, 79 Stat. 969, 16 U.S.C. 20-20g (1970).

B. The petitions also state that the regulation will result in preferential treatment of a privileged few and will deprive other persons of the right to compete and make a livelihood.

It is only by restricting the extent of commerical operations in park areas that the safeguards mentioned above can be achieved. Areas of the National Park System are established to protect and provide for the enjoyment of unique or exceptional resources, and commercial operations within park areas must contribute to these purposes. Unrestricted commercial operations would prevent the National Park Service from carrying out its responsibilities for resource protection and visitor enjoyment within the Riverways.

Implementation of this regulation will in no way prevent the operation of commercial enterprises, including equipment rental services, to continue outside the boundaries of Ozark National Scenic Riverways. It is only those operations which these firms may wish to conduct within the boundaries which will fall within the scope of this regulation. If they choose to conduct their activities entirely outside the boundaries of the Riverways, these businesses may continue to compete with each other without any control being imposed by the National Park Service.

C. The petitions demand that a public hearing on this regulation be held within the Riverways.

The National Park Service wishes to be responsive to public comments in its decisions, to the extent which is possible, consistent with its legislative mandates and administrative responsibilities. Public hearings, meetings, or workshops on National Park Service regulations are not required by statute and are not normally

conducted. Instead, written public comment is solicited to assist in the making of decisions so that interested persons in all geographic locations will have an opportunity to participate. The extent to which additional forms of public participation in rulemaking are utilized is a matter within the agency's discretion. In the case of Ozark National Scenic Riverways, a single hearing within or near the park area would not provide an opportunity adequate for the expression of views broadly representative of the divergent interests and needs of the American public, because a large number of park users come, in particular, from the metropolitan areas of St. Louis, Kansas City, and Springfield.

Additionally, public hearings were not considered necessary in this case because the regulation simply involves a clarification and is not a departure from existing practice. The National Park Service at Ozark National Scenic Riverways, in administering the provisions of the general regulations on business operations, has not permitted unrestricted commercial activities. This regulation more fully defines these restricted activities but will not change the manner or extent of control which will be applied.

At the time this regulation was proposed, it was realized that there was insufficient time to allow the usual period of 30 days for public comment, due to the impending beginning of the heavy use season. Only 15 days was given in this instance, but to compensate for this shortened time period, a concentrated effort was made to make all interested persons aware of the proposal so that comments could be made. Individual letters were sent to all known opponents of the controls which have been placed on canoe rental operations within the Riverways, as well as to individuals and groups who were thought to have a particular interest in this subject. Twenty-four letters went to the former and approximately fifty to the latter, all mailed on the date of the official notice in the FEDERAL REGISTER. In addition, public notices were published in local newspapers on the same day and in other newspapers shortly thereafter. In all, notices were published in thirteen papers, including St. Louis, Kansas City, and Springfield, Missouri.

D. It was suggested by one letter in opposition to the regulation that it would give the National Park Service jurisdiction over all businesses within a certain radius of the Riverways.

This regulation does not extend National Park Service jurisdiction outside the established boundaries of Ozark National Scenic Riverways. Without regard for the location at which a commercial operation is based, the National Park Service intends by this regulation to exercise control only over those activities which take place inside the boundaries. Thus, a business which operates totally outside the boundaries remains unaffected by any regulatory actions of the National Park Service. It is only when a commercial operation seeks to enter the park area to provide goods or services that this regulation will become applicable.

E. One letter suggested that the regulation would have the effect of increasing the flow of automobile traffic within the park area.

The National Park Service does not foresee any signficant relationship between the implementation of this regulation and increases in vehicular traffic. Persons renting canoes outside the Riverways and performing their own delivery and retrieval services will continue to do so without regard for the regulation. There may be an increase in the number of such people, when this regulation makes it clear that non-permit commercial firms may not perform these services, but this increase would be offset by a decrease in traffic from these firms.

F. A comment was made that the regulation did not bear any relationship to any purpose for which Ozark National Scenic Riverways was established.

A review of the rationales for this regulation, as they are stated in the FEDERAL REGISTER notice of March 29, 1976, clearly shows the relationship between this regulation and legislation pertaining both to Ozark National Scenic Riverways specifically and to the National Park System in general. In authorizing the National Park Service to contract with concessioners, Congress has recognized that control over commercial operations within the parks is essential to the preservation of park resources and to ensuring visitor enjoyment of these resources. In this instance, the controls imposed on commercial outfitters by the National Park Service through permits are effective in controlling the numbers of rental canoes, rental rates, safety characteristics, and information on visitor use of the park area.

Experience at Ozark National Scenic Riverways has shown that the general National Park Service regulation restricting business operations, § 5.3 of 36 CFR, is not specific enough to cover operations which are conducted partially within and partially outside the boundaries when no separate and identifiable charge is made for activities and services performed within its boundaries. It is for this reason that the National Park Service proposed an amendment to § 7.83 which would clearly state the manner in which the intent of applicable legislation and § 5.3 would be applied at Ozark National Scenic Riverways.

The National Park Service believes that it has valid reasons, as described above and in the notice of proposed rulemaking, to promulgate a special regulation in order to provide for control of all business activities in Ozark National Scenic Riverways. It has responded, to the extent possible, to public comment on the proposal and has determined that the regulation is essential to the orderly management of the Riverways.

The only changes from the proposed regulation which are being made in the final regulation set forth below are the substitution of the term "commercial activities" for "business operations" in the heading and first sentence of paragraph (c). These changes are made to conform with terminology which is expected to be used in a revision of 36 CFR Part 5 which is now under consideration but has not yet been published as a proposal.

Normal procedure for the promulgation of Federal regulations requires that there be a period of at least 30 days between publication of a notice of final rulemaking and the effective date of the regulation. In this instance, however, circumstances require that the regulation set forth below be effective upon publication. At Ozark National Scenic Riverways, the boating season has begun and people in large numbers are renting canoes in and near the Riverways. A number of new commercial operations have begun renting canoes to the public and, despite statements from the National Park Service that the practice will not be allowed to continue, some firms are performing services for the public within the boundaries of the Riverways, without the necessary permits. It is feared that the scope of such activities will continue to grow until a regulation sufficiently specific to provide necessary control can become effective. Immediate implementation of this regulation may prevent continued growth of these operations and lessen the complexity of its enforcement. To provide adequate notice of the provisions of this regulation, letters will be sent to all commercial operations known to be engaging in activities prohibited by the regulation.

The notice of proposed rulemaking in this action (41 FR 13612) was executed by the Acting Regional Director, Midwest Region. However, this final notice is being executed by the Associate Director, National Park Service, in order to expedite its publication. This action is taken under the authority of National Park Service Order No. 82 (39 FR 13904), which therefore replaces National Park Service Order No. 77 (39 FR 7478) in the list of authorities cited in the proposal.

Effective date: This regulation shall become effective on June 14, 1976.

Section 7.3 of Title 36, Code of Federal Regulations, is hereby amended by the addition of a paragraph (c), as follows:

§ 7.83 Ozark National Scenic Riverways.

* * * * *

(c) *Commercial Activities.* The activities listed herein constitute commercial activities which are prohibited within the boundaries of Ozark National Scenic Riverways, except in accordance with the provisions of a permit, contract, or other written agreement with the United States. The National Park Service reserves the right to limit the number of such permits, contracts or other written agreements, when, in the judgment of the Service, such limitation is necessary in the interest of visitor enjoyment, public safety, or preservation or protection of the resources or values of the Riverways.

(1) The sale or rental of any goods or equipment to a member or members of the public which is undertaken in the course of an ongoing or regular commercial enterprise.

(2) The performance of any service or activity for a member or members of the public in exchange for monetary or other valuable consideration.

(3) The delivery or retrieval within the boundaries of Ozark National Scenic Riverways of watercraft or associated boating equipment which has been rented to a member or members of the public at a location not within the Riverways, when such delivery or retrieval is performed by a principal, employee or agent of the commercial enterprise offering the equipment for rental and when these services are performed as an integral part, necessary complement, or routine adjunct of or to the rental transaction, whether or not any charge, either separately or in combination with any other charge, is made for these services.

(4) The performance, by a principal, employee, or agent of a commercial enterprise, within the boundaries of Ozark National Scenic Riverways of any other service or activity for which a fee, charge or other compensation is not collected, but which is an integral part, necessary complement, or routine adjunct of or to any commercial transaction undertaken by that enterprise for which monetary or other valuable consideration is charged or collected, even though such transaction is initiated, performed, or concluded outside the boundaries of the Riverways.

(5) The solicitation of any business, employment, occupation, profession, trade, work or undertaking, which is engaged in with some continuity, regularity or permanency for any livelihood, gain, benefit, advantage, or profit.

JOHN E. COOK,
Associate Director,
Park System Management.

[FR Doc.76-17362 Filed 6-11-76;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91-469

PART 391—FEDERAL INCOME TAX ASPECTS OF THE CAPITAL CONSTRUCTION FUND

Joint CCF Regulations

On January 29, 1976 there appeared in the FEDERAL REGISTER (41 FR 4256) a joint publication by the Departments of Commerce and the Treasury of the Joint Capital Construction Fund (CCF) regulations under § 607 of the Merchant Marine Act, 1936, as amended, which are to appear in Part 3 of Title 26 of the Code of Federal Regulations. This publication in part adopted the June 15, 1972 publication (37 FR 11877) of the interim CCF regulations and in part published new proposed regulations.

This notice hereby establishes a new Part 391 in Chapter II of Title 46 of the Code of Federal Regulations. The new part contains the joint CCF regulations as published in the FEDERAL REGISTER on January 29, 1976. The purpose of this publication is to provide persons working in the maritime industry, who are familiar with Title 46 of the Code of Federal Regulations, easy access to the joint CCF regulations.

Accordingly, there is hereby established a new Part 391 in Chapter II of Title 46 of the Code of Federal Regulations to read as follows:

Sec.

AUTHORITY: Sections 204(b) and 607(l), Merchant Marine Act, 1936, as amended (46 U.S.C. 114, 1177), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707), July 23, 1973.

§ 391.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.

SEC. 607 (a) Agreement Rules.

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)) may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the "fund") with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels.

(b) Ceiling on Deposits.

(1) The amount deposited under subsection (a) in the fund for any taxable year shall not exceed the sum of:

(A) That portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States.

(B) The amount allowable as a deduction under section 167 of the Internal Revenue Code of 1954 for such year with respect to the agreement vessels.

(C) If the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel, and

(D) The receipts from the investment or reinvestment of amounts held in such fund.

(2) In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under this section, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

(3) For purposes of paragraph (1), the term "agreement vessel" includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(c) Requirements as to Investments.

Amounts in any fund established under this section shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary of Commerce. They may be invested only in interest-bearing securities approved by the Secretary of Commerce; except that, if the Secretary of Commerce consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage. For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(d) Nontaxability for Deposits.

(1) For purposes of the Internal Revenue Code of 1954—

(A) Taxable income (determined without regard to this section) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b)(1)(A).

(B) Gain from a transaction referred to in subsection (b)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations)

from such transaction is deposited in the fund.

(C) The earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

(D) The earnings and profits of any corporation (within the meaning of section 316 of such Code) shall be determined without regard to this section, and

(E) In applying the tax imposed by section 531 of such Code (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(e) Establishment of Accounts.

For purposes of this section—

(1) Within the fund established pursuant to this section three accounts shall be maintained:

(A) The capital account,

(B) The capital gain account, and

(C) The ordinary income account.

(2) The capital account shall consist of—

(A) Amounts referred to in subsection (b)(1)(B),

(B) Amounts referred to in subsection (b)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (d)(1)(B),

(C) 85 percent of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (d)(1)(C)) be allowed a deduction under section 243 of the Internal Revenue Code of 1954, and

(D) Interest income exempt from taxation under section 103 of such Code.

(3) The capital gain account shall consist of—

(A) Amounts representing capital gains on assets held for more than 6 months and referred to in subsection (b)(1)(C) or (b)(1)(D), reduced by—

(B) Amounts representing capital losses on assets held in the fund for more than 6 months.

(4) The ordinary income account shall consist of—

(A) Amounts referred to in subsection (b)(1)(A),

(B) (i) Amounts representing capital gains on assets held for 6 months or less and referred to in subsection (b)(1)(C) or (b)(1)(D), reduced by—

(ii) Amounts representing capital losses on assets held in the fund for 6 months or less,

(C) Interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

(D) Ordinary income from a transaction described in subsection (b)(1)(C), and

(E) 15 percent of any dividend referred to in paragraph (2)(C).

(5) Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(f) Purposes of Qualified Withdrawals.

(1) A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

(A) The acquisition, construction, or reconstruction of a qualified vessel,

(B) The acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

(C) The payment of the principal on indebtedness incurred in connection with the acquisition, construction or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary of Commerce, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

(2) Under joint regulations, if the Secretary of Commerce determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(g) Tax Treatment of Qualified Withdrawals.

(1) Any qualified withdrawal from a fund shall be treated—

(A) First as made out of the capital account.

(B) Second as made out of the capital gain account, and

(C) Third as made out of the ordinary income account.

(2) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to—

(A) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Internal Revenue Code of 1954), or

(B) One-half of such portion, in the case of any other person.

(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (h)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will insofar as practicable, restore the fund to the position it was in before the withdrawal.

(h) Tax Treatment of Nonqualified Withdrawals.

(1) Except as provided in subsection (i), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(2) Any nonqualified withdrawal from a fund shall be treated—

(A) First as made out of the ordinary income account,

(B) Second as made out of the capital gain account, and

(C) Third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (g)(4), shall be treated as withdrawn on a last-in-first-out basis.

(3) For purposes of the Internal Revenue Code of 1954—

(A) Any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made.

(B) Any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

(C) For the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

(i) No interest shall be payable under section 6601 of such Code and no addition to the tax shall be payable under section 6651 of such Code,

(ii) Interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) No interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

(4) For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

(A) Made in a taxable year beginning in 1970 or 1971 is 8 percent, or

(B) Made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury and the Secretary of Commerce and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(i) Certain Corporate Reorganizations and Changes in Partnerships.

Under joint regulations—

(1) A transfer of a fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1954 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

(2) A similar rule shall be applied in the case of a continuation of a partnership (within the meaning of subchapter K of such Code).

(j) Treatment of Existing Funds.

(1) Any person who was maintaining a fund or funds (hereinafter in this subsection

referred to as "old fund") under this section (as in effect before the enactment of this subsection) may elect to continue such old fund but—

(A) May not hold moneys in the old fund beyond the expiration date provided in the agreement under which such old fund is maintained (determined without regard to any extension or renewal entered into after April 14, 1970),

(B) May not simultaneously maintain such old fund and a new fund established under this section, and

(C) If he enters into an agreement under this section to establish a new fund, may agree to the extension of such agreement to some or all of the amounts in the old fund.

(2) In the case of any extension of an agreement pursuant to paragraph (1)(C), each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund established under this section. For purposes of subsection (h)(3)(C), the date of the deposit of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

(k) Definitions.

For purposes of this section—

(1) The term "eligible vessel" means any vessel—

(A) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) Documented under the laws of the United States, and

(C) Operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

Any vessel which (i) was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or (ii) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subparagraph (A) of this paragraph and the requirements of subparagraph (A) of paragraph (2).

(2) The term "qualified vessel" means any vessel—

(A) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) Documented under the laws of the United States, and

(C) Which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term "agreement vessel" means any eligible vessel or qualified vessel which is subject to an agreement entered into under this section.

(4) The term "United States," when used in a geographical sense, means the continental United States including Alaska, Hawaii, and Puerto Rico.

(5) The term "United States foreign trade" includes (but is not limited to) those areas in domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under the first sentence of section 506 of the Act.

(6) The term "joint regulations" means regulations prescribed under subsection (l).

(7) The term "vessel" includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term "vessel" also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

(8) The term "noncontiguous trade" means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions.

(l) Records; Reports; Changes in Regulations.

Each person maintaining a fund under this section shall keep such records and shall make such reports as the Secretary of Commerce or the Secretary of the Treasury shall require. The Secretary of the Treasury and the Secretary of Commerce shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate to the determination of tax liability under this section. If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary of Commerce under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement.

§ 391.1 Scope of section 607 of the Act and the regulations in this part.

(a) *In general.* The regulations prescribed in this part provide rules for determining the income tax liability of any person a party to an agreement with the Secretary of Commerce establishing a capital construction fund (for purposes of this part referred to as the "fund") authorized by section 607 of the Merchant Marine Act, 1936, as amended (for purposes of this part referred to as the "Act"). With respect to such parties, section 607 of the Act in general provides for the nontaxability of certain deposits of money or other property into the fund out of earnings or gains realized from the operation of vessels covered in an agreement, gains realized from the sale or other disposition of agreement vessels or proceeds from insurance for indemnification for loss of agreement vessels, earnings from the investment or reinvestment of amounts held in a fund, and gains with respect to amounts or deposits in the fund. Transitional rules are also provided for the treatment of "old funds" existing on or before the effective date of the Merchant Marine Act of 1970 (see § 391.10).

(b) *Cross references.* For rules relating to eligibility for a fund, deposits, and withdrawals and other aspects, see the regulations prescribed by the Secretary of Commerce in titles 46 (Merchant Marine) and 50 (Fisheries) of the Code of Federal Regulations.

(c) *Code.* For purposes of this part, the term "Code" means the Internal Revenue Code of 1954, as amended.

§ 391.2 Ceiling on deposits.

(a) *In general*—(1) *Total ceiling.* Section 607(b) of the Act provides a ceiling on the amount which may be deposited by a party for a taxable year pursuant to an agreement. The amount which a party may deposit into a fund may not exceed the sum of the following subceilings:

(i) The lower of (*a*) the taxable income (if any) of the party for such year (computed as provided in chapter 1 of the Code but without regard to the carryback of any net operating loss or net capital loss and without regard to section 607 of the Act) or (*b*) taxable income (if any) of such party for such year attributable under paragraph (b) of this section to the operation of agreement vessels (as defined in paragraph (f) of this section) in the foreign or domestic commerce of the United States or in the fisheries of the United States (see section 607(b)(1)(A) of the Act),

(ii) Amounts allowable as a deduction under section 167 of the Code for such year with respect to the agreement vessels (see section 607(b)(1)(B) of the Act),

(iii) The net proceeds (if not included in subdivision (i) of this paragraph) from (*a*) the sale or other disposition of any agreement vessels or (*b*) insurance or indemnity attributable to any agreement vessels (see section 607(b)(1)(C) of the Act and paragraph (c) of this section), and

(iv) Earnings and gains from the investment or reinvestment of amounts held in such fund (see section 607(b)(1)(D) of the Act and paragraphs (d) and (g) of this section).

(2) *Overdeposits.* (i) If for any taxable year an amount is deposited into the fund under a subceiling computed under subparagraph (1) of this paragraph which is in excess of the amount of such subceiling for such year, then at the party's option such excess (or any portion thereof) may—

(*a*) Be treated as a deposit into the fund for that taxable year under another available subceiling, or

(*b*) Be treated as not having been deposited for the taxable year and thus, at the party's option, may be disposed of either by it being—

(*1*) Treated as a deposit into the fund under any subceiling available in the first subsequent taxable year in which a subceiling is available, in which case such amount shall be deemed to have been deposited on the first day of such subsequent taxable year, or

(*2*) Repaid to the party from the fund.

(ii) (*a*) When a correction is made for an overdeposit, proper adjustment shall be made with respect to all items for all taxable years affected by the overdeposit, such as, for example, amounts in each account described in § 391.4, treatment of nonqualified withdrawals, the consequences of qualified withdrawals and the treatment of losses realized or treated as realized by the fund. Thus, for example, if the party chooses to have the fund repay to him the amount of an overdeposit, amounts in each account, basis of assets, and any affected item will be determined as though no deposit and repayment had been made. Accordingly, in such a case, if there are insufficient amounts in an account to cover a repayment of an overdeposit (as determined before correcting the overdeposit), and the party had applied the proceeds of a qualified withdrawal from such account towards the purchase of a qualified vessel (within the meaning of § 391.11(a)(2)), then such

account and the basis of the vessel shall be adjusted as of the time such withdrawal was made and proceeds were applied, and repayment shall be made from such account as adjusted. If a party chooses to treat the amount of an overdeposit as a deposit under a subceiling for a subsequent year, similar adjustments to affected items shall be made. If the amount of a withdrawal would have exceeded the amount in the fund (determined after adjusting all affected amounts by reason of correcting the overdeposit), the withdrawal to the extent of such excess shall be treated as a repayment made at the time the withdrawal was made.

(b) If the accounts (as defined in § 391.4) that were increased by reason of excessive deposits contain sufficient amounts at the time the overdeposit is discovered to repay the party, the party may, at his option, demand repayment of such excessive deposits from such accounts in lieu of making the adjustments required by (a) of this subdivision (ii).

(iii) During the period beginning with the day after the date an overdeposit was actually made and ending with the date it was disposed of in accordance with subdivision (i) (b) of this subparagraph, there shall be included in the party's gross income for each taxable year the earnings attributed to any amount of overdeposit on hand during such a year. The earnings attributable to any amount of overdeposit on hand during a taxable year shall be an amount equal to the product of—

(a) The average daily earnings for each one dollar in the fund (as determined in subdivison (iv) of this subparagraph),

(b) The amount of overdeposit (as determined in subdivision (vi) of this subparagraph), and

(c) The number of days during the taxable year the overdeposit existed.

(iv) For purposes of subdivision (iii) (a) of this subparagraph, the average daily earnings for each dollar in the fund shall be determined by dividing the total earnings of the fund for the taxable year by the sum of the products of—

(a) Any amount on hand during the taxable year (determined under subdivision (v) of this subparagraph), and

(b) The number of days during the taxable year such amount was on hand in the fund.

(v) For purposes of this subparagraph—

(a) An amount on hand in the fund or an overdeposit shall not be treated as on hand on the day deposited but shall be treated as on hand on the day withdrawn, and

(b) The fair market value of such amounts on hand for purposes of this subparagraph shall be determined as provided in § 20.2031–2 of the Estate Tax Regulations of this chapter but without applying the blockage and other special rules contained in paragraph (e) thereof.

(vi) For purposes of subdivision (iii) (b) of this subparagraph, the amount of overdeposit on hand at any time is an amount equal to—

(a) The amount deposited into the fund under a subceiling computed under subparagraph (1) of this paragraph which is in excess of the amount of such subceiling, less

(b) The sum of—

(1) Amounts described in (a) of this subdivision (vi) treated as a deposit under another subceiling for the taxable year pursuant to subdivision (i) of this subparagraph,

(2) Amounts described in (a) of this subdivision (vi) disposed of (or treated as disposed of) in accordance with subdivision (i) or (ii) of this subparagraph prior to such time.

(vii) To the extent earnings attributed under subdivision (iii) of this subparagraph represent a deposit for any taxable year in excess of the subceiling described in subparagraph (1) (iv) of this paragraph for receipts from the investment or reinvestment of amounts held in the fund, such attributed earnings shall be subject to the rules of this subparagraph for overdeposits.

(3) *Underdeposit caused by audit adjustment.* [Reserved]

(4) *Requirements for deficiency deposits.* [Reserved]

(b) *Taxable income attributable to the operation of an agreement vessel*—(1) *In general.* For purposes of this section, taxable income attributable to the operation of an agreement vessel means the amount, if any, by which the gross income of a party for the taxable year from the operation of an agreement vessel (as defined in paragraph (f) of this section) exceeds the allowable deductions allocable to such operation (as determined under subparagraph (3) of this paragraph). The term "taxable income attributable to the operation of the agreement vessels" means the sum of the amounts described in the preceding sentence separately computed with respect to each agreement vessel (or share therein) or, at the party's option, computed in the aggregate.

(2) *Gross income.* (i) Gross income from the operation of agreement vessels means the sum of the revenues which are derived during the taxable year from the following:

(a) Revenues derived from the transportation of passengers, freight, or mail in such vessels, including amounts from contracts for the charter of such vessels to others, from operating differential subsidies, from collections in accordance with pooling agreements and from insurance or indemnity net proceeds relating to the loss of income attributable to such agreement vessels.

(b) Revenues derived from the operation of agreement vessels relating to commercial fishing activities, including the transportation of fish, support activities for fishing vessels, charters for commercial fishing, and insurance or indemnity net proceeds relating to the loss of income attributable to such agreement vessels.

(c) Revenues from the rental lease, or use by others of terminal facilities, revenues from cargo handling operations and tug and lighter operations, and revenues from other services or operations which are incidental and directly related to the operation of an agreement vessel. Thus, for example, agency fees, commissions, and brokerage fees derived by the party at his place of business for effecting transactions for services incidental and directly related to shipping for the accounts of other persons are includible in gross income from the operation of agreement vessels where the transaction is of a kind customarily consummated by the party for his own account at such place of business.

(d) Dividends, interest, and gains derived from assets set aside and reasonably retained to meet regularly occurring obligations relating to the shipping or fishing business directly connected with the agreement vessel which obligations cannot at all times be met from the current revenues of the business because of layups or repairs, special surveys, fluctuations in the business, and reasonably forseeable strikes (whether or not a strike actually occurs), and security amounts retained by reason of participation in conferences, pooling agreements, or similar agreements.

(ii) The items of gross income described in subdivision (i) (c) and (d) of this subparagraph shall be considered to be derived from the operations of a particular agreement vessel in the same proportion that the sum of the items of gross income described in subdivision (i) (a) and (b) of this subparagraph which are derived from the operations of such agreement vessel bears to the party's total gross income for the taxable year from operations described in subdivision (i) (a) and (b) of this subparagraph.

(iii) In the case of a party who uses his own or leased agreement vessels to transport his own products, the gross income attributable to such vessel operations is an amount determined to be an arm's length charge for such transportation. The arm's length charge shall be determined by applying the principles of section 482 of the Code and the regulations thereunder as if the party transporting the product and the owner of the product were not the same person but were controlled taxpayers within the meaning of § 1.482–1(a)(4) of the Income Tax Regulations of this chapter. Gross income attributable to the operation of agreement vessels does not include amounts for which the party is allowed a deduction for percentage depletion under sections 611 and 613 of the Code.

(3) *Deductions.* From the gross income attributable to the operation of an agreement vessel or vessels as determined under subparagraph (2) of this paragraph, there shall be deducted in accordance with the principles of § 1.861–8 of the Income Tax Regulations of this chapter, the expenses, losses, and other deductions definitely related and therefore allocated and apportioned thereto and a ratable part of any expenses,

losses, or other deductions which are not definitely related to any gross income of the party. Thus, for example, if a party has gross income attributable to the operation of an agreement vessel and other gross income and has a particular deduction definitely related to both types of gross income, such deductions must be apportioned between the two types of gross income on a reasonable basis in determining the taxable income attributable to the operation of the agreement vessel.

(4) *Net operating and capital loss deductions.* The taxable income of a party attributable to the operation of agreement vessels shall be computed without regard to the carryback of any net operating loss deduction allowed by section 172 of the Code, the carryback of any net capital loss deduction allowed by section 165(f) of the Code, or any reduction in taxable income allowed by section 607 of the Act.

(5) *Method of accounting.* Taxable income must be computed under the method of accounting which the party uses for Federal income tax purposes. Such method may include a method of reporting whereby items of revenue and expense properly allocable to voyages in progress at the end of any accounting period are eliminated from the computation of taxable income for such accounting period and taken into account in the accounting period in which the voyage is completed.

(c) *Net proceeds from transactions with respect to agreement vessels.* [Reserved]

(d) *Earnings and gains from the investment or reinvestment of amounts held in a fund*—(1) *In general.* (i) Earnings and gains received or accrued by a party from the investment or reinvestment of assets in a fund is the total amount of any interest or dividends received or accrued, and gains realized, by the party with respect to assets deposited in, or purchased with amounts deposited in, such fund. Such earnings and gains are therefore required to be included in the gross income of the party unless such amount, or a portion thereof, is not taken into account under section 607(d)(1)(C) of the Act and § 391.3(b)(2)(ii) by reason of a deposit or deemed deposit into the fund. For rules relating to receipts from the sale or other disposition of nonmoney deposits into the fund, see paragraph (g) of this section.

(ii) Earnings received or accrued by a party from investment or reinvestment of assets in a fund include the ratable monthly portion of original issue discount included in gross income pursuant to section 1232(a)(3) of the Code. Such ratable monthly portion shall be deemed to be deposited into the ordinary income account of the fund, but an actual deposit representing such ratable monthly portion shall not be made. For basis of a bond or other evidence of indebtedness issued at a discount, see § 391.3(b)(2)(ii)(b).

(2) *Gain realized.* (i) The gain realized with respect to assets in the fund is the excess of the amount realized (as defined in section 1001(b) of the Code and the regulations thereunder) by the fund on the sale or other disposition of a fund asset over its adjusted basis (as defined in section 1011 of the Code) to the fund. For the adjusted basis of nonmoney deposits, see paragraph (g) of this section.

(ii) Property purchased by the fund (including property considered under paragraph (g)(1)(iii) of this section as purchased by the fund) which is withdrawn from the fund in a qualified withdrawal (as defined in § 391.5) is treated as a disposition to which subdivision (i) of this subparagraph applies. For purposes of determining the amount by which the balance within a particular account will be reduced in the manner provided in § 391.6(b) (relating to order of application of qualified withdrawals against accounts) and for purposes of determining the reduction in basis of a vessel, barge, or container (or share therein) pursuant to § 391.6(c), the value of the property is its fair market value on the day of the qualified withdrawal.

(3) *Holding Period.* Except as provided in paragraph (g) of this section, the holding period of fund assets shall be determined under section 1223 of the Code.

(e) *Leased vessels.* In the case of a party who is a lessee of an agreement vessel, the maximum amount which such lessee may deposit with respect to any agreement vessel by reason of section 607(b)(1)(B) of the Act and paragraph (a)(1)(ii) of this section (relating to depreciation allowable) for any period shall be reduced by the amount (if any) which, under an agreement entered into under section 607 of the Act, the owner is required or permitted to deposit for such period with respect to such vessel by reason of section 607(b)(1)(B) of the Act and paragraph (a)(1)(ii) of this section. The amount of depreciation depositable by the lessee under this paragraph is the amount of depreciation deductible by the lessor on its income tax return, reduced by the amount described in the preceding sentence or the amount set forth in the agreement, whichever is lower.

(f) *Definition of agreement vessel.* For purposes of this section, the term "agreement vessel" (as defined in § 391.11(a)(3) and 46 CFR § 390.6) includes barges and containers which are the complement of an agreement vessel and which are provided for in the agreements, agreement vessels which have been contracted for or are in the process of construction, and any shares in an agreement vessel. Solely for purposes of this section, a party is considered to have a "share" in an agreement vessel if he has a right to use the vessel to generate income from its use whether or not the party would be considered as having a proprietary interest in the vessel for purposes of State or Federal law. Thus, a partner may enter into an agreement with respect to his share of the vessel owned by the partnership and he may make deposits of his distributive share of the sum of the four subceilings described in paragraph (a)(1) of this section. Notwithstanding the provisions of subchapter K of the Code (relating to the taxation of partners and partnerships), the Internal Revenue Service will recognize, solely for the purposes of applying this part, an agreement by an owner of a share in an agreement vessel even though the "share" arrangement is a partnership for purposes of the Code.

(g) *Special rules for nonmoney deposits and withdrawals*—(1) *In general.* (i) Deposits may be made in the form of money or property of the type permitted to be deposited under the agreement. (For rules relating to the types of property which may be deposited into the fund, see 46 CFR § 390.7(d), and 50 CFR § 259.) For purposes of this paragraph, the term "property" does not include money.

(ii) Whether or not the election provided for in subparagraph (2) of this paragraph is made—

(*a*) The amount of any property deposit, and the fund's basis for property deposited in the fund, is the fair market value of the property at the time deposited, and

(b) The fund's holding period for the property begins on the day after the deposit is made.

(iii) Unless such an election is made, deposits of property into a fund are considered to be a sale at fair market value of the property, a deposit of cash equal to such fair market value, and a purchase by the fund of such property for cash. Thus, in the absence of the election, the difference between the fair market value of such property deposited and its adjusted basis shall be taken into account as gain or loss for purposes of computing the party's income tax liability for the year of deposit.

(iv) For fund's basis and holding period of assets purchased by the fund, see paragraph (d)(2) and (3) of this section.

(2) *Election not to treat deposits of property other than money as a sale or exchange at the time of deposit.* A party may elect to treat a deposit of property as if no sale or other taxable event had occurred on the date of deposit. If such election is made, in the taxable year the fund disposes of the property, the party shall recognize as gain or loss the amount he would have recognized on the day the property was deposited into the fund had the election not been made. The party's holding period with respect to such property shall not include the period of time such property was held by the fund. The election shall be made by a statement to that effect, attached to the party's Federal income tax return for the taxable year to which the deposit relates, or, if such return is filed before such deposit is made, attached to the party's return for the taxable year during which the deposit is actually made.

(3) *Effect of qualified withdrawal of property deposited pursuant to election.* If property deposited into a fund, with

respect to which an election under subparagraph (2) of this paragraph is made, is withdrawn from the fund in a qualified withdrawal (as defined in § 391.5) such withdrawal is treated as a disposition of such property resulting in recognition by the party of gain or loss (if any) as provided in subparagraph (2) of this paragraph with respect to nonfund property. In addition, such withdrawal is treated as a disposition of such property by the fund resulting in recognition of gain or loss by the party with respect to fund property to the extent the fair market value of the property on the date of withdrawal is greater or less (as the case may be) than the adjusted basis of the property to the fund on such date. For purposes of determining the amount by which the balance within a particular account will be reduced in the manner provided in § 391.6(b) (relating to order of application of qualified withdrawals against accounts and for purposes of determining the reduction in basis of a vessel, barge, or container (or share therein) pursuant to § 391.6(c), the value of the property is its fair market value on the day of the qualified withdrawal. For rules relating to the effect of a qualified withdrawal of property purchased by the fund (including deposited property considered under subparagraph (1)(iii) of this paragraph as purchased by the fund), see paragraph (d)(2)(ii) of this section.

(4) *Effect of nonqualified withdrawal of property deposited pursuant to election.* If property deposited into a fund with respect to which an election under subparagraph (2) of this paragraph is made, is withdrawn from the fund in a nonqualified withdrawal (as defined in § 391.7(b)), no gain or loss is to be recognized by the party with respect to fund property or nonfund property but an amount equal to the adjusted basis of the property to the fund is to be treated as a nonqualified withdrawal. Thus, such amount is to be applied against the various accounts in the manner provided in § 391.7(c), such amount is to be taken into account in computing the party's taxable income as provided in § 391.7(d), and such amount is to be subject to interest to the extent provided for in § 391.7(e). In the case of withdrawals to which this subparagraph applies, the adjusted basis of the property in the hands of the party is the adjusted basis on the date of deposit, increased or decreased by the adjustments made to such property while held in the fund, and in determining the period for which the party has held the property there shall be included, in addition to the period the fund held the property, the period for which the party held the property before the date of deposit of the property into the fund. For rules relating to the basis and holding period of property purchased by the fund (including deposited property considered under subparagraph (1)(ii) of this paragraph as purchsed by the fund) and withdrawn in a nonqualified withdrawal see § 391.7(f).

(5) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). X Corporation, which uses the calendar year as its taxable year, maintains a fund describer in § 391.1 X's taxable income (determined without regard to section 607 of the Act) is $100,000, of which $80,000 is taxable income attributable to the operation of agreement vessels (as determined under paragraph (b)(1) of this section). Under the agreement, X is required to deposit into the fund all earnings and gains received from the investment or reinvestment of amounts held in the fund, an amount equal to the net proceeds from transactions referred to in § 391.2(c), and an amount equal to 50 percent of its earnings attributable to the operation of agreement vessels provided that such 50 percent does not exceed X's taxable income from all sources for the year of deposit. The agreement permits X to make voluntary deposits of amounts equal to 100 percent of its earnings attributable to the operation of agreement vessels, subject to the limitation with respect to taxable income from all sources. The agreement also provides that deposits attributable to such earnings may be in the form of cash or other property. On March 15, 1973, X deposits, with respect to its 1972 earnings attributable to the operation of agreement vessels, stock with a fair market value at the time of deposit of $80,000 and an adjusted basis to X of $10,000. Such deposit represents agreement vessel income of $80,000. At the time of deposit, such stock had been held by X for a period exceeding 6 months. X does not elect under subparagraph (2) of this paragraph to defer recognition of the gain. Accordingly, under subparagraph (1)(iii) of this paragraph, the deposit is treated as a deposit of $80,000 and X realizes a long-term capital gain of $70,000 on March 15, 1973.

Example (2). The facts are the same as in example (1), except that X elects in accordance with subparagraph (2) of this paragraph not to treat the deposit as a sale or exchange. On July 1, 1974, the fund sells the stock for $85,000. The basis to the fund of the stock is $80,000 (see subparagraph (1)(ii)(*a*) of this paragraph). With respect to non fund property, X recognizes $70,000 of long-term capital gain on the sale includible in its gross income for 1974. With respect to fund property, X realizes $5,000 of long-term capital gain (the difference between the amount received by the fund on the sale of the stock, $85,000, and the basis to the fund of the stock, $80,000), an amount equal to which is required to be deposited into the fund with respect to 1974, as a gain from the investment or reinvestment of amounts held in the fund. Since the fund held the stock for a period exceeding 6 months, the $5,000 is allocated to the fund's capital gain account under § 391.4(c).

Example (3). The facts are the same as in example (2), except that the fund sells the stock on July 1, 1974, for $75,000. As the basis to the fund of the stock is $80,000 with respect to fund property, X realizes a long-term capital loss on the sale (the difference between the amount received by the fund on the sale of the stock, $75,000, and the basis to the fund of the stock, $80,000), of $5,000, an amount equal to which is required to be charged against the fund's capital gain account under § 391.4(e). Under subparagraph (2) of this paragraph, X recognizes $70,000 of long-term capital gain with respect to nonfund property on the sale which is includible in its gross income for 1974.

Example (4). The facts are the same as in example (2), except that on July 1, 1974, X makes a qualified withdrawal (as defined in § 391.5(a)) of the stock and uses it to pay indebtedness pursuant to § 391.5(b). On the disposition by X considered to occur under subparagraph (3) of this paragraph on the qualified withdrawal, X recognizes $70,000 of long-term capital gain with respect to nonfund property, which is includible in its gross income for 1974, and a long-term capital gain of $5,000 with respect to fund property, an amount equal to which is allocated to the fund's capital gain account under § 391.4(c). The fund is treated as having a qualified withdrawal of an amount equal to the fair market value of the stock on the day of withdrawal, $85,000 (see subparagraph (3) of this paragraph). In addition, $85,000 is applied against the various accounts in the order provided in § 391.6(b). The basis of the vessel with respect to which the indebtedness was incurred is to be reduced as provided in § 391.6(c).

Example (5). The facts are the same as in example (2), except that X withdraws the stock from the fund in a nonqualified withdrawal (as defined in § 391.7(b)). Under subparagraph (4) of this paragraph, X recognizes no gain or loss with respect to fund or nonfund property on such withdrawal. An amount equal to the basis of the stock to the fund ($80,000) is applied against the various accounts in the order provided in § 391.7(c), and is taken into account in computing X's taxable income for 1974 as provided in § 391.7(d). In addition, X must pay interest on the withdrawal as provided in § 391.7(e). The basis to X of the stock is $10,000 notwithstanding the fact that the fair market value of such stock was $85,000 on the day of withdrawal (see subparagraph (4) of this paragraph).

§ 391.3 Nontaxability of deposits.

(a) *In general.* Section 607(d) of the Act sets forth the rules concerning the income tax effects of deposits made with respect to ceilings described in section 607(b) and § 391.2. The specific treatment of deposits with respect to each of the subceilings is set forth in paragraph (b) of this section.

(b) *Treatment of deposits*—(1) *Earnings of agreement vessels.* Section 607(d)(1)(A) of the Act provides that taxable income of the party (determined without regard to section 607 of the Act) shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in section 607(b)(1)(A) of the Act and § 391.2(a)(1)(i). For computation of the foreign tax credit, see paragraph (i) of this section.

(2) *Net proceeds from agreement vessels and fund earnings.* (i)(a) Section 607(d)(1)(B) provides that gain from a transaction referred to in section 607(b)(1)(C) of the Act and § 391.2(a)(1)(iii) (relating to ceilings on deposits of net proceeds from the sale or other disposition of agreement vessels) is not to be taken into account for purposes of the Code if an amount equal to the net proceeds from transactions referred to in such sections is deposited in the fund. Such gain is to be excluded from gross income of the party for the taxable year to which such deposit relates. Thus, the gain will not be taken into account in applying section 1231 of the Code for the year to which the deposit relates.

(*b*) [Reserved]

(ii)(*a*) Section 607(d)(1)(C) of the Act provides that the earnings

(including gains and losses) from the investment and reinvestment of amounts held in the fund and referred to in section 607(b)(1)(D) of the Act and § 391.2(a)(1)(iv) shall not be taken into account for purposes of the Code if an amount equal to such earnings is deposited into the fund. Such earnings are to be excluded from the gross income of the party for the taxable year to which such deposit relates.

(b) However, for purposes of the basis adjustment under section 1232(a)(3)(E) of the Code, the ratable monthly portion of original issue discount included in gross income shall be determined without regard to section 607(d)(1)(C) of the Act.

(iii) In determining the tax liability of a party to whom subparagraph (1) of this paragraph applies, taxable income, determined after application of subparagraph (1) of this paragraph, is in effect reduced by the portion of deposits which represent gain or earnings respectively referred to in subdivision (i) or (ii) of this subparagraph. The excess, if any, of such portion over taxable income determined after application of subparagraph (1) of this paragraph is taken into account in computing the net operating loss (under section 172 of the Code) for the taxable year to which such deposits relate.

(3) *Time for making deposits.* (i) This section applies with respect to an amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in subdivision (ii), (iii), or (iv) of this subparagraph for the making of such deposit or the date the Secretary of Commerce provides, whichever is earlier.

(ii) Except as provided in subdivision (iii) or (iv) of this subparagraph, a deposit may be made not later than the last day prescribed by law (including extensions thereof) for filing the party's Federal income tax return for the taxable year to which such deposit relates.

(iii) If the party is a subsidized operator under an operating-differential subsidy contract, and does not receive on or before the 59th day preceding such last day, payment of all or part of the accrued operating-differential subsidy payable for the taxable year, the party may deposit an amount equivalent to the unpaid accrued operating-differential subsidy on or before the 60th day after receipt of payment of the accrued operating-differential subsidy.

(iv) A deposit pursuant to § 391.2(a)(3)(i) (relating to underdeposits caused by audit adjustments) must be made on or before the date prescribed for such a deposit in § 391.2(a)(4).

(4) *Date of deposits.* (i) Except as otherwise provided in subdivisions (ii) and (iii) of this subparagraph (with respect to taxable years beginning after December 31, 1969, and prior to January 1, 1972), in § 391.2(a)(2)(i), or in § 391.10(b), deposits made in a fund within the time specified in subparagraph (3) of this paragraph are deemed to have been made on the date of actual deposit.

(ii) (*a*) For taxable years beginning after December 31, 1969, and prior to January 1, 1971, where an application for a fund is filed by a taxpayer prior to January 1, 1972, and an agreement is executed and entered into by the taxpayer prior to March 1, 1972,

(*b*) For taxable years beginning after December 31, 1970, and prior to January 1, 1972, where an application for a fund is filed by a taxpayer prior to January 1, 1973, and an agreement is executed and entered into by the taxpayer prior to March 1, 1973, and

(*c*) For taxable years beginning after December 31, 1971, and prior to January 1, 1975, where an agreement is executed and entered into by the taxpayer on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year, deposits in a fund which are made within 60 days after the date of execution of the agreement, or on or before the due date, with extensions thereof, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of each such taxable year or years to which such deposits relate, whichever day is earlier.

(iii) Notwithstanding subdivision (ii) of this subparagraph, for taxable years beginning after December 31, 1970, and ending prior to January 1, 1972, deposits made later than the last date permitted under subdivision (ii) but on or before January 9, 1973, in a fund pursuant to an agreement with the Secretary of Commerce, acting by and through the Administrator of the National Oceanic and Atmospheric Administration, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of such taxable year, whichever is earlier.

(c) *Determination of earnings and profits.* [Reserved]

(d) *Accumulated earnings tax.* As provided in section 607(d)(1)(E) of the Act amounts, while held in the fund, are not to be taken into account in computing the "accumulated taxable income" of the party within the meaning of section 531 of the Code. Amounts while held in the fund are considered held for the purpose of acquiring, constructing, or reconstructing a qualified vessel or barges and containers which are part of the complement of a qualified vessel or the payment of the principal on indebtedness incurred in connection with any such acquisition, construction, or reconstruction. Thus, for example, if the reasonable needs of the business (within the meaning of section 537 of the Code) justify a greater amount of accumulation for providing replacement vessels than can be satisfied out of the fund, such greater amount accumulated outside of the fund shall be considered to be accumulated for the reasonable needs of the business. For a further example, although amounts in the fund are not taken into account in applying the tax imposed by section 531 of the Code, to the extent there are amounts in a fund to provide for replacing a vessel, amounts accumulated outside of the fund to replace the same vessel are not considered to be accumulated for the reasonable needs of the business.

(e) *Nonapplicability of section 1231.* If an amount equivalent to gain from a transaction referred to in section 607(b)(1)(C) of the Act and § 391.2(c)(1) and (5) is deposited into the fund and, therefore, such gain is not taken into account in computing gross income under the provisions of paragraph (b)(2) of this section, then such gain will not be taken into account for purposes of the computations under section 1231 of the Code.

(f) *Deposits of capital gains.* In respect of capital gains which are not included in the gross income of the party by virtue of a deposit to which section 607(d) of the Act and this section apply, the following provisions of the Code do not apply; the minimum tax for tax preferences imposed by section 56 of the Code; the alternative tax imposed by section 1201 of the Code on the excess of the party's net long-term capital gain over his net short-term capital loss; and, in the case of a taxpayer other than a corporation, the deduction provided by section 1202 of the Code of 50 percent of the amount of such excess. However, section 56 may apply upon a nonqualified withdrawal with respect to amounts treated under § 391.7(d)(2) as being made out of the capital gain account.

(g) *Deposits of dividends.* The deduction provided by section 243 of the Code (relating to the deductions for dividends from a domestic corporation received by a corporation) shall not apply in respect of dividends (earned on assets held in the fund) which are deposited into a fund, and which, by virtue of such deposits and the provisions of section 607(d) of the Act and this section, are not included in the gross income of the party.

(h) *Presumption of validity of deposit.* All amounts deposited in the fund shall be presumed to have been deposited pursuant to an agreement unless, after an examination of the facts upon the request of the Commissioner of Internal Revenue or his delegate, the Secretary of Commerce determines otherwise. The Commissioner or his delegate will request such a determination where there is a substantial question as to whether a deposit is made in accordance with an agreement.

(i) *Special rules for application of the foreign tax credit*—(1) *In general.* For purposes of computing the limitation under section 904 of the Code on the amount of the credit provided by section 901 of the Code (relating to the foreign tax credit), the party's taxable income from any source without the United States and the party's entire taxable income are to be determined after application of section 607(d) of the Act. Thus, amounts deposited for the taxable year with respect to amounts referred to in

section 607(b)(1)(A) of the Act and § 391.2(a)(1)(i) (relating to taxable income attributable to the operation of agreement vessels) shall be treated as a deduction in arriving at the party's taxable income from sources without the United States (subject to the apportionment rules and subparagraph (2) of this paragraph) and the party's entire taxable income for the taxable year. Amounts deposited with respect to gain described in section 607(d)(1)(B) of the Act and § 391.2(c) (relatirg to net proceeds from the sale or other disposition of an agreement vessel and net proceeds from insurance or indemnity) and amounts deposited with respect to earnings described in section 607(d)(1)(C) of the Act and paragraph (b)(2)(ii) (relating to earnings from the investment and reinvestment of amounts held in a fund) of this section are not taken into account for purposes of the Code and hence are not included in the party's taxable income from sources without the United States or in the party's entire taxable income for purposes of this paragraph.

(2) *Apportionment of taxable income attributable to agreement vessels.* For purposes of computing the overall limitation under section 904(a)(2) of the Code the amount of the deposit made with respect to taxable income attributable to agreement vessels pursuant to § 391.2(a)(1)(i) which is allocable to sources without the United States is the total amount of such deposit multiplied by a fraction the numerator of which is the gross income from sources without the United States from the operation of agreement vessels and the denominator of which is the total gross income from the operation of agreement vessels computed as provided in § 391.2(b)(2). For purposes of this paragraph, gross income from sources without the United States attributable to the operation of agreement vessels is to be determined under sections 61 through 863 of the Code and under the taxpayer's usual method of accountnig provided such method is reasonable and in keeping with sound accounting practice. Any computation under the per-country limitation of section 904(a)(1) shall be made in the manner consistent with the provisions of the preceding sentences of this subparagraph.

§ 391.4 Establishment of accounts.

(a) *In general.* Section 607(e)(1) of the Act requires that three bookkeeping or memorandum accounts are to be established and maintained within the fund: The capital account, the capital gain account, and the ordinary income account. Deposits of the amounts under the subceilings in section 607(b) of the Act and § 391.2 are allocated among the accounts under section 607(e) of the Act and this section.

(b) *Capital account.* The capital account shall consist of:

(1) Amounts referred to in section 607(b)(1)(B) of the Act and § 391.2(a)(1)(ii) (relating to deposits for depreciation),

(2) Amounts referred to in section 607(b)(1)(C) of the Act and § 391.2(a)(1)(iii) (relating to deposits of net proceeds from the sale or other disposition of agreement vessels) other than that portion thereof which represents gain not taken into account for purposes of computing gross income by reason of section 607(d)(1)(B) of the Act and § 391.3(b)(2) (relating to nontaxability of gain from the sale or other disposition of an agreement vessel),

(3) Amounts representing 85 percent of any dividend received by the fund with respect to which the party would, but for section 607(d)(1)(C) of the Act and § 391.3(b)(2)(ii) (relating to nontaxability of deposits of earnings from investment and reinvestment of amounts held in a fund), be allowed a deduction under section 243 of the Code, and

(4) Amounts received by the fund representing interest income which is exempt from taxation under section 103 of the Code.

(c) *Capital gain account.* The capital gain account shall consist of amounts which represent the excess of (1) deposits of long-term capital gains on property referred to in section 607(b)(1)(C) and (D) of the Act and § 391.2(a)(1)(iii) and (iv) (relating respectively to certain agreement vessels and fund assets), over (2) amounts representing losses from the sale or exchange of assets held in the fund for more than 6 months (for purposes of this section referred to as "long-term capital losses"). For purposes of this paragraph and paragraph (d)(2) of this section, an agreement vessel disposed of at a gain shall be treated as a capital asset to the extent that gain thereon is not treated as ordinary income, including gain which is ordinary income under section 607(g)(5) of the Act (relating to treatment of gain on disposition of a vessel with a reduced basis) and § 391.6(e) or under section 1245 of the Code (relating to gain from disposition of certain depreciable property). For provisions relating to the treatment of short-term capital gains on certain transactions involving agreement vessels or realized by the fund, see paragraph (d) of this section. For rules relating to the treatment of capital losses on assets held in the fund, see paragraph (e) of this section.

(d) *Ordinary income account.* The ordinary income account shall consist of:

(1) Amounts referred to in section 607(b)(1)(A) of the Act and § 391.2(a)(1)(i) (relating to taxable income attributable to the operation of an agreement vessel),

(2) Amounts representing (i) deposits of gains from the sale or exchange of capital assets held for 6 months or less (for purposes of this section referred to as "short-term capital gains") referred to in section 607(b)(1)(C) or (D) of the Act and § 391.2(a)(1)(iii) and (iv) (relating respectively to certain agreement vessels and fund assets), reduced by (ii) amounts representing losses from the sale or exchange of capital assets held in the fund for 6 months or less (for purposes of this section referred to as "short-term capital losses"). For rules relating to the treatment of certain agreement vessels as capital assets, see paragraph (c) of this section,

(3) Amounts representing interest (not including any tax-exempt interest referred to in section 607(e)(2)(D) of the Act and paragraph (b)(4) of this section) and other ordinary income received on assets held in the fund (not including any dividend referred to in section 607(e)(2)(C) of the Act and subparagraph (5) of this paragraph),

(4) Amounts representing ordinary income from a transaction (involving certain net proceeds with respect to an agreement vessel) described in section 607(b)(1)(C) of the Act and § 391.2(a)(1)(iii), including gain which is ordinary income under section 607(g)(5) of the Act and § 391.6(e) (relating to treatment of gain on the disposition of a vessel with a reduced basis) or under section 1245 of the Code (relating to gain from disposition of certain depreciable property), and

(5) Fifteen percent of any dividend referred to in section 607(e)(2)(C) of the Act and paragraph (b)(3) of this section received on any assets held in the fund.

(e) *Limitation on deduction for capital losses on assets held in a fund.* Except on termination of a fund, long-term (and short-term) capital losses on assets held in a fund shall be allowed only as an offset to long-term (and short-term) capital gains on assets held in the fund, but only if such gains are deposited into the fund, and shall not be allowed as an offset to any capital gains on assets not held in the fund. The net long-term capital loss of the fund for the taxable year shall reduce the earliest long-term capital gains in the capital gain account at the beginning of the taxable year and the next short-term capital loss for the taxable year shall reduce the earliest short-term capital gains remaining in the ordinary income account at the beginning of the taxable year. Any such losses that are in excess of the capital gains in the respective accounts shall reduce capital gains deposited into the respective accounts in subsequent years (without regard to section 1212, relating to capital loss carrybacks and carryovers). On termination of a fund, any net long-term capital loss in the capital gain account and any net short-term capital loss remaining in the ordinary income account is to be taken into account for purposes of computing the party's taxable income for the year of termination as a long-term or short-term (as the case may be) capital loss recognized in the year the fund is terminated. With respect to the determination of the basis to a fund of assets held in such fund, see § 391.2(g).

§ 391.5 Qualified withdrawals.

(a) *In general.* (1) A qualified withdrawal is one made from the fund during the taxable year which is in accordance with section 607(f)(1) of the Act, the agreement, and with regulations pre-

scribed by the Secretary of Commerce and which is for the acquisition, construction, or reconstruction of a qualified vessel (as defined in § 391.11(a)(2)) or barges and containers which are part of the complement of a qualified vessel (or shares in such vessels, barges, and containers), or for the payment of the principal of indebtedness incurred in connection with the acquisition construction, or reconstruction of such qualified vessel (or a barge or container which is part of the complement of a qualified vessel).

(2) For purposes of this section the term "share" is used to reflect an interest in a vessel and means a proprietary interest in a vessel such as, for example, that which results from joint ownership. Accordingly, a share within the meaning of § 391.2(f) (relating to the definition of "agreement vessel" for the purpose of making deposits) will not necessarily be sufficient to be treated as a share within the meaning of this section.

(3) For purposes of this section, the term "acquisition" means any of the following:

(i) Any acquisition, but only to the extent the basis of the property acquired in the hands of the transferee is its cost. Thus, for example, if a party transfers a vessel and $1 million in an exchange for another vessel which qualifies for nonrecognition of gain or loss under section 1031(a) of the Code (relating to like-kind exchange), there is an acquisition to the extent of $1 million.

(ii) With respect to a lessee's interest in a vessel, expenditures which result in increasing the amounts with respect to which a deductio nfor depreciation (or amortization in lieu thereof) is allowable.

(iii) [Reserved]

(b) *Payments on indebtedness.* Payments on indebtedness may constitute qualified withdrawals only if the party shows to the satisfaction of the Secretary of Commerce a direct connection between incurring the indebtedness and the acquisition, construction, or reconstruction of a qualified vessel or its complement of barges and containers whether or not the indebtedness is secured by the vessel or its complement of barges and containers. The fact that an indebtedness is secured by an interest in a qualified vessel, barge, or container is insufficient by itself to demonstrate the necessary connection.

(c) *Payments to related persons.* Not withstanding paragraph (a) of this section, payments from a fund to a person owned or controlled directly or indirectly by the same interests as the party within the meaning of section 482 of the Code and the regulations thereunder are not to be treated as qualified withdrawals unless the party demonstrates to the satisfaction of the Secretary of Commerce that no part of such payment constitutes a dividend, a return of capital, or a contribution to capital under the Code.

(d) *Treatment of fund upon failure to fulfill obligations.* Section 607(f)(2) of the Act provides that if the Secretary of Commerce determines that any substantial obligation under the agreement is not being fulfilled, he may, after notice and opportunity for hearing to the party, treat the entire fund, or any portion thereof, as having been withdrawn as a nonqualified withdrawal. In determining whether a party has breached a substantial obligation under the agreement, the Secretary will consider among other things, (1) the effect of the party's action or omission upon his ability to carry out the purposes of the fund and for which qualified withdrawals are permitted under section 607(f)(1) of the Act, and (2) whether the party has made material misrepresentations in connection with the agreement or has failed to disclose material information. For the income tax treatment of nonqualified withdrawals, see § 391.7.

§ 391.6 Tax treatment of qualified withdrawals.

(a) *In general.* Section 607(g) of the Act and this section provide rules for the income tax treatment of qualified withdrawals including the income tax treatment on the disposition of assets acquired with fund amounts.

(b) *Order of application of qualified withdrawals against accounts.* A qualified withdrawal from a fund shall be treated as being made: first, out of the capital account; second out of the capital gain account; and third, out of the ordinary income account. Such withdrawals will reduce the balance within a particular account on a first-in-first-out basis, the earliest qualified withdrawals reducing the items within an account in the order in which they were actually deposited or deemed deposited in accordance with this part. The date funds are actually withdrawn from the fund determines the time at which withdrawals are considered to be made.

(c) *Reduction of basis.* (1) If any portion of a qualified withdrawal for the acquisition, construction, or reconstruction of a vessel, barge, or container (or share therein) is made out of the ordinary income account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to such portion.

(2) If any portion of a qualified withdrawal for the acquisition, construction or reconstruction of a vessel, barge, or container (or share therein) is made out of the capital gain account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to—

(i) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Code), or

(ii) One-half of such portion, in the case of any other person.

(3) If any portion of a qualified withdrawal to pay the principal of an indebtedness is made out of the ordinary income account or the capital gain account, then the basis of the vessel, barge, or container (or share therein) with respect to which such indebtedness was incurred is reduced in the manner provided by subparagraphs (1) and (2) of this paragraph. If the aggregate amount of such withdrawal from the ordinary income account and capital gain account would cause a basis reduction in excess of the party's basis in such vessel, barge, or container (or share therein), the excess is applied against the basis of other vessels, barges, or containers (or shares therein) owned by the party at the time of withdrawal in the following order: (i) Vessels, barges, or containers (or shares therein) which were the subject of qualified withdrawals in the order in which they were acquired, constructed, or reconstructed; (ii) agreement vessels (as defined in section 607(k)(3) of the Act and § 391.11(a)(3)) and barges and containers which are part of the complement of an agreement vessel (or shares therein) which were not the subject of qualified withdrawals, in the order in which such vessels, barges, or containers (or shares therein) were acquired by the party; and (iii) other vessels, barges, and containers (or shares therein), in the order in which they were acquired by the party. Any amount of a withdrawal remaining after the application of this subparagraph is to be treated as a nonqualified withdrawal. If the indebtedness was incurred to acquire two or more vessels, barges, or containers (or shares therein), then the basis reduction in such vessels, barges, or containers for shares therein) is to be made pro rata in proportion to the adjusted basis of such vessels, barges, or containers (or shares therein) computed, however, without regard to this section and adjustments under section 1016(a)(2) and (3) of the Code for depreciation or amortization.

(d) *Basis for depreciation.* For purposes of determining the allowance for depreciation under section 167 of the Code in respect of any property which has been acquired, constructed, or reconstructed from qualified withdrawals, the adjusted basis for determining gain on such property is determined after applying paragraph (c) of this section. In the case of reductions in the basis of any property resulting from the application of paragraph (c)(3) of this section, the party may adopt a method of accounting whereby (1) payments shall reduce the basis of the property on the day such payments are actually made, or (2) payments made at any time during the first half of the party's taxable year shall reduce the basis of the property on the first day of the taxable year, and payments made at any time during the second half of the party's taxable year shall reduce the basis of the property on the first day of the succeeding taxable year. For requirements respecting the change of methods of accounting, see § 1.446-1(e)(3) of the Income Tax Regulations of this chapter.

(e) *Ordinary income treatment of gain from disposition of property acquired with qualified withdrawals.* [Reserved]

§ 391.7 Tax treatment of nonqualified withdrawals.

(a) *In general.* Section 607(h) of the Act provides rules for the tax treatment

of nonqualified withdrawals, including rules for adjustments to the various accounts of the fund, the inclusion of amounts in income, and the payment of interest with respect to such amounts.

(b) *Nonqualified withdrawals defined.* Except as provided in section 607 of the Act and § 391.8 (relating to certain corporate reorganizations, changes in partnerships, and transfers by reason of death), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal which is subject to tax in acocrdance with section 607(h) of the Act and the provisions of this section. Examples of nonqualified withdrawals are amounts remaining in a fund upon termination of the fund, and withdrawals which are treated as nonqualified withdrawals under section 607(f)(2) of the Act and § 391.5(d) (relating to failure by a party to fulfill substantial obligation under agreement) or under the second sentence of section 607(g)(4) of the Act and § 391.6(c)(3) (relating to payments against indebtedness in excess of basis).

(c) *Order of application of nonqualified withdrawals against deposits.* A nonqualified withdrawal from a fund shall be treated as being made: First, out of the ordinary income account; second out of the capital gain account; and third, out of the capital account. Such withdrawals will reduce the balance within a particular account on a first-in-first-out basis, the earliest nonqualified withdrawals reducing the items within an account in the order in which they were actually deposited or deemed deposited in accordance with this part. Nonqualified withdrawals for research, development, and design expenses incident to new and advanced ship design, machinery, and equipment, and any amount treated as a nonqualified withdrawal under the second sentence of section 607(g)(4) of the Act and § 391.6(c)(3), shall be applied against the deposits within a particular account on a last-in-first-out basis. The date funds are actually withdrawn from the fund determines the time at which withdrawals are considered to be made. For special rules concerning the withdrawal of contingent deposits of net proceeds from the installment sale of an agreement vessel, see § 391.2(c)(6).

(d) *Inclusion in income.* (1) Any portion of a nonqualified withdrawal which, under paragraph (c) of this section, is treated as being made out of the ordinary income account is to be included in gross income as an item of ordinary income for the taxable year in which the withdrawal is made.

(2) Any portion of a nonqualified withdrawal which, under paragraph (c) of this section, is treated as being made out of the capital gain account is to be included in income as an item of long-term capital gain recognized during the taxable year in which the withdrawal is made.

(3) For effect upon a party's taxable income of capital losses remaining in a fund upon the termination of a fund (which, under paragraph (b) of this section, is treated as a nonqualified withdrawal of amounts remaining in the fund), see § 391.4(e).

(e) *Interest.* (1) For the period on or before the last date prescribed by law, including extensions thereof, for filing the party's Federal income tax return for the taxable year during which a nonqualified withdrawal is made, no interest shall be payable under section 6601 of the Code in respect of the tax on any item which is included in gross income under paragraph (d) of this section, and no addition to such tax for such period shall be payable under section 6651 of the Code. In lieu of the interest and additions to tax under such sections, simple interest on the amount of the tax attributable to any item included in gross income under paragraph (d) of this section is to be paid at the rate of interest determined for the year of withdrawal under subparagraph (2) of this paragraph. Such interest is to be charged for the period from the last date prescribed for payment of tax for the taxable year for which such item was deposited in the fund to the last date for payment of tax for the taxable year in which the withdrawal is made. Both dates are to be determined without regard to any extensions of time for payment. Interest determined under this paragraph which is paid within the taxable year shall be allowed as a deduction for such year under section 163 of the Code. However, such interest is to be treated as part of the party's tax for the year of withdrawal for purposes of collection and in determining any interest or additions to tax for the year of withdrawal under section 6601 or 6651, respectively, of the Code.

(2) For purposes of section 607(h)(3)(C)(ii) of the Act, and for purposes of certain dispositions of vessels constructed, reconstructed, or acquired with qualified withdrawals described in § 391.6(e), the applicable rate of interest for any nonqualified withdrawal—

(i) Made in a taxable year beginning in 1970 and 1971 is 8 percent.

(ii) Made in a taxable year beginning after 1971, the rate for such year as determined and published jointly by the Secretary of the Treasury or his delegate and the Secretary of Commerce. Such rate shall bear a relationship to 8 percent which the Secretaries determine to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970. The determination of the applicable rate for any such taxbale year will be computed by multiplying 8 percent by the ratio which (*a*) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (*b*) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined shall be computed to the nearest one-hundredth of 1 percent. If such a determination and publication is made, the latest published percentage shall apply for any taxable year beginning in the calendar year with respect to which publication is made.

(3) No interest shall be payable in respect of taxes on amounts referred to in section 607(h)(2)(i) and (ii) of the Act (relating to withdrawals for research and development and payments against indebtedness in excess of basis) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act, 1936, as in effect on December 31, 1969.

(f) *Basis and holding period in the case of property purchased by the fund or considered purchased by the fund.* In the case of a nonqualified withdrawal of property other than money which was purchased by the fund (including deposited property considered under § 391.2(g)(1)(ii) as purchased by the fund), the adjusted basis of the property in the hands of the party is its adjusted basis to the fund on the day of the withdrawal. In determining the period for which the taxpayer has held the property withdrawn in a nonqualified withdrawal, there shall be included only the period beginning with the date on which the withdrawal occurred. For basis and holding period in the case of nonqualified withdrawals of property other than money deposited into the fund, see § 391.2(g)(4).

§ 391.8 Certain corporate reorganizations and changes in partnerships, and certain transfers on death.

[Reserved]

§ 391.9 Consolidated returns. [Reserved]

§ 391.10 Transitional rules for existing funds.

(a) *In general.* Section 607(j) of the Act provides that any person who was maintaining a fund or funds under section 607 of the Merchant Marine Act, 1936, prior to its amendment by the Merchant Marine Act of 1970 (for purposes of this part referred to as "old fund") may continue to maintain such old fund in the same manner as under prior law subject to the limitations contained in section 607(j) of the Act. Thus, a party may not simultaneously maintain such old fund and a new fund established under the Act.

(b) *Extension of agreement to new fund.* If a person enters into an agreement under the Act to establish a new fund, he may agree to the extension of such agreement to some or all of the amounts in the old fund and transfer the amounts in the old fund to which the agreement is to apply from the old fund to the new fund. If an agreement to establish a new fund is extended to amounts from an old fund, each item in the old fund to which such agreement applies shall be considered to be transferred to the appropriate account in the manner provided for in § 391.8(d) in the new fund in a nontaxable transaction which is in accordance with the provisions of the agreement under which such old fund was maintained. For pur-

poses of determining the amount of interest under section 607(h)(3)(C) of the Act and § 391.7(e), the date of deposit of any item so transferred shall be deemed to be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

§ 391.11 Definitions.

(a) As used in the regulations in this part and as defined in section 607(k) of the Act—

(1) The term "eligible vessel" means any vessel—

(i) Constructed in the United States, and if reconstructed, reconstructed in the United States.

(ii) Documented under the laws of the United States, and

(iii) Operated in the foreign or domestic commerce of the United States or in the fisheries of the United States. Any vessel which was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the U.S. foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subdivision (1) of this subparagraph and the requirements of subparagraph (2)(i) of this section.

(2) The term "qualified vessel" means any vessel—

(i) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(ii) Documented under the laws of the United States, and

(iii) Which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the U.S. foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term "agreement vessel" means any eligible vessel or qualified vessel which is subject to an agreement entered into under section 607 of the Act.

(4) The term "vessel" includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term "vessel" also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated in the Great Lakes.

(b) Insofar as the computation and collection of taxes are concerned, other terms used in the regulation in this part, except as otherwise provided in the Act or this part, have the same meaning as in the Code and the regulations thereunder.

The following table shows the correspondence between the provisions in 26 CFR Part 3 and 46 CFR Part 391.

26 CFR	*46 CFR*
3.0	391.0.
3.1	391.1.
3.10	391.10.
3.2	391.2.
3.4	391.4.
3.11(a)(2)	391.11(a),(2).
3.4	391.4
3.3(b)(2)(ii)	391.3(b)(2)(ii).
3.3(b)(2)(ii)(b)	391.3(b)(2)(ii)(b).
3.5	391.5.
3.6(b)	391.6(b).
3.6(c)	391.6(c).
3.11(a)(3)	391.11(a)(3).
3.5	391.5.
3.6(b)	391.6(b)
3.6(c)	391.6(c).
3.7(b)	391.7(b).
3.7(c)	391.7(c).
3.7(d)	391.7(d).
3.7(e)	391.7(e).
3.7(f)	391.7(f).
3.1	391.1.
3.2	391.2.
3.4(c)	391.4(c).
3.4(e)	391.4(e).
3.5(a)	391.5(a).
3.5(b)	391.5(b).
3.4(c)	391.4(c).
3.6(b)	391.6(b).
3.6(c)	391.6(c).
3.7(b)	391.7(b).
3.7(c)	391.7(c).
3.7(d)	391.7(d).
3.7(e)	391.7(e).
3.3	391.3.
3.2	391.2.
3.2(a)(1)(i)	391.2(a)(1)(i).
3.2(a)(1)(iii)	391.2(a)(1)(iii).
3.2(a)(1)(iv)	391.2(a)(1)(iv).
3.2(a)(3)	391.2(a)(3).
3.2(a)(4)	391.2(a)(4).
3.2(a)(2)(i)	391.2(a)(2)(i).
3.10(b)	391.10(b).
3.2(c)(1) and (5)	391.2(c)(1) and (5).
3.7(d)(2)	391.7(d)(2).
3.2(a)(1)(i)	391.2(a)(1)(i).
3.2(c)	391.2(c).
3.2(a)(1)(i)	391.2(a)(1)(i).
3.2(b)(2)	391.2(b)(2).
3.4	391.4.
3.2	691.2.
3.2(a)(1)(ii)	391.2(a)(1)(ii).
3.2(a)(1)(iii)	391.2(a)(1)(iii).
3.3(b)(2)	391.3(b)(2).
3.3(b)(2)(ii)	391.3(b)(2)(ii).
3.2(a)(1)(iii) and (iv).	391.2(a)(1)(iii) and (iv).
3.6(e)	391.6(e).
3.2(a)(1)(i)	391.2(a)(1)(i).
3.2(a)(1)(iii) and (iv).	391.2(a)(1)(iii) and (iv).
3.2(a)(1)(iii)	391.2(a)(1)(iii).
3.6(e)	391.6(e).
3.2(g)	391.2(g).
3.5	391.5.
3.11(a)(2)	391.11(a)(2).
3.2(f)	391.2(f).
3.7	391.7.
3.6	391.6.
3.11(a)(3)	391.11(a)(3).
3.7	391.7.
3.8	391.8.
3.5(d)	391.5(d).
3.6(c)(3)	391.6(c)(3).
3.6(c)(3)	391.6(c)(3).
3.2(c)(6)	391.2(c)(6).
3.4(e)	391.4(e).
3.6(e)	391.6(e).
3.2(g)(1)(ii)	391.2(g)(1)(ii).
3.2(g)(4)	391.2(g)(4).
3.8	391.8.
3.9	391.9.
3.10	391.10.
3.8(d)	391.8(d).
3.7(e)	391.7(e).
3.11	391.11.

Effective date: June 14, 1976.

By Order of the Assistant Secretary for Maritime Affairs.

Dated: June 3, 1976.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 5]

[Notice No. 299]

BOTTLES PER SHIPPING CASE

Proposed Rulemaking

The Director, Bureau of Alcohol, Tobacco and Firearms (ATF), with the approval of the Secretary of the Treasury or his delegate, is considering amending the labeling and advertising of distilled spirits regulations as they pertain to bottles per shipping case.

BACKGROUND

On December 10, 1973, the Distilled Spirits Council of the United States (DISCUS) petitioned ATF for amendment of its prescribed standards of fill for distilled spirits by requesting that standards in metric units be established. After holding a formal public hearing on this issue, ATF adopted and printed in the FEDERAL REGISTER of March 10, 1976, Treasury decision ATF–25. This Treasury decision adopted metric standards of fill for distilled spirits and also standardized the number of bottles to be packed in a shipping case or container. T.D. ATF–25 is to become effective on October 1, 1976, after which metric standards may optionally be utilized. After December 31, 1979, such standards are mandatory.

A new section, § 5.49, was added to the regulations. This section standardized the number of bottles packed per shipping case when bottles are filled according to the new metric standards of fill. In the case of bottles filled according to the new 200 ml standard, this section prescribes that such bottles will be packed 60 bottles to the case. Although neither ATF nor DISCUS initially proposed the adoption of a 200 ml standard of fill, a number of comments were received in support of a 200 ml size. The advantages of a 200 ml standard, such as being a round number easy to work with in the metric system, and having a broader acceptance in international trade, led ATF to adopt this standard in its metric scheme of sizes.

While ATF received favorable comments in support of a 200 ml standard of fill, none of the persons in favor of this size specifically addressed the matter of the number of bottles to be packed per case for this standard. Thus, ATF was placed in the position of having to decide upon the case shipping requirements solely on the basis of the best information it had available at that time. Ultimately ATF chose the 60 bottles per case requirement principally on the premise that the 200 ml standard, packed 60 bottles to the case, would result in an even liter content for each case—that is 12 liters per case. We felt that an even liter figure such as this would facilitate recordkeeping requirements by all levels of the distilled spirits trade.

Obviously ATF would have preferred to have solicited industry members' comments on this case packing requirement before its adoption; however, we felt that it would be unfair if we were to solicit opinions from only a portion of the industry. This would have amounted to notification or at least a strong indication to select industry members that we were about to adopt a 200 ml standard and this would have given them a competitive advantage over others. Moreover, since we knew that the entire industry was anxious (as were we) to have the new metric standards implemented, it did not seem practical to air the 200 ml case packing issue and thereby delay further the adoption of metric standards of fill.

PROPOSAL FOR AMENDMENT

On March 29, 1976, DISCUS petitioned ATF to amend the case packing requirement for the 200 ml standard from 60 to 48 bottles per case. In their petition DISCUS indicates that many industry members cannot utilize existing case packaging equipment to pack a case of the size which would be required to pack sixty 200 ml bottles to the case. Further, they indicate that difficulties would arise in palletizing, warehousing and the overall handling of such cases. In view of the circumstances under which ATF adopted the 60 bottles per case requirement, we are receptive to the proposed change to 48 bottles per case if it will better serve the interests and needs of all parties involved.

However, we wish to stress that our final decision will be based upon what case packing requirement is best for the industry and public in general rather than upon which one may better suit the needs of a few. In view of this we particularly invite comments which go beyond a mere expression of preference. To make a fair and equitable decision on this matter, ATF must know why an interested party favors a particular number—that is, does it reduce handling problems, lower costs, eliminate the need for new equipment or major overhauls of existing equipment, etc. Again, we especially invite input of this nature from all interested parties.

SUBMISSION OF WRITTEN COMMENTS

Interested persons who wish to participate in the making of the proposed rule are invited to submit written comments or suggestions. Written comments should be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (Attn: Chief, Regulations and Procedures Division) on or before July 14, 1976. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22. The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure.

The proposed regulations are to be issued under the authority contained in section 27 U.S.C. 205 (49 Stat. 981, as amended).

PROPOSED REGULATION

On the basis of the foregoing, it is proposed that the regulation pertaining to bottles per shipping case (27 CFR Part 5) be amended as follows:

Paragraph (a) of § 5.49 is amended by changing the bottles per case requirement for 200 ml bottles from 60 per case to 48 per case. As amended, paragraph (a) of § 5.49 reads as follows:

§ 5.49 Bottles per shipping case.

(a) *General.* Distilled spirits, whether domestically bottled or imported subject to the metric standards of fill prescribed in § 5.47a, shall be packed with the following number of bottles per shipping case or container:

Bottle sizes:		Bottles per case
1.75	liters	6
1.00	do	12
750	milliliters	12
500	do	24
200	do	48
50	do	120

* * * * *

Signed: May 20, 1976.

REX D. DAVIS,
Director.

Approved: June 7, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-17247 Filed 6-11-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 832]

EMPLOYMENT OF CIVIL AIR PATROL

Cadet Program

The existing part is designated as Subpart A—General Information, of Part 832, Sections 1 through 6. The Department of the Air Force proposes to add a new Subpart B, consisting of Sections 10 through 16.

This new Subpart describes the Civil Air Patrol (CAP) cadet program and tells how the Air Force supports it. It clarifies the cadet eligibility requirements, updates the cadet activities, and clarifies Air Force support.

Interested persons are invited to comment on the proposed rulemaking on or before July 14, 1976. Written data, views, arguments concerning the proposal must be submitted in writing to Headquarters, USAF/REV, Washington, D.C. 20330. Comments and suggestions submitted will be available for public inspection and copying at the above address.

The proposed Subpart will read as follows:

Subpart B—Cadet Program

Sec.
832.10 Cadet program.
832.11 Eligibility requirements.
832.12 Recognition of achievement.
832.13 Encampments and conferences.
832.14 Cadet special activities and programs.
832.15 Orientation visits.
832.16 Air Force support.

Subpart B—Cadet Program

§ 832.10 Cadet program.

The CAP is responsible for providing aerospace education and training to its cadet members. The cadet program is designed to give each cadet:

(a) An aerospace education, including:

(1) The social, political, economic, scientific, vocational, educational, and international facets of aerospace.

(2) An introduction to a variety of aerospace matters (such as meteorology, theory of flight, navigation, aircraft power plants, rockets, and missiles) as necessary to develop an informed and aerospace-minded citizenry.

(b) Training in citizenship, character development, leadership, customs and courtesies of the Service, and exercise of command through self-government in the cadet organization.

§ 832.11 Eligibility requirements.

Any boy or girl 13 years of age (or enrolled in the seventh grade) through 17 years of age, who meets such prerequisities as the CAP corporation may from time to time establish, is eligible for cadet membership. Cadets may retain their cadet status until age 21. Eligibility for special activities or training may vary according to the type of activity or training being conducted.

§ 832.12 Recognition of achievement.

(a) Under the provisions of part 888, this chapter, any cadet who successfully completes all the requirements and is awarded the CAP General Billy Mitchell Award can enlist in the Air Force, Air Force Reserve, or Air National Guard as an airman, pay grade E–2, provided he meets all other Air Force requirements.

(b) A cadet who receives the CAP General Mitchell Award or higher achievements can be afforded training credit when applying for enlistment in the ROTC program as provided for in Part 870 of this chapter.

§ 832.13 Encampments and conferences.

(a) Type A encampments are conducted under supervision of CAP personnel with Air Force advice, assistance, and cooperation. They are conducted annually at selected Air Force bases and do not last more than 14 days. They enable cadets to live in the environment of an active Air Force installation; to acquire firsthand knowledge of Air Force activities; and to learn of career opportunities in the Air Force.

(1) The encampment commander (a CAP officer) prescribes the uniforms the CAP members wear during the encampment. He is responsible for the conduct of CAP personnel, and for compliance with the directives issued by the commander of the host base.

(2) National Headquarters, CAP, establishes the encampment attendance quota for each CAP wing.

(b) Type B encampments are conducted under the same type of supervision as Type A encampments, and their staff composition is the same. However, these encampments are conducted at community, state, or Federal facilities (including other Department of Defense Installations). They are scheduled for a series of weekends, or during a continuous encampment period. The program may include training in emergency services, moral leadership, general leadership, and briefings at nearby aerospace facilities.

(c) CAP regional conferences are held annually in each of the eight CAP regions, at a location within each region. These conferences are conducted to assess progress during the current year, to establish goals for the coming year, and to present briefings by Air Force representatives on programs or activities which relate to CAP's role as an auxiliary of the Air Force. Selected cadets participate in these conferences to advise on the cadet program, and to gain further understanding of the overall CAP program in preparation for leadership positions within their unit or wing.

§ 832.14 Cadet special activities and programs.

(a) *International Air Cadet Exchange.* Originated in 1948, this annual exchange fosters international understanding, goodwill, and friendship among the youth of the participating countries through a common interest in aerospace. The CAP exchanges cadets with similar organizations in Canada, Central and South America, Europe, and the Middle and Far East.

(b) *Cadet Officer's School.* This school is designed to increase the effectiveness of cadet officers. The curriculum includes psychology of leadership, problem-solving techniques, public speaking, physical fitness, and orientation trips. Instruction is divided between seminars, lectures, and field exercises.

(c) *Air Force Academy Survival Course.* This course is planned and conducted by Air Force personnel at the Air Force Academy. Its purpose is to acquaint the cadets with techniques and methods of survival.

(d) *Communications and Electronics Course.* This course is designed for outstanding cadets who have demonstrated an interest in the field of electronics. The course is planned and conducted by Air Force personnel at selected Air Force bases. The curriculum includes communications principles, radio operating training, tours, and practical laboratory exercises.

(e) *Federal Aviation Administration (FAA) Cadet Orientation Program.* This program is conducted at the FAA Academy. The course is designed to acquaint cadets with the history and organization of FAA, and to develop an understanding of FAA functions and responsibilities.

(f) *Space Flight Orientation Course.* This course is held annually at an outer-space-oriented facility. It is designed to further the aerospace education of cadets, and to motivate them toward careers in aerospace and allied sciences. The course includes history, philosophy, and objectives of space guidance, navigation instrumentation, and communication and system engineering.

(g) *Air Training Command (ATC) Familiarization Course.* This familiarization program for cadets is conducted at selected ATC undergraduate pilot and navigator training bases. It is designed to stimulate interest in an Air Force career. Each cadet receives training in the flight simulator, attends physiological training, and is briefed on the overall operation of the Air Force pilot training program.

(h) *Air Force Logistics Command (AFLC) Orientation Course.* This course is held annually at an AFLC Air Logistics Center. It is designed to further the aerospace education of cadets through an understanding of the Air Force logistics system. The curriculum may include acquisition, storage, distribution, maintenance repair and modification, data processing support, instrumentation, communications, and practical application of the logistics system.

(i) *Medical Services Orientation Program.* This program is planned and supervised by Air Force medical personnel, and is designed to acquaint cadets with the various fields of medical services available in the Air Force and civilian life.

(j) *Cadet Competitions.* Regional and national competitions, including drill and other aerospace-oriented competitive events, may be held annually at selected Air Force installations. Each region selects a team as its representative at the national competition.

(1) Location of the national competition is established through National Headquarters, CAP.

(2) Air Force commanders provide suitable facilities and competent judges, if available, when requested by the Commander, CAP–USAF.

(k) *Chaplain Sponsored Conferences.* These annual conferences, (Christian Encounter Conferences) sponsored by

the USAF Chief of Chaplains, are designed to stimulate the moral and spiritual development of the CAP cadet. Personnel and career counseling and spiritual guidance are provided by prominent clergymen, laymen, and national leaders who discuss problems of youth, marriage, home life, and other topics of interest. Cadets also participate in a well-rounded program of social and recreational activities.

(l) *Cadet Flying Programs.* The CAP corporation provides funding annually to help defray costs for cadet flight training and flight orientation programs. Flight training may be to solo level in glider or powered aircraft. Orientation flights are to motivate cadets through exposure to flying operations.

§ 832.15 Orientation visits.

Selected groups of cadets may participate in orientation visits to enhance or supplement the cadet training program. Examples are visits to Air Force installations, the Air Force Academy, the Air Force Museum, and FAA Air Traffic Control facilities. These visits are intended to serve as motivational activities, as well as to provide educational exposure to supplement academic instruction within the cadet training program.

§ 832.16 Air Force support.

The authority for Air Force support to CAP is outlined in 10 U.S.C. 9441. The Air Force is authorized to provide services and facilities to the CAP which include, but are not limited to; available billeting, messing, emergency medical care, limited exchange privileges, and transportation. DOD and Air Force directives provide guidance as to the scope of such services and facilities that are authorized for CAP. Air Force installation commanders should contact the appropriate USAF–CAP wing or region liaison officer for assistance on CAP programs or activities conducted on their installation.

JAMES L. ELMER,
Major, USAF, Executive,
Directorate of Administration.

[FR Doc.76–17153 Filed 6–11–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

[Docket No. AO 333–A5]

GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Hearing on Proposed Amendment of the Marketing Agreement, as Amended, and Order, as Amended

Correction

In FR Doc. 76–16267, appearing on page 22568, in the issue of Friday, June 4, 1976, in Proposal No. 1, change the last word of the first line of the paragraphs describing the amendments to both §§ 912.41 and 912.50 from "submitting" to "substituting".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1050]

[Docket No. 76N–0034]

ULTRASONIC THERAPY AND SURGERY PRODUCTS

Performance Standard

Pursuant to authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602, 42 U.S.C. 263b et seq.), the Food and Drug Administration (FDA) proposes to amend Chapter I of Title 21 of the Code of Federal Regulations by adding new Part 1050 (21 CFR Part 1050) to the radiological health regulations (Subchapter J), and prescribing a performance standard for ultrasonic therapy and surgery products in new § 1050.10. Comments on this proposal must be submitted on or before August 13, 1976.

The proposed radiation safety performance standard would be applicable to all ultrasonic therapy and surgery products except those ultrasonic products designed for use in dentistry or in surgical removal of cataracts. An ultrasonic therapy or surgery product is defined in the proposal (§ 1050.10(b)(25)) as any device intended to generate and emit ultrasonic radiation for therapeutic or surgical purposes at ultrasonic frequencies above 16 kHz (kilohertz), or generators or applicators designed or specifically designated for use in such devices.

Ultrasonic energy is capable of inducing damage in cells and tissues through thermal, mechanical, and cavitational mechanisms. A variety of biological effects have been reported from exposure to ultrasound, including changes in blood flow, altered tissue metabolism, edema, necrosis, altered membrane permeability, mitotic delay, and thrombocyte disruption. The positive and potentially deleterious effects associated with ultrasound exposure, the lack of quantitative dose-response information on the effects of ultrasound on biological tissues and systems, and the sparse information about immediate and delayed effects associated with human exposure to ultrasound require that a regulatory performance standard be developed that will ensure that exposures prescribed for therapy can accurately be delivered to patients. This will avoid unnecessary exposure of tissues which might result in risk of injury.

The importance of equipment calibration as it relates to accurate exposure delivery was recognized in "A Study of the Dimensions and Problems Associated with Equipment Malfunctions and Accidents in Hospitals" conducted for the California Hospital Association. Also, laboratory evaluations and field surveys conducted by the Bureau of Radiological Health, Food and Drug Administration, have shown large differences between indicated and measured output from ultrasonic therapy equipment.

There are presently two voluntary standards in the United States for ultrasonic therapy equipment—the "American Standards Specification for Ultrasonic Therapeutic Equipment" and the "International Electrotechnical Commission (IEC) Recommendation for Testing and Calibration of Ultrasonic Therapeutic Equipment." However, no manufacturer currently follows all of the necessary radiation safety recommendations in these standards. Therefore, there is a need for a regulatory performance standard for such equipment to protect the public health and safety.

The concepts underlying this proposed standard were reviewed in September 1974 by the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), a permanent statutory committee that by law must be consulted before the promulgation of electronic product performance standards established under Pub. L. 90–602. On October 24, 1974 a subcommittee meeting of the TEPRSSC was held at the request of the full committee to review and comment on portions of the draft standard that had been presented to the full committee in September 1974. FDA has also consulted with nonagency ultrasound experts and met with researchers, users, and industry representatives during development of the proposed standard. Discussions were held with representatives of professional organizations, including the Acoustical Society of America, the Council on Physical Medicine and Rehabilitation of the American Medical Association, the American Physical Therapy Association, and the American Institute of Ultrasound in Medicine. Drafts of the proposed standard have been made available to the public and sent to many interested parties, including manufacturers, and comments and evaluations were requested. Radiation control and public health agencies, including FDA regional radiological health representatives, have also participated in the development of the proposed standard. Additionally, many of the provisions in this proposal were either initiated or revised in response to information brought forth during a workshop on ultrasound therapy which was held on November 28 through 30, 1973, for users and researchers in the field.

The intent of this proposed performance standard is to require that ultrasonic therapy and surgery equipment be capable of delivering a prescribed amount of ultrasonic energy to the patient and to ensure that sufficient information on beam characteristics is supplied to allow medical personnel to make informed judgments regarding the application of ultrasound energy.

The scientific and technical bases for provisions of the proposed performance standard are as follows:

(1) *Applicability* (§ 1050.10(a)). Ultrasonic therapeutic and surgical equipment used in physical medicine and rehabilitation employs piezoelectric transducers

driven by electrical oscillators. The common frequency range is between 800 kHz (kilohertz) and 1 MHz (megahertz), although frequencies from 89 kHz to 3 MHz have been used. Applicator diameters for physical medicine and rehabilitation usage range from about 1 to 4 inches. In contrast, ultrasonic equipment used in dentistry or for the surgical removal of cataracts operates at frequencies around 20 kHz and employs small vibrating needles. Since the modes of operation and intended use of this latter class of ultrasonic product is so completely different from the former group, it is impossible to include such dental and cataract removal equipment under the present proposed standard. However, FDA is investigating the radiation safety problems associated with dental and cataract removal equipment.

(2) *Definitions* (§ 1050.10(b)). The definitions in this proposed standard are consistent with those in the American National Standards Institute Standard for Acoustical Terminology sponsored by the Acoustical Society of America. They are also consistent with those of the Institute of Electrical and Electronics Engineers and those in existing FDA radiation safety performance standards.

(3) *Indication of ultrasonic power and intensity* (§ 1050.10(c)(1)). It is important to have the ultrasonic power indicated since the temperature rise of a given volume of tissue is dependent on this factor. Indication of effective intensity is the information most used by therapists.

The requirement that indicators be calibrated for emissions greater than 10 percent of maximum is the same as the IEC recommendation. It is impractical and unnecessary to require calibration at less than 10 percent of the maximum emission.

(4) *Treatment time* (§ 1050.10(c)(2)). It is important to have a means to terminate exposure after a preset time because some appplicators are designed for stationary use without the operator's presence. An accurate indication of the duration of emission is necessary since the total energy delivered to the patient depends on this factor. The requirements concerning the accuracy of the timer were chosen to be both technically feasible and consistent with the precision required in current therapy practice.

(5) *Pulse duration and repetition rate* (§ 1050.10(c)(3)). For pulsed operation it is necessary to know the pulse duration and repetition rate, as well as the threatment time, to ascertain the actual duration of patient exposure. Therefore, if there are controls for varying pulse duration and repetition rate, the magnitudes of these quantities must be indicated.

(6) *Ultrasonic frequency* (§ 1050.10(c)(4)). Knowledge of the ultrasonic frequency is important because the absorption of ultrasound energy by human tissue is frequency dependent. Although there are presently no ultrasound therapy products that allow variation of frequency, it is anticipated that some may be manufactured in the future.

(7) *Visual indicator* (§ 1050.10(c)(5)). Since under normal circumstances the presence of ultrasound radiation is not detectable by the human senses, the proposal requires a visual indicator for the operator.

(8) *Labeling of operation and service controls* (§ 1050.10 (d)(1) and (d)(2)). These requirements refer to those controls that affect such treatment parameters as ultrasonic power, treatment time, pulse duration, pulse repetition rate, and ultrasonic frequency. If a certain operation function has both an indicator, such as a meter, and a control, such as a knob, then each must be labeled clearly to assure adequate therapy control. However, labeling of the appropriate unit of measure would be necessary only for the indicator when both an indicator and control are supplied for a particular function.

Easily accessible service controls, in addition to being labeled for function, must be labeled "for service adjustment only."

(9) *Labeling on generators* (§ 1050.10 (d)(3)). Ultrasonic frequency must be specified on a generator label unless there is an operation control for varying it. This information is useful because the absorption of ultrasound energy by human tissue is frequency dependent.

The type of waveform (continuous or amplitude modulated) would be required on the generator label. Furthermore, if the waveform is amplitude modulated, the modulation parameters and an illustration of the waveform would be required on a label to determine the relationship between peak and average outputs.

(10) *Applicator label* (§ 1050.10(d)(4)). Information would be required to allow matching of compatible applicators and generators. Applicators typically have shorter lifetimes than generators because they are more susceptible to damage and deterioration. Replacing an applicator can have a considerable effect on output calibration; applicators therefore would be required to be individually labeled and designated for the proper generator.

Labels on the applicator would be required to state certain operational parameters that are related to ultrasound energy exposure or absorption.

(11) *Label specifications* (§ 1050.10 (d)(5)). The required labels described above must be permanent, legible, and clearly visible. The Director, Bureau of Radiological Health may approve alternate labeling if the physical nature of the product precludes compliance with the label requirements.

(12) *Product certification* (§ 1050.10 (e)(1)). Compliance certification tests by the manufacturer must account for all measurement errors and uncertainties. Because compliance is required for the product's useful life, compliance testing must also account for increases in emission and degradation in radiation safety that occur with age.

(13) *Compliance test conditions* (§ 1050.10(e)(2)). To maintain proper calibration under all conditions of operation, compliance tests must be made for all possible combinations of adjustments of the controls.

Water is designated as the standard measurement medium since water and human tissue are very similar in propagating ultrasound radiation. Free field (infinite medium) conditions may be approximated by distilling and degassing water, and by using suitable absorbing and reflecting materials. Measurement methods shown to produce equivalent results would be acceptable.

To ensure effective equipment calibration, operation of the equipment must be insensitive to typical variations in line voltage. Therefore, tests for compliance must be made over a specified range of line voltages.

(14) *Measurement parameters* (§ 1050.10(e)(3)). A detector having dimensions of less than one wavelength is necessary to ensure that the ultrasound radiation field pattern can be accurately detected and depicted.

(15) *Informational requirements* (§ 1050.10(f)). The information required by this proposal to be provided to service agents and users is the minimum that should be supplied by manufacturers.

The informational requirement in § 1050.10(f)(2)(ii) is necessary to allow determination of both energy distribution within the treatment beam, and the effective intensity. Therefore, field plots would be required. Furthermore, knowledge of the effective radiating area of an applicator is useful only if the user has assurance that the beam is radiated along the applicator axis. Misplacement of the transducer(s) within the applicator could cause a deviation in the direction of propagation from that normally expected. Therefore, the orientation of the ultrasound field with respect to the applicator must be specified.

Section 1050.10(f)(2)(iii) would require that the precision of the physical quantities required on labels and indicators, in terms of percentage error, be provided to users.

A warning to users not to adjust any controls other than operation controls would be required by § 1050.10(f)(2)(iv).

The Commissioner of Food and Drugs proposes to order that this standard be made applicable to all ultrasonic therapy and surgery products manufactured on or after a date that is 1 year after the date of publication of the final regulation in the FEDERAL REGISTER.

On the basis of a complete environmental impact analysis report, the Commissioner concludes that promulgation of this proposed standard for ultrasonic therapy and surgery products will not significantly affect the quality of the human environment and, therefore, that no environmental impact statement is necessary pursuant to § 6.1(b) (21 CFR 6.1(b)). In addition, the Commissioner has carefully considered the inflation impact of the proposed regulation as required by Executive Order 11821, OMB Circular A-107, and interim guidelines issued by the Department of Health, Education, and Welfare and no major in-

flation impact has been found. Copies of the FDA Environmental Assessment Report, Environmental Impact Analysis Report and Inflation Impact Assessment are on file and available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Chapter I, Subchapter J of Title 21 of the Code of Federal Regulations by adding new Part 1050, consisting of the following section:

PART 1050—PERFORMANCE STANDARDS FOR SONIC, INFRASONIC, AND ULTRASONIC RADIATION-EMITTING PRODUCTS

§ 1050.10 Ultrasonic therapy and surgery products.

(a) *Applicability.* The provisions of this section are applicable as specified herein to all ultrasonic therapy and surgery products manufactured on or after (1 year after the date the final regulation is published in the FEDERAL REGISTER), except for ultrasonic products designed for use in dentistry or in the surgical removal of cataracts.

(b) *Definitions.* The following definitions apply to words and phrases used in this section:

(1) "Amplitude modulated waveform" means a waveform in which the ratio of the temporal-maximum pressure amplitude spatially averaged over the effective radiating surface to the root-mean-square pressure amplitude spatially averaged over the effective radiating surface is greater than 1.05.

(2) "Applicator" means that portion of a fully assembled ultrasonic therapy or surgery product that is designed to emit ultrasonic radiation and which includes one or more ultrasonic transducers and any associated housing.

(3) "Beam cross-section" means the surface in any plane consisting of the points at which the intensity is greater than 5 percent of the spatial maximum intensity in that plane.

(4) "Beam nonuniformity ratio" means the ratio of the temporal-average spatial-maximum intensity to the temporal-average effective intensity.

(5) "Centroid of a surface" means the point whose coordinates are the mean values of the coordinates of the points of the surface.

(6) "Collimating applicator" means an applicator that does not meet the definition of a focusing applicator as specified in paragraph (b)(15) of this section and for which the ratio of the area of a least one beam cross-section, whose centroid is 12 centimeters from the centroid of the effective radiating surface, to the area of the effective radiating surface is less than two.

(7) "Continuous-wave waveform" means a waveform in which the ratio of the temporal-maximum pressure amplitude spatially averaged over the effective radiating surface to the root-mean-square pressure amplitude spatially averaged over the effective radiating surface is less than or equal to 1.05.

(8) "Diverging applicator" means an applicator that does not meet the definitions of a collimating applicator or a focusing applicator as specified in paragraphs (b) (6) and (15) of this section.

(9) "Effective intensity" means the ratio of the ultransonic power to the focal area for focusing applicators. For all other applicators, the effective intensity is the ratio of the ultrasonic power to the effective radiating area. Effective intensity is expressed in watts per square centimeter (Wcm^{-2}).

(10) "Effective radiating area" means the area consisting of all points of the effective radiating surface at which the intensity is 5 percent or more of the maximum intensity at the effective radiating surface, expressed in square centimeters (cm^2).

(11) "Effective radiating surface" means the surface consisting of all points 5 millimeters from the applicator face.

(12) "Focal area" means the area of the focal surface, expressed in square centimeters (cm^2).

(13) "Focal length" means the distance between the centroids of the effective radiating surface and the focal surface, for a focusing applicator, expressed in centimeters (cm).

(14) "Focal surface" means the beam cross-section with the smallest area of a focusing applicator.

(15) "Focusing applicator" means an applicator in which the ratio of the area of the beam cross-section with the smallest area to the effective radiating area is less than one-half.

(16) "Generator" means that portion of a fully assembled ultrasonic therapy or surgery product that supplies electrical energy to the applicator. The generator may include, but is not limited to, a power supply, ultrasonic frequency oscillator, service controls, operation controls, and a cabinet to house these components.

(17) "Maximum beam nonuniformity ratio" means the maximum value of the beam nonuniformity ratio characteristic of a model of an ultrasonic therapy or surgery product.

(18) "Operation control" means any control used during operation of an ultrasonic therapy or surgery product that affects the ultrasonic radiation emitted by the applicator.

(19) "Pressure amplitude" means the instantaneous value of the modulating waveform, and is $P_1(t)$ in the expression for a pressure wave, $p(t)=p_1(t)\ p_2(t)$, where $p(t)$ is the instantaneous pressure, $p_1(t)$ is the modulating envelope, and $P_2(t)$ is the relative amplitude of the carrier wave normalized to a peak height of one. All are periodic functions of time, t, at any point in space. The period of $p_1(t)$ is greater than the period of $p_2(t)$.

(20) "Pulse duration" means a time interval, expressed in seconds, beginning at the first time the pressure amplitude exceeds the minimum pressure amplitude plus 10 percent of the difference between the maximum and minimum pressure amplitudes, and ending at the last time the pressure amplitude returns to this value.

(21) "Pulse repetition rate" means the repetition frequency of the waveform modulating the ultrasonic carrier wave expressed in pulses per second (pps).

(22) "Service control" means any control provided for the purpose of adjustment that is not used during operation and can affect the ultrasonic radiation emitted by the applicator, or can alter the calibration or accuracy of an indicator or operation control.

(23) "Ultrasonic frequency" means the frequency of the ultrasonic radiation carrier wave, expressed in Hertz (Hz).

(24) "Ultrasonic power" means the total power emitted in the form of ultrasonic radiation by the applicator averaged over each cycle of the ultrasonic radiation carrier wave, expressed in watts.

(25) "Ultrasonic therapy and surgery product" means:

(i) Any device intended to generate and emit ultrasonic radiation for therapeutic or surgical purposes at ultrasonic frequencies above 16 kilohertz (kHz); or

(ii) Generators or applicators designed or specifically designated for use in devices as specified in paragraph (b)(25)(i) of this section.

(26) "Ultrasonic transducer" means a device used to convert electrical energy of ultrasonic frequency into ultrasonic radiation or vice versa.

(c) *Performance requirements.* The requirements of this paragraph are applicable to each ultrasonic therapy or surgery product as defined in paragraph (b)(25) of this section when the generator and applicator are designated or intended for use together, or to each generator when the applicator(s) intended for use with the generator does not contain controls that effect the functioning of the generator.

(1) *Ultrasonic power and intensity—*(i) *Continuous wave waveform operation.* A means shall be incorporated to indicate the magnitudes of the temporal-average ultrasonic power and the temporal-average effective intensity when emission is of continuous-wave waveform. The error in the indication of the temporal-average ultrasonic power shall not exceed ±20 percent for all emissions greater than 10 percent of the maximum emission.

(ii) *Amplitude modulated waveform operation.* A means shall be incorporated to indicate the magnitudes of the temporal-maximum ultrasonic power and the temporal-maximum effective intensity when the emission is of amplitude-modulated waveform. The sum of the errors in the indications of the temporal-maximum ultrasonic power and the ratio of the temporal-maximum effective intensity to the temporal-average effective intensity specified in paragraph (d)(3)(ii) of this section shall not exceed ±20 percent for all emissions greater than 10 percent of the maximum emission.

(2) *Treatment time.* A means shall be incorporated to enable the duration of emission of ultrasonic radiation for treatment to be preset and such means shall terminate emission at the end of the preset time. Means shall also be incorporated to enable termination of emission at any time. Means shall be incorporated to indicate the magnitude of the duration of emission (expressed in minutes) to within 0.5 minute of the preset duration of emission for settings less than 5 minutes, to within 10 percent of the preset duration of emission for settings of from 5 minutes to 10 minutes, and to within 1 minute of the preset duration of emission for settings greater than 10 minutes.

(3) *Pulse duration and repetition rate.* A means shall be incorporated for indicating the magnitudes of pulse duration and pulse repetition rate of the emitted ultrasonic radiation, if there are operation controls for varying these quantities.

(4) *Ultrasonic frequency.* A means shall be incorporated for indicating the magnitude of the ultrasonic frequency of the emitted ultrasonic radiation, if there is an operation control for varying this quantity.

(5) *Visual indicator.* A means shall be incorporated to provide a clear, distinct, and readily understood visual indicator when and only when electrical energy of appropriate ultrasonic frequency is being applied to the ultrasonic transducer (s).

(d) *Labeling requirements.* In addition to the requirements of §§ 1010.2 and 1010.3 of this chapter, each ultrasonic therapy and surgery product shall be subject to the applicable labeling requirements of this paragraph.

(1) *Operation controls.* Each operation control shall be clearly labeled identifying the function controlled and, where appropriate, the units of measure of that function. If a separate control and indicator are associated with the same function, then labeling the appropriate units of measure of that function is required for the indicator but not for the control.

(2) *Service controls.* Each service control that is accessible without displacement or removal of any part of the ultrasonic therapy or surgery product shall be clearly labeled identifying the function controlled and shall include the phrase "for service adjustment only."

(3) *Generators.* (i) Generators shall bear a label that states the brand name, model designation, and unique serial number or other unique identification so that it is individually identifiable; ultrasonic frequency (unless there is an operation control for varying this quantity); and type of waveform (continuous wave or amplitude modulated).

(ii) Generators employing amplitude-modulated waveforms shall also bear a label that provides the following information: Pulse duration and pulse repetition rate (unless there are operation controls for varying these quantities), an illustration of the amplitude-modulated waveform, and the ratio of the temporal-maximum effective intensity to the temporal-average effective intensity. (If this ratio is a function of any operation control setting, then the range of the ratio shall be specified, and the waveform illustration shall be provided for the maximum value of this ratio.)

(4) *Applicators.* Each applicator shall bear a label that provides the following information:

(i) The brand name, model designation, and unique serial number or other unique identification so the applicator is individually identifiable;

(ii) A designation of the generator(s) for which the applicator is intended; and

(iii) The ultrasonic frequency, effective radiating area, maximum beam nonuniformity ratio, type of applicator (focusing, collimating, diverging), and for focusing applicators the focal length and focal area.

(5) *Label specifications.* Labels required by this paragraph shall be permanently affixed to or inscribed on the ultrasonic therapy or surgery product; they shall be legible and clearly visible. If the size, configuration, or design of the ultrasonic therapy or surgery product would preclude compliance with the requirements of this paragraph, the Director, Bureau of Radiological Health, may approve alternate means of providing such label(s).

(e) *Tests for determination of compliance*—(1) *Tests for certification.* Tests on which certification pursuant to § 1010.2 of this chapter is based shall account for all measurement errors and uncertainties. Such tests shall also account for increases in emission and degradation in radiation safety that occur with age.

(2) *Test conditions.* Except as provided in § 1010.13 of this chapter, tests for compliance with each of the applicable requirements of this section shall be made:

(i) For all possible combinations of adjustments of the controls listed in the operation instructions.

(ii) With the ultrasonic radiation emitted into the equivalent of an infinite medium of distilled, degassed water at 30° C for measurements concerning the ultrasonic radiation.

(iii) With line voltage variations in the range of ±10 percent of the rated value specified by the manufacturer.

(3) *Measurement parameters.* Measurements for determination of the spatial distribution of the ultrasonic radiation field shall be made with a detector having dimensions of less than one wavelength in water or an equivalent measurement technique.

(f) *Informational requirements*—(1) *Servicing information.* Manufacturers of ultrasonic therapy or surgery products shall provide or cause to be provided to servicing dealers and distributors, and to others upon request, at a cost not to exceed the cost of preparation and distribution, adequate instructions for operation, service, and calibration, including a description of those controls and procedures that could be used to increase radiation emission levels, and a schedule of maintenance necessary to keep equipment in compliance with this section. The instructions shall include adequate safety precautions that may be necessary regarding ultrasonic radiation exposure.

(2) *User information.* Manufacturers of ultrasonic therapy or surgery products shall provide as an integral part of any user instruction or operation manual that is regularly supplied with the product, or, if not so supplied, shall cause to be provided with each ultrasonic therapy or surgery product, and to others upon request, at a cost not to exceed the cost of preparation and distribution:

(i) Adequate instructions concerning assembly, operation, safe use, any safety procedures and precautions that may be necessary regarding the use of ultrasonic radiation, and a schedule of maintenance necessary to keep the equipment in compliance with this section. The operation instructions shall include a discussion of all operation controls, and shall describe the effect of each control.

(ii) Adequate description of the spatial distribution of the ultrasonic radiation field and the orientation of the field with respect to the applicator. This will include a textual discussion with diagrams, plots, or photographs representative of the beam pattern. If there is more than one ultrasonic transducer in an applicator and their positions are not fixed relative to each other, then the description must specify the spatial distribution of the ultrasonic radiation field emitted by each ultrasonic transducer and present adequate examples of the combination field of the ultrasonic transducers with regard to safe use. The description of the ultrasonic radiation field shall state that such description applies under conditions specified in paragraph (e)(2)(ii) of this section.

(iii) Adequate description, as appropriate to the product, of the uncertainties in magnitude expressed in terms of percentage error, of the ultrasonic frequency, effective radiating area, and, where applicable, the ratio of the temporal-maximum effective intensity to the temporal-average effective intensity, pulse duration, pulse repetition rate, focal area, and focal length. The errors in indications specified in paragraphs (c)(1) and (c)(2) of this section shall be stated in the instruction manual.

(iv) A listing of controls, adjustments, and procedures for operation and maintenance, including the warning "Caution—use of controls or adjustments or performance of procedures other than those specified herein may result in hazardous radiation exposure."

Interested persons may, on or before August 13, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office

during working hours, Monday through Friday.

Dated: June 8, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-17126 Filed 6-11-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

[33 CFR Part 117]

Coast Guard

[CGD 76-068]

DRAWBRIDGE OPERATION REGULATIONS

Bayou Boeuf, La.; Notice of Proposed Rule Making

At the request of the Parish of Lafourche, Louisiana, the Coast Guard is considering revising the regulations of the pontoon bridge on State Route 307 across Bayou Boeuf, mile 1.3, at Kraemer, Louisiana, to require at least 12 hours notice from 9 p.m. to 5 a.m. daily. The draw would continue to open on signal from 5 a.m. to 9 p.m. This change is being considered because of limited openings during this period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District will forward any comments received before July 20, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended as follows:

§ 117.540 [Amended]

In § 117.540(b), by adding the words "Bayou Boeuf, mile 1.3, S-307 highway drawbridge at Kraemer" immediately after the words "Bayou DuLarge, mile 23.2, S-315 highway drawbridge, near Theriot," in the listing.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Dated: June 8, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76-17204 Filed 6-11-76;8:45 am]

[33 CFR Part 117]

[CGD 76-077]

DAWBRIDGE OPERATION REGULATIONS

Bayou Lafourche, La.; Notice of Proposed Rule Making

At the request of the Lafourche Parish Police Jury and the Louisiana Department of Highways, the Coast Guard is considering revising the regulations for three drawbridges across Bayou Lafourche at mile 58.2, mile 58.7, and mile 66.1 to require at least 6 hours notice at all times. The drawbridges at mile 58.2 and mile 66.1 are presently required to open on signal from 5 a.m. to 9 p.m. and to open on signal from 9 p.m. to 5 a.m. if at least 12 hours notice is given. The drawbridge at mile 58.7 is presently required to open on signal. This change is being considered because of limited requests for openings.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the Office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before July 20, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Adding a new § 117.245(j)(4-a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(4-a) Bayou Lafourche, La.; U.S. 90 drawbridge, mile 58.2, Raceland; U.S. 90 drawbridge, S. 307, Raceland, mile 58.7; and S. 18 drawbridge, Lafourche, mile 66.1. The draws shall open on signal if at least 6 hours notice is given.

* * * * *

§ 117.540 [Amended]

2. In § 117.540(b), by deleting the words "Bayou Lafourche, mile 58.2, U.S. 90 highway drawbridge at Raceland" and the words "Bayou Lafourche, mile 66.1, S-18 highway drawbridge at St. Charles" from the listing.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Dated: June 8, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76-17205 Filed 6-11-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket 76-GL-11]

AIRWORTHINESS DIRECTIVES

General Electric CF6-6

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation regulations by adding an airworthiness directive applicable to CF6-6 engines. There have been instances of overpressure in the compressor which resulted in severe damage to the engine. Since this condition is likely to exist or develop in other engines of the same type, the proposed airworthiness directive would require elimination from the fan booster of the material that caused the overpressure.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 15, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

GENERAL ELECTRIC: Applies to Models CF6-6D and CF6-6D1 Turbofan Engines.

Compliance required by July 1, 1977, unless previously accomplished.

To prevent excessive overpressure in the high pressure compressor, remove the abradable material from the inside diameter of the Fan Stator Shroud Mid Ring (Booster Stage) in accordanco with General Electric Service Bulletin (CF6-6) 72-647 or subsequent FAA Approved Revision thereto.

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 General Electric Company, Cincinnati, Ohio 45215. These documents may also be examined at the FAA Great Lakes Region, 2300 E. Devon Avenue, Des Plaines, Illinois 60018 and at FAA headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Great Lakes Region.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Des Plaines, Illinois, on June 4, 1976.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.76-16958 Filed 6-11-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 232]

[EDR-299; Docket 29380]

TRANSPORTATION OF MAIL; REVIEW OF ORDERS OF POSTMASTER GENERAL

Amendment and Reissuance of Part

Notice is hereby given that the Civil Aeronautics Board has under consideration substantial amendments to and the reissuance of Part 232 of the Economic Regulations which governs procedures and requirements for review of orders of the Postmaster General as they are affected by Section 405(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 760; 49 U.S.C. 1375.

The principal features of the proposal are described in the Explanatory Statement and the proposed reissuance of Part 232 is set forth in the Proposed Rule. The rule is proposed under the authority of Sections 204 and 405 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760; 49 U.S.C. 1324, 1375.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so thorugh submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies thereof. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

All relevant material received on or before July 14, 1976, will be considered by the Board before taking final action on the proposed rule.

Dated: June 9, 1976.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

Section 405(b) of the Federal Aviation Act empowers the Postmaster General to: (1) designate for the transportation of mail any schedule of aircraft regularly operated by an air carrier; (2) require an air carrier to establish additional schedules for the transportation of mail; and (3) disapprove, alter, or amend any schedule or change in any schedule designated for the transportation of mail. Any such order by the Postmaster General may not become effective until ten (10) days after its issuance, and any person aggrieved may petition the Board for review of the order prior to the expiration of that ten (10) day period.

When the public convenience and necessity require, the Board is empowered to amend, revise, suspend, or cancel such orders of the Postmaster General. The Board is further empowered to postpone the effective date of such orders pending review thereof, and to prescribe regulations under which an aggrieved person may apply for such review.

Currently, Part 232 contains only a general requirement that applications for review contain the facts relied upon to establish that the public convenience and necessity require amendment, revision, suspension or cancellation of Section 405(b) orders without elaboration on that general requirement. Nor does Part 232 contain any provision with respect to the filing and content of answers to such applications.

Although to date there have been only ten Board cases arising under Section 405(b), the pleadings received in those cases have generally not contained the type of detailed infromation which is desirable in resolving the immediate questions which such cases present: (1) whether the Board should review the Postmaster General's order; and (2) if so, whether the Board should stay the Postmaster General's order pending such review. In view of the relatively short time periods involved in Section 405(b) cases—ten days (10) from issuance to effectiveness of the order—and the statutory mandate that the Board give preference to such cases, the Board has tentatively concluded that it is desirable to require more detailed information in the pleadings.

A. The proposed rule would require applications and answers to contain certain data which would enable the Board to assess more fully the economic impact of the Postmaster General's order on the affected carrier, the Postal Service's need for the order, and alternatives to the order. Specifically, the proposed rule would require the applicant to specify: [1] (1) an estimate of the economic impact (including non-mail revenues) on the carrier of complying with the order; (2) a history of the flight in question and any predecessor flight operated in the market at or about the same hours, including when it was first operated and whether or not it has been operated continuously since that time; (3) a detailed statement of the reasons for the schedule change, including copies of any economic data considered by carrier management in reaching that determination; (4) any other schedule changes in the affected market which accompany the schedule change in question, or a statement to the effect that there are no such changes; (5) monthly load-factor data on the flight in question for the most recent twelve-month period; and (6) profit and loss data (on a fully allocated cost basis, by CAB functional account number) for the flight in question for the most recent twelve-month period. It is recognized that where the order does not disapprove, alter, or amend a carrier-initiated schedule change, the applicant may not have such information readily available. Where the schedule change is carrier-initiated, however, producing the information quickly should not be a burden because such information is of the type which management would find useful in making schedule changes or additions.

With regard to answers to applications for review, the Postmaster General and/or the U.S. Postal Service must submit the following information where applicable: (1) the Postal Service's critical time frame for the movement of the mail in question by class of mail (priority and nonpriority) together with a detailed explanation of the operational factors which support that estimate; (2) the alternate air and surface services (including air taxi service) available in the market in question and, where appropriate, an explanation of why such services are unacceptable; (3) an estimate of the average amount of mail which will be tendered to the carrier if the order in question is upheld, broken down by class of mail (priority and nonpriority); (4) the volume of mail historically carried on that flight or flights, and (5) an estimate of the amount of mail historically carried on the flight or flights in question which could be accommodated on other flights serving the market, together with an explanation of how that estimate was arrived at.

B. The proposed rule would also deal with the problem that applications to postpone the effective date of orders of the Postmaster General pending review are generally received by telegram either shortly before or on the effective date of the order in question. Such applications are confirmed in writing at a later date by a formal application. In view of the statutory mandate to expedite Section 405(b) cases, the Board tentatively concludes that in order to be better able to act quickly and responsibly on requests to postpone the effective date of an order of the Postmaster General, current procedures should be improved. We therefore propose to amend those pro-

[1] Where the particular item does not apply to the order in question, the applicant must so indicate.

cedures by: (1) requiring the filing of an application to postpone the effective date of a Postmaster General's order within three days of such an order; (2) requiring the above-mentioned detailed information in certain applications for review, which must be summarized in the application to postpone; and (3) affording the Postmaster General an opportunity to file a timely answer to applications for postponement. All of the above information is to be filed prior to the effective date of the order so as to enable the Board to fulfill its responsibilities under the Act more effectively.

PROPOSED RULE

The Board proposes to revise Part 232 of the Economic Regulations (14 CFR Part 232) as follows:

PART 232—TRANSPORTATION OF MAIL: REVIEW OF ORDERS OF POSTMASTER GENERAL

Sec.
232.1 Applications for review.
232.2 Answers to applications for review.
232.3 Applications to postpone the effective date of an order of the Postmaster General; answers thereto.
232.4 Filing and service of applications and answers.

§ 232.1 Applications for review.

(a) Any person who would be aggrieved by an order of the Postmaster General issued under and within the meaning of section 405(b) of the Act may, within not more than 10 days after the issuance of such order, apply to the Board for a review thereof.

(b) An application for review filed under this part shall be made in writing and shall be conspicuously entitled Application for Review of Order of the Postmaster General under Section 405(b) of the Act. Except as otherwise provided in paragraph (c) of this section, such application for review shall specify:

(1) The schedule affected and identity of the order complained of;

(2) The manner in which the applicant is or would be aggrieved by the order;

(3) The relief sought;

(4) The facts relied upon to establish that the public convenience and necessity require that such order be amended, revised, suspended, or canceled by the Board;

(5) An estimate of the economic impact (including nonmail revenues) on the carrier of complying with the Postmaster General's order;

(6) A history of the flight(s) in question and any predecessor flight(s) operated in the market at or about the same hours, including when it was (they were) first operated and whether or not it has (they have) been operated continuously since that time;

(7) A detailed statement of the reasons for the schedule change, including copies of any economic data considered by carrier management in reaching that determination;

(8) Any other schedule changes in the affected market which accompany the schedule change in question, or a statement to the effect that there are no such changes;

(9) Monthly load-factor data on the flight in question for the most recent twelve-month period; and

(10) Profit and loss data (on a fully allocated cost basis, by CAB functional account number) for the flight in question for the most recent twleve-month period.

(c) Where the application is for review of an order which does not involve disapproval, alteration, or amendment of a change or changes which the applicant sought to make in its own schedule(s), the application need not include items 5 through 10, inclusive, specified in paragraph (b) of this section, but may include, instead, a separate statement(s) to the effect that the information described in such items is unavailable to the applicant at the time of the filing or that such item is not applicable to the particular order complained of.

§ 232.2 Answers to applications for review.

(a) Any interested person may, within not more than ten days after the filing of an application for review, serve and file with the Board an answer in opposition to, or in support, of such applications. Such answer shall set forth the economic data and other facts upon which it is based.

(b) An answer of the Postmaster General or U.S. Postal Service shall contain the following particular information, where applicable:

(1) The Postal Service's critical time frame for the movement of the mail in question by class of mail (priority and nonpriority) together with a detailed explanation of the operational factors which support that estimate;

(2) The alternate air and surface services (including air taxi service) available in the market in question and, where appropriate, an explanation of why such services are unacceptable;

(3) An estimate of the average amount of mail which will be tendered to the carrier if the order in question is upheld, broken down by class of mail (priority and nonpriority);

(4) The volume of mail historically carried on that flight or flights; and

(5) An estimate of the amount of mail historically carried on the flight or flights in question which could be accommodated on other flights serving the market, together with an explanation of how that estimate was arrived at.

§ 232.3 Applications to postpone the effective date of an order of the Postmaster General; answers thereto.

(a) Any person who would be aggrieved by an order of the Postmaster General under and within the meaning of Section 405(b) of the Act may, within not more than three days after the issuance of such order, apply to the Board for a postponement of the effective date of that order pending review.

(b) An application for postponement of the effective date filed under this part may be made in writing or by telegram, and shall be conspicuously entitled Application for Postponement of the Effective Date of Order of the Postmaster General Pending Review Under Section 405(b) of the Act. Such application for postponement shall specify:

(1) The schedule affected and identity of the order complained of;

(2) The manner in which the applicant is or would be aggrieved by the order;

(3) The relief which will be sought;

(4) That the applicant intends to file a timely application for review of the order under section 232.1; and

(5) A summary of the justification and facts relied upon the establish that the stay should be granted.

(c) Any interested person may, within not more than five days after the service of an application for postponement of the effective date, serve and file with the Board an answer in opposition to, or in support of, the application. Answers shall specify the nature of the person's interest and the facts relied upon to establish that a postponement of effective date should, or should not, be granted.

§ 232.4 Filing and service of applications and answers.

(a) An application or answer filed hereunder shall be deemed to have been filed on the date on which it is actually received by the Board at its offices in Washington. D.C.

(b) At the time a written or telegraphic application or answer is filed under this part, a copy thereof shall be served by personal service or registered mail upon the Postmaster General and upon the air carrier operating or ordered to operate the mail service in question. Each copy so served shall be accompanied by a letter of transmittal stating that such service is being made pursuant to this section.

(c) The execution, number of copies, and verification of a written application or answer filed under this part, and the formal specifications of papers included in such application or answer shall be in accordance with the requirements of the Rules of Practice relating to applications generally (see Part 302 of this chapter).

[FR Doc.76-17244 Filed 6-11-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 561-6]

[40 CFR Part 55]

ENERGY-RELATED AUTHORITY: NEW YORK

Compliance Date Extension; Revised Proposal

On March 30, 1976 (41 FR 13371), under the provisions of Sections 119 and 301 of the Clean Air Act, 42 U.S.C. 1857 et seq. ("the Act"), the Environmental Protection Agency (EPA) proposed to amend the provisions of 40 CFR Part 55 by adding a new subpart HH to that regulation providing for the issuance of a compliance date extension to Niagara Mohawk Power Corporation, Albany Station Units 1, 2, 3 and 4, Glenmont, New York ("the sources").

Interested parties participated in the proposed rulemaking by sending comments to EPA. The New York State Department of Environmental Conservation (NYSDEC) objected to EPA's proposed requirement under 40 CFR § 55.1670(a)(1) that the sources comply with 6 NYCRR Part 227.3(a), and argued that they should be required to meet the more stringent emission limitation of 6 NYCRR Part 227.3(c)(2) instead. According to the State, each source will be considered a modified source upon conversion and that as such the more stringent emission limitation is applicable.

The regulatory provisions used as the basis for this argument are Parts 201 and 227 of 6 NYCRR. Part 201.3 requires any person who plans to construct or modify an air contamination source to file an application with the Commissioner of the NYSDEC for a permit to construct or a certificate to operate. Part 227.3(c)(2) provides for a more stringent emission limitation in cases of coal fired stationary combustion installations of more than 250 million BTU per hour rated total heat input for which an application for a permit to construct pursuant to 6 NYCRR Part 201 was received by the NYSDEC after August 11, 1972.

Nowhere in the regulation is a definition of the term "modification" provided. However, the application forms for a permit to operate or construct prepared by the NYSDEC do provide a definition of a modified source which covers a situation like the one at hand. Application of this more stringent emission limitation will require a reduction in particulate matter emissions from 0.173 [Part 227.3(a)] to 0.1 lbs. per million BTU heat input [Part 227.3(c)(2)]. Final compliance with this more stringent emission limitation will require the installation of electrostatic precipitators at all four Units of the Albany Generating Station ordered to convert. Since the schedule proposed on March 30, 1976 already calls for the installation of electrostatic precipitators at all such Units, the EPA finds that the more stringent emission limitation is achievable within the 30 month period provided therein. The EPA also agrees with the State interpretation of its regulation and is hereby inviting the public to comment in this regard on or before June 29, 1976. The Environmental Protection Agency finds good cause for not extending the period further in view of the relatively minor effect of the change proposed in this notice, the length of the original comment period and the urgent need for final promulgation of these rules.

In consideration thereof, the proposed rulemaking of March 30, 1976 published at 41 FR 13371 is revised as follows:

1. Page 13375, § 55.1670(a)(1) and § 55.1670(a)(1)(B) are amended by deleting references to § 227.3(a) and substituting § 227.3(c)(2) in their place.

In addition, any references to § 227.3(a) in the preamble to the said proposal are hereby amended to read § 227.3(c)(2).

Dated: June 4, 1976.

GERALD M. HANSLER, P.E.,
Regional Administrator.

[FR Doc.76-17259 Filed 6-11-76;8:45 am]

[40 CFR Part 55]

[FRL 560-5]

ENERGY-RELATED AUTHORITY: KANSAS

Proposed Compliance Date Extension

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding a new § 55.872 to subpart R to provide for the issuance of a compliance date extension to Kansas City, Kansas Board of Public Utilities, Kaw Station, Units K-1 and K-3, Kansas City, Kansas. This proposed rulemaking is based upon the authority granted the Administrator in Sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

Congress enacted on June 22, 1974, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (Pub. L. 93-319, 88 Stat. 246, 15 U.S.C. 791), "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment * * *."

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. 792) to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain powerplants and major fuel buring installations. Section 3 of ESECA (added to the Clean Air Act, 42 U.S.C. 1857c-10, as a new section 119) provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. In addition, to treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1973, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions" (CDE). If certain conditions are met, an ordered source, situated in an AQCR in which the NPAAQS for a specific pollutant is being attained, may be issued a compliance date extension which extends the time required to meet specified air pollution control requirements for that pollutant. An ordered source situated in an AQCR in which the NPAAQS for a specified pollutant is not being attained, will be issued a compliance date extension which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable, and FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a plan (known as the state implementation plan or SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for Kansas was approved by the Administrator on May 31, 1972 (37 FR 10842). Under section 110 of the Clean Air Act, all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter in Kansas was July 31, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect against adverse effects on property and crops (welfare related), and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated include sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants, but increased coal burning will most significantly result in increased emission of sulfur oxides and particulate matter.

The SIPs now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under section 2(a) and (b) of ESECA, the Administrator of the Federal Energy Administration (FEA) must by order prohibit any powerplant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that powerplant is practicable and consistent with the pur-

poses of ESECA; (2) coal and coal transportation facilities will be available during the period the order is in effect; (3) such a prohibition will not impair the reliability of service at that powerplant; and (4) the powerplant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under section 2 of ESECA to 74 generating units at 32 powerplants. FEA's authority to issue prohibition orders expires on June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which on or after September 15, 1973, convert to the use of coal as their primary energy source are eligible for "compliance date extensions" (CDE) for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in section 119 (c) and (d), are met. In particular, section 119(c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (i) the source cannot burn coal which is available to it in compliance with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (described in more detail below); and (ii) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the grant of a compliance date extension, in accordance with section 119(d)(1)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

Effect of A Compliance Date Extension

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. It may affect requirements for one pollutant only, or for more than one. The determination whether or not the NPAAQS for a pollutant is being attained in the AQCR will dictate which of two possible effects of the grant of a CDE concerning that pollutant to that source will result:

(1) If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit, for a specified period of time, the burning of coal resulting in emissions of that pollutant in excess of applicable air pollution requirements, including state implementation plan emission limitations for the pollutant for whch the standard is being met, so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with state implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

In addition, when a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, "primary standard conditions" (PSC) must be imposed by EPA, in consultation with appropriate states. Primary standard conditions are emission limitations, requirements respecting the pollution characteristics of coal, or other enforceable measures for control of emissions, which the Administrator determines must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (discussed below) are also met.

(2) If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the "regional limitation," is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies prior to the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement, including emission limitations, under the applicable SIP concerning that pollutant.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met, but standards for particulate matter are not being met, may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standards conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the implementation plan requirements) for particulate matter at all times, even after conversion to coal, and it must be taking steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If, at any time subsequent, it is determined that the national primary standard is being attained in that AQCR, the source would no longer be subject to the regional limitation and necessary primary standard conditions for particulate matter will be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments contained in compliance schedules for PSCs, RLs, and all extended requirements) may be imposed and enforced by EPA under section 119 of the Clean Air Act even though the source has not yet converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled all applicable conditions on the extension (PSCs or RLs) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

Determining Whether A CDE May Be Granted

Within 90 days after the issuance of a Section 2(a) prohibition order, a source eligible for a CDE is required at 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted under 40 CFR Part 55, ambient air quality monitoring data, atmospheric simulation modelling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on ability to meet applicable PSCs and RLs, and approvability of plans for compliance.

A. Coal Availability

In order to receive a compliance date extension, a source must show that it cannot burn coal which is available to it in compliance with all applicable air pollution requirements without a CDE. This showing should include documentation of efforts to obtain coal of such quality that it can be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. Ability To Comply with Primary Standard Conditions and Regional Limitations

Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with appropriate sulfur and ash content; upgrading pollution control equipment presently in

place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated powerplants which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. APPROVABLE COMPLIANCE SCHEDULES

Before a CDE may be issued, the source must submit and EPA must approve (or modify if necessary) a plan for compliance (based upon continued usage of coal as primary energy source) with the requirements of the applicable SIP (and any applicable New Source Performance Standard or National Emission Standard for Hazardous Pollutants) for which an extension has been granted. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of submittal of such compliance plan under 40 CFR Part 55 (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date).

Such compliance plans are enforceable by EPA under section 119(g)(2). Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the state, federal, or local level, whether or not they are included in the applicable state implementation plan. Where the requirements affected by an extension are not federally enforceable (e.g., state or local requirements which are not part of an EPA approved implementation plan), EPA must, in order to make the appropriate certification to FEA, require submission of a compliance plan for meeting these requirements to determine the date by which the source can comply, but EPA does not have authority to enforce such compliance plans. However, state and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1985.

D. REPORTING AND MONITORING REQUIREMENTS

Any source subject to a CDE (including those subject to RL) must furnish regular status reports to the Enforcement Division Director of the appropriate EPA regional office at six month intervals dating from the issuance of the CDE, as required by 40 CFR Part 55.04(g). Such status reports will summarize the sources' progress toward achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR Part 55.04(a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Enforcement Division Director no later than ten days after the date that each incremental step towards final compliance is required is, in fact, completed (or if not, the reason for failure and a schedule for completion).

The Administrator may find that new or additional ambient air quality monitors are needed to monitor ambient air concentrations of pollutants to determine the effect on air quality of a conversion to coal and, in some cases, to determine compliance with PSCs. Where this finding is made, the source will be required, under 40 CFR Part 55.04(f), to install such monitors, and to report on the data produced at those monitors in the sources' semi-annual report under 40 CFR Part 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to Kansas City, Kansas Board of Public Utilities, Kaw Station, Units K–1 and K–3, 2015 Kansas Avenue, Kansas City, Kansas, for Kansas Air Pollution Emission Control Regulation 28–19–31C which limits emissions of sulfur oxides, and for KAPEC Regulation 28–19–31A which limits emissions of particulate matter, based upon these preliminary findings.

(i) The sources are subject to section 2(a) FEA prohibition orders Nos. 009 and 011, respectively, and converted (or will convert) after September 15, 1973, to coal as their primary energy source;

(ii) The Administrator, pursuant to section 119(c)(2)(A), finds that the sources cannot burn coal available to them in compliance with Kansas Air Pollution Emission Control Regulations 28–19–31A and 28–19–31C;

(iii) The sources can comply with all conditions upon which a compliance date extension may be granted for KAPEC 28–19–31C in that:

(a) The sources are presently burning coal. EPA has determined, after consultation with the State of Kansas Department of Health and Environment, that the sources must burn coal of no more than 2.4 percent sulfur for Unit K–1, and 5.6 percent sulfur for Unit K–3, in order to assure compliance with Regulation 28–19–31C, and finds that such coal will be available to the sources for burning on August 1, 1976.

(b) the Administrator finds that the compliance plan provides for compliance with KAPEC 28–19–31C on the basis of coal usage by August 1, 1976, that the compliance plans provide for compliance as soon as practicable, and that the compliance plans are therefore approvable under section 119(c).

(iv) The sources can comply with all conditions upon which a compliance date extension may be granted to KAPEC 28–19–31A in that:

(a) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AOCR in which the sources are situated;

(b) The sources can burn coal and comply with KAPEC 28–19–31A to satisfy the regional limitation requirement by December 31, 1978, for Unit K–1, and September 1, 1977, for Unit K–3, such compliance is as soon as practicable and the compliance plans are therefore approvable.

COMPLIANCE WITH CONDITIONS UPON WHICH CDES ARE GRANTED

A. COMPLIANCE WITH REGIONAL LIMITATIONS

Final compliance with the regional limitation for particulate matter by the sources will require the installation of a new electrostatic precipitator for Unit K–1 and can be achieved by December 31, 1978, and up-grading of existing equipment for Unit K–3, by September 1, 1977, in accordance with the compliance plan proposed herein.

B. COMPLIANCE WITH PRIMARY STANDARD CONDITIONS

No Primary Standard Conditions are applicable.

C. FINAL COMPLIANCE WITH EXTENDED AIR POLLUTION REQUIREMENTS

The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDEs provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Effective date of extension	Final compliance date [1]
Kansas City, Kansas Board of Public Utilities Kaw Station:						
Unit K-1	2015 Kansas, Kansas City, Kans.	SO_2	Kansas air pollution emission control regulation, 28-19-31C.	Nov. 30, 1970	Regional limitation applies.	Aug. 1, 1976
Unit K-3	do	do	do	do	do	Do.
Unit K-1	do	Particulate matter.	Kansas air pollution emission control regulation, 28-19-31A.	do	do	Dec. 31, 1978
Unit K-3	do	do	do	do	do	Sept. 1, 1977

[1] Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of onsite construction, and completion of onsite construction, etc., are available for public inspection during business hours at the U.S. Environmental Protection Agency, 1735 Baltimore, Kansas City, Mo. 64108.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(1)(B), December 31, 1978, for Unit K–1, and September 1, 1977, for Unit K–3, to the Administrator of FEA as the earliest date upon which Kansas City, Kansas Board of Public Utilities, Kaw Station, Units K–1 and K–3, can burn coal in compliance with all applicable regional limitations. These dates, December 31, 1978, and September 1, 1977, represent the earliest dates upon which the FEA can, through its Notice of Effectiveness, make its orders Nos. 009 and 011 effective against these sources.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours (7:15 a.m. to 4:00 p.m.) at the Region VII Office of the U.S.E.P.A., 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Information available includes: the EPA Regional Office Evaluation Summary for the action proposed herein (including an evaluation of the expeditiousness of proposed compliance schedules); compliance schedules including increments of progress, providing for final compliance with air pollution requirements extended by the CDE; compliance schedules including increments of progress, providing for meeting PSCs and RLs; information submitted by Kansas City, Kansas Board of Public Utilities under 40 CFR Part 55 (including the sources' documentation on the issue of coal availability); air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, atmospheric simulation modelling data used to determine applicability of RLs; written comments (or a summary of verbal comments, if any) made by the State of Kansas Department of Health and Environment; and copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of meeting air pollution requirements without a CDE;

(ii) The ability of the source to meet all RLs; and

(iii) The expeditiousness of the proposed compliance schedules for meeting state implementation plan requirements on the basis of coal usage.

Comments and requests for public hearing received within 30 days from the date of publication of this notice will be considered. All such comments and requests should be directed to:

Shirley Shepard, Regional Hearing Clerk, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Requests for public hearing must be accompanied by a statement supporting the need for such a hearing, including an indication of which issues are to be raised and a brief summary of the information to be offered at the hearing.

If the hearing officer finds that there is significant public interest or that there is pertinent and substantial information to be offered, a public hearing will be held no sooner than 30 days from this notice. If such a hearing is deemed appropriate, prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, place, and subject of such a hearing, and describing the rules under which the hearing will be conducted.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sections 119 and 301 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq.).

Dated: May 27, 1976.

JEROME H. SVORE,
Regional Administrator.

It is proposed to amend Part 55 of Chapter I, Title 40 of the Code of Federal Regulations, by adding a new § 55.872 to subpart R as follows:

§ 55.872 Compliance date extension.

(a) The Administrator issues a Compliance Date Extension to Kansas City, Kansas Board of Public Utilities, Kaw Station, Units K–1 and K–3, 2015 Kansas Avenue, Kansas City, Kansas (the source), upon the following conditions:

(1) *Regional Limitation.* The sources shall comply with KAPEC Regulation 28–19–31C by August 1, 1976; and 28–19–31A by December 31, 1978, for Unit K–1, and by September 1, 1977, for Unit K–3.

(2) Test procedures to determine compliance with (a)(1) above, shall be in accordance with EPA Test Methods 5 and 6.

(3) The source shall not, until December 31, 1978, for Unit K–1, and September 1, 1977, for Unit K–3, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

(b) [Reserved]

[FR Doc.76–17080 Filed 6–11–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 249]

[Release No. 33–5715, 34–12506; File No. S7–638]

ANNUAL, QUARTERLY AND CURRENT REPORTS

Advance Notice of Registration Intention

Notice is hereby given that the Securities and Exchange Commission has under consideration proposed amendments to Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934. Forms 10–K and 10–Q are used for annual and quarterly reports, respectively, filed pursuant to section 13 or 15(d) of that Act.

The proposed amendments would provide a space on the cover pages of Form 10–K and Form 10–Q which a registrant could use to indicate its intention to file a registration statement on either Form S–7 (17 CFR 239.26), Form S–9 (17 CFR 239.22), or Form S–16 (17 CFR 239.27), on or before the date of its next filing on either Form 10–K or Form 10–Q.

This advance notice would be optional with the registrant, and compliance with the pre-filing notice provision would not be a condition to the use of Forms S–7, S–9, or S–16. However, it is expected that compliance with the notice provision would enable the staff to review promptly the annual, quarterly, and current reports filed by registrants under the Securities Exchange Act and, in most cases, thereby expedite its review of registration statements on Forms S–7, S–9, or S–16, when filed.

The amendments are proposed pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d), and 23(a) thereof. Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the effect that the proposed amendments would have on competition and is not aware, at this time, of any burden that such amendments, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comment as to the anti-competitive effects, if any, the proposal would likely engender.

All interested persons are invited to submit their views and comments on the above proposals, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before July 30, 1976. Such communications should refer to File No. S7–638. All such communications will be available for public inspection.

The text of the proposed Amendments to Form 10–K and Form 10–Q is set forth below.

1. Form 10–K is proposed to be amended to add the following to the end of the facing sheet of the Form:

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

"(Optional) Indicate by check mark whether the registrant intends to file a registration statement on any of the following forms on or before the date of its next filing on Form 10–Q.

Form S–7 ____ Form S–9 ____ Form S–16 ____"

2. Form 10–Q is proposed to be amended to add the following to the end of the facing sheet of the Form:

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

"(Optional) Indicate by check mark whether the registrant intends to file a registration statement on any of the following forms (a) on or before the date of its next filing on Form 10–Q, or, (b) if this report is for the third quarter of the registrant's fiscal year, on or before the date of its next filing on Form 10–K.

Form S–7 ____ Form S–9 ____ Form S–16 ____"

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

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 2, 1976.

[FR Doc.76–17207 Filed 6–11–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

HOUSING GUARANTY PROGRAM FOR THE REPUBLIC OF KOREA

Information for Investors

A.I.D. has under consideration authorizing a guaranty of amounts not to exceed $25 million for a housing guaranty program for the Republic of Korea to be carried out by the Korea National Housing Corporation ("KNHC"), an instrumentality of the Government of the Republic of Korea. KNHC desires to receive proposals from eligible U.S. investors as defined below, for a loan to KNHC not to exceed $25 million, the repayment of which would be guaranteed by A.I.D. as to the principal and interest on such loan. Interested parties should be aware that as of the date of this announcement, A.I.D. has not yet authorized the issuance of a guaranty, and that KNHC desires to discuss with interested eligible U.S. investors the terms on which such a loan investment would be made if A.I.D. authorizes a guaranty.

If A.I.D. authorizes a guaranty, the eligible U.S. investor and the terms of the loan must be acceptable to A.I.D. and disbursements of the loan would be subject to certain conditions required of KNHC by A.I.D. The guaranty, if authorized, would be backed by the full faith and credit of the United States of America and would be issued pursuant to authority in Section 221 of the Foreign Assistance Act of 1961, as amended (the "Act"). Proceeds of the loan would be used for the financing of lower income housing projects and rehabilitation of housing projects in Korea.

Eligible investors interested in extending a guaranteed loan to KNHC should communicate promptly with counsel for KNHC:

Duncan Cameron, Esquire, Cameron, Hornbostel, & Adelman, 1707 H Street, N.W., Washington, D.C. 20006.

Subject to A.I.D.'s approval of KNHC's construction schedule, A.I.D.'s preliminary estimate is that the construction schedule will make possible full disbursement of a loan of not to exceed $25 million, in stages, within approximately 36 months from the date a loan agreement is signed.

Investors eligible to receive a guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations; partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95% owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

It is presently contemplated that the loan terms will provide for repayment in full not later than the 26th anniversary of the initial disbursement of the principal amount thereof. The interest rate shall be no higher than the maximum rate to be established by A.I.D. A.I.D. will charge a guaranty fee not less than one-half of 1 percent per annum on the the outstanding guaranteed principal amount of the loan.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 300, SA-2, Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the Borrower. Subject to A.I.D. approval, the borrower will select a lender and negotiate the terms of the proposed loan.

Dated: June 3, 1976.

DONALD A. GARDNER,
Acting Director, Office of Housing, Agency for International Development.

[FR Doc.76-17213 Filed 6-11-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES FOR THE TWELFTH NATIONAL BANK REGION

Meeting

A meeting of the Regional Advisory Committee for Banking Policies and Practices for the Twelfth National Bank Region will be held at Manor Vail, Vail, Colorado, on July 1 and July 2, 1976. The meetings will be held from 9:00 A.M. until 12:00 Noon each day. Both sessions will be open to the public and interested members of the public will be admitted on a first come basis.

Topics to be discussed include EFT, CBCT's, POS Terminals, National Classification of Participated National Credits and Legislation and Litigation.

Persons or groups planning to make statements please submit three copies to Mr. Kent Glover, Regional Administrator of National Banks, Twelfth National Bank Region, 1405 Curtis Street, Suite 3000, Denver, Colorado, 80202 prior to June 20, 1976.

Dated: June 8, 1976.

JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.76-17161 Filed 6-11-76;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1975 Rev., Supp. No. 22]

RESERVE INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Reserve Insurance Company, Chicago, Illinois, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1976.

The company was last listed as an acceptable surety on Federal bonds at 40 FR 29256, July 10, 1975.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Reserve Insurance Company.

Dated: June 7, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-17248 Filed 6-11-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JUNE 7, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Tactical Electronic Warfare will hold sub-group meetings in the Pentagon, July 7-8, 1976 from 9:00 a.m. to 5 p.m. each day.

The group will receive classified briefings and discussions on current and future electronic warfare programs.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF, Executive Directorate of Administration.

[FR Doc.76-17152 Filed 6-11-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Notice of Change of Meeting

This is to provide notice of change of meeting for the Organized Crime Task

Force of the National Advisory Committee on Criminal Justice Standards and Goals. This notice cancels previous meeting dates of July 7–9, 1976.

The Organized Crime Task Force will meet on July 21–23, 1976. The meeting will be held at the Ramada Inn, 1900 N. Ft. Myer Drive, Board Room, Arlington, Virginia. The meeting will be open to the public.

Discussion will focus on the recommendations made by the National Advisory Committee on Criminal Justice Standards and Goals and the review of the entire Report of the Organized Crime Task Force.

Meeting times: July 21 and 22—9 a.m.–9 p.m. July 23—9 a.m.–Noon.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.76-17212 Filed 6-11-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-9706]

IDAHO

Opening of Lands Formerly in Project No. 341

JUNE 7, 1976.

In an order issued March 25, 1976, the Federal Power Commission vacated the withdrawal created pursuant to the filing of an application for license for Project No. 341. The project lands are depicted on maps filed with the commission and lie within the following described unsurveyed legal subdivision:

BOISE MERIDIAN SALMON NATIONAL FOREST

T. 24 N., R. 18 E.,
Sec. 25.

The project area, as amended, encompasses 1.9 acres in Lemhi County within the Salmon National Forest.

Beginning at 10:00 a.m. on July 12, 1976, the lands described above shall be opened to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Regional Forester, U.S. Forest Service, 324 25th Street, Ogden, Utah 84401.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.76-17154 Filed 6-11-76;8:45 am]

National Park Service

[Order No. 9]

BLUE RIDGE PARKWAY, VA. AND N.C., ADMINISTRATIVE OFFICER, ET AL.

Delegations of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $50,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds; and may execute and approve revocable special use permits having a term 10 years or less for use of Government-owned lands and facilities. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by Blue Ridge Parkway.

Sec. 2. *General Supply Officer.* The General Supply Officer may execute, approve and administer contracts not in excess of $25,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the General Supply Officer in behalf of any office or area administered by Blue Ridge Parkway.

Sec. 3. *General Supply Specialist.* The General Supply Specialist may execute, approve and administer contracts not in excess of $10,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the General Supply Specialist in behalf of any office or area administered by Blue Ridge Parkway.

Sec. 4. *Procurement Clerk (Typing).* The Procurement Clerk (Typing) may issue purchase orders not in excess of $500 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 5. *Unit Managers, Facility Managers, District Rangers, Subdistrict Rangers, Maintenance Foremen, WS–10, Administrative Services Assistants, Signmaker Foreman, District Clerks, and Youth Conservation Corps Project Managers and Camp Directors.* The Unit Managers, Facility Managers, District Rangers, Subdistrict Rangers, Maintenance Foreman (not below WS–10), Administrative Services Assistants, Signmaker Foreman, District Clerks, and Youth Conservation Corps Project Managers and Camp Directors, who are employees of the Blue Ridge Parkway, may issue field purchase orders (SF–44) not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 6. *Revocation.* This order supersedes Order No. 8 dated September 2, 1975 (40 FR 55371) published November 28, 1975. (National Park Service Order No. 77 (38 FR 7478), as amended; Southeast Region Order No. 5 (37 FR 7721), as amended.)

Dated: April 26, 1976.

JOE BROWN,
Superintendent,
Blue Ridge Parkway.

[FR Doc.76-17116 Filed 6-11-76;8:45 am]

[Order No. 2]

ADMINISTRATIVE OFFICER, ET AL.; KLAMATH FALLS GROUP

Delegation of Authority

Section 1. *Administrative Officer, Klamath Falls Group.* The Administrative Officer, Klamath Falls Group, may execute, approve, and administer contracts, not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by the Klamath Falls Group.

Section 2. *Procurement Agent.* The Procurement Agent, Klamath Falls Group, may execute, approve, and administer contracts not in excess of $15,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Procurement Agent in behalf of any office or area administered by the Klamath Falls Group.

Section 3. *Administrative Clerk.* The Administrative Clerk, Crater Lake National Park, may execute, approve, and administer purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 4. *Administrative Clerk.* The Administrative Clerk, Lava Beds National Monument, may execute, approve, and administer purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 5. *Administrative Clerk.* The Administrative Clerk, John Day Fossil Beds National Monument, may execute, approve, and administer purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 6. *Revocation.* This order supersedes Order No. 1 published June 13, 1972 (37 FR 11736).

(National Park Service Order No. 77 (38 F.R. 7478) as amended; Pacific Northwest Region Order No. 3 (37 F.R. 6325) as amended.)

Dated: May 3, 1976.

ERNEST J. BORGMAN,
General Superintendent,
Klamath Falls Group.

[FR Doc.76-17115 Filed 6-11-76;8:45 am]

[Order No. 1]

ADMINISTRATIVE TECHNICIAN; WHITE SANDS NATIONAL MONUMENT, N. MEX.

Delegation of Authority

Secion 1. *Administrative Technician.* The Administrative Technician may is-

sue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77, 38 FR 7478, as amended. Southwest Region Order No. 5, 37 FR 7722 as amended).

Dated: May 13, 1976.

JAMES M. THOMSON,
Superintendent.

[FR Doc.76-17114 Filed 6-11-76;8:45 am]

Office of the Secretary

[INT FES 76-31]

BONNEVILLE POWER ADMINISTRATION

Notice of Availability of Final Supplement to Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a Final Location Supplement to its Final Fiscal Year 1976 Proposed Program. Contained in the Final Location Supplement are the impacts of constructing 500-kV transmission facilities required to integrate generation to be provided by a nuclear facility near Satsop in Grays Harbor County, Washington into the BPA main transmission grid.

Copies of the Final Location Supplement are available for inspection in the library of the headquarters office of Bonneville Power Administration, 1002 NE Holladay Street, Portland, Oregon 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and in the Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Washington 98109.

Copies are also available at Government Depository Libraries. (See attached list.)

A limited number of single copies are available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

Dated: June 8, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

GOVERNMENT DEPOSITORY LIBRARIES

IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.

MONTANA

Documents Librarian, Montana State University Library, Bozeman, Montana 59715.
University of Montana Library, Documents Division, Missoula, Montana 59801.

OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oregon 97520.
Documents Division, Library, Oregon State University, Corvallis, Oregon 97331.
University of Oregon Library, Documents Section, Eugene, Oregon 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oregon 97116.
Eastern Oregon State College Library, Eighth at K, LaGrande, Oregon 97850.
Northrup Library, Linfield College, McMinnville, Oregon 97128.
Oregon College of Education Library, Monmouth, Oregon 97361.
Aubrey R. Watzek Library, Lewis and Clark College, Attention: Reference Department, 0615 S. W. Palatine Hill Road, Portland, Oregon 97219.
Library Association of Portland, 801 S. W. Tenth Avenue, Portland, Oregon 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oregon 97207.
Eric V. Hauser Memorial Library, Reed College, 3203 S. E. Woodstock, Portland, Oregon, 97202.
Oregon State Library, State Library Building, Salem, Oregon 97301.
Willamette University Library, 900 State Street, Salem, Oregon 97301.

WASHINGTON

Documents Division, Mabel Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Washington 98225.
Documents Department, Library, Central Washington State College, Ellensburg, Washington 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, Washington 98201.
Documents Center, Washington State Library, Olympia, Washington 98504.
Port Angeles Public Library, 207 S. Lincoln Street, Port Angeles, Washington 98362.
Washington State University Library, Serial-Record Section, Pullman, Washington 99163.
Henry Suzzallo Memorial Library, University of Washington, Seattle, Washington 98195.
Fort Vancouver Regional Library, Attention: Reference Librarian, 1007 E. Mill Plain Blvd., Vancouver, Washington 98663.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Washington 99362.

[FR Doc.76-17211 Filed 6-11-76;8:45 am]

OIL SHALE ENVIRONMENTL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on June 24, 1976, at the Outlaw Inn in Rock Springs, Wyoming. The Panel will convene at 8:30 a.m. in the Robber's Roost Room for its formal meeting to be followed by a tour of growth impact areas in the afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is to discuss with community leaders and to view first hand impacts of rapid community growth associated with energy development projects. The Panel will also receive reports from Interior officials and consider any other matters requiring panel action at that time.

The meeting is open to the public. It is expected that space will permit 50 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the Panel or file written statements. Requests should be made to Mr. William L. Rogers, Chairman, at the Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225.

Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone No. (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel Office.

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

JUNE 8, 1976.

[FR Doc.76-17113 Filed 6-11-76;8:45 am]

DICKEY/LINCOLN SCHOOL TRANSMISSION-EIS PROJECT

Public Meeting

This notice is published to inform interested citizens of the public meetings to be held by the U.S. Department of the Interior. Information concerning preliminary transmission line corridor studies from the Dickey-Lincoln School Transmission-EIS Project will be described. The meeting will occur on the following days at the following locations:

The University of Maine, Folsom Hall, Room 105, Presque Isle, Maine, on July 14, 1976, at 7:30 pm.; Bangor City Hall, Council Chambers, 3rd floor, Harlow Street, Bangor, Maine, on July 15, 1976, at 7:30 p.m.; Augusta Civic Center, Lincoln/Oxford Room, Community Drive, Augusta, Maine, on July 16, 1976, at 7:30 p.m.; Concord Public Library, Auditorium, 45 Green Street, Concord, New Hampshire, on July 19, 1976, at 7:30 p.m.; Berlin City Hall, Auditorium, Main Street, Berlin, New Hampshire, on July 20, 1976, at 7:30 p.m.; Montpelier City Hall, Memorial Room, Main Street, Montpelier, Vermont, on July 21, 1976, at 7:30 p.m.

The U.S. Army Corps of Engineers has requested the U.S. Department of the Interior to conduct transmission line corridor studies from the proposed Dickey/Lincoln School Hydro Electric Project. The purpose of these studies is to: (1) Determine how to move the electricity to be generated to the New England Grid System and; (2) determine the most feasible alternatives for transmission line corridors between the Dickey/Lincoln School Transmission Project and points of distribution in New England.

All interested parties are invited to attend these meetings. Comments received will assist the Department in

evaluating factors pertinent to these studies.

Dated: June 11, 1976.

GEORGE W. TOMAN,
Assistant Manager.

[FR Doc.76-17445 Filed 6-11-76;10:44 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

Income Poverty Guidelines for Determining Eligibility for Free and Reduced-Price Meals and Free Milk

Pursuant to sections 9 and 17 of the National School Lunch Act, as amended (42 U.S.C. 1758 and 42 U.S.C. 1766), and sections 3 and 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772 and 1773(e)), the income poverty guidelines for determining eligibility of children for free and reduced-price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), and commodity only schools (7 CFR Part 210.-15a), and for free milk in the Special Milk Program (7 CFR Part 215) during the period July 1, 1976–June 30, 1977 are prescribed by the Secretary in the following tables.

Under the legislation and applicable regulations, schools, and institutions which charge for meals separately from other fees, are required to serve free meals and free milk to all children from families whose income is at or below the applicable family size income level indicated by the Secretary's guidelines. Schools, and institutions which charge for meals separately from other fees, are required to serve reduced-price meals to all children from families whose income is at or below 95 percent above the applicable family size income levels in the guidelines.

Each State agency is required to prescribe income guidelines for both free and reduced-price meals and free milk by family size, for use by schools and institutions in the State. The State guidelines for free meals and for free milk may not be less than the applicable family size income level prescribed by the Secretary, and may not exceed the Secretary's guidelines by more than 25 percent. The State guidelines for reduced-price meals must be established at 95 percent in excess of the Secretary's guidelines.

For the convenience of State agencies, the tables also show the Secretary's income poverty guidelines when increased by 25 percent and when increased by 95 percent. The increased figures represent the maximum levels to be prescribed by State agencies in determining eligibility for free meals and free milk, and the mandatory level for reduced-price meals, respectively. The Secretary's guidelines remain the minimum level for free meals and free milk; all children at or below such levels shall be served free meals and free milk. Guidelines for the Island of Guam are identical to those established for the State of Hawaii.

Income poverty guidelines July 1, 1976–June 30, 1977

Family size	Secretary's guidelines	Guideline levels when increased by—	
		25 pct	95 pct
48 STATES, DISTRICT OF COLUMBIA, TERRITORIES EXCLUDING GUAM			
1	$2,940	$3,680	$5,730
2	3,860	4,830	7,530
3	4,780	5,980	9,320
4	5,700	7,130	11,110
5	6,550	8,190	12,770
6	7,390	9,240	14,410
7	8,160	10,200	15,910
8	8,920	11,150	17,390
9	9,610	12,010	18,740
10	10,300	12,870	20,090
11	10,990	13,730	21,430
12	11,680	14,590	22,770
Each additional family member	690	860	1,340
ALASKA			
1	$3,680	$4,600	$7,180
2	4,830	6,040	9,420
3	5,980	7,480	11,660
4	7,120	8,900	13,890
5	8,180	10,230	15,950
6	9,230	11,540	18,000
7	10,190	12,740	19,870
8	11,150	13,940	21,740
9	12,010	15,010	23,420
10	12,870	16,090	25,100
11	13,720	17,150	26,760
12	14,570	18,210	28,410
Each additional family member	850	1,060	1,650
HAWAII AND GUAM			
1	$3,270	$4,080	$6,380
2	4,290	5,360	8,370
3	5,310	6,640	10,360
4	6,330	7,910	12,340
5	7,260	9,080	14,160
6	8,190	10,240	15,970
7	9,040	11,300	17,630
8	9,890	12,360	19,290
9	10,660	13,330	20,790
10	11,430	14,290	22,290
11	12,200	15,250	23,790
12	12,970	16,210	25,290
Each additional family member	770	960	1,500

The Secretary's income poverty guidelines are based on the previous year's poverty level adjusted for the change in the Consumer Price Index from 1974 to April 1976. This procedure is specified by section 9 of the National School Lunch Act, as amended (42 U.S.C. 1758). The Consumer Price Index is not computed for the State of Hawaii for the month of April. Therefore, the Secretary's income proverty guidelines for Hawaii and Guam are based upon the change in the Consumer Price Index for Hawaii from 1974 to March 1976.

"Income," as the term is used in this notice, is similar to that defined in the Bureau of the Census report, "Characteristics of the Low-Income Population: 1971," Consumer Income, Current Population Reports, series P-60, No. 86, December 1972. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following:

(1) Monetary compensation for services, including wages, salary, commissions, or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds, income from estates or trusts, or net rental income; (6) public assistance or welfare payments; (7) unemployment compensation; (8) Government civilian employee or military retirement or pensions or veterans' payments; (9) private pensions or annuities; (10) alimony or child support payments; (1) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts, and other resources which would be available to pay the price of a child's meal.

"Income," as the term is used in this notice, does not include any income or benefits received under any Federal program which are excluded from consideration as income by any legislative prohibition, for example, income received by volunteers for services performed in the National Older Americans Volunteer Program as stipulated in the 1973 amendments to the Older American Act of 1965, Public Law 93-29 (87 Stat. 30); nor does the term include income used for the following special hardship conditions which could not be reasonably anticipated or controlled by the household:

(1) Unusually high medical expenses; (2) shelter costs in excess of 30 percent of income as defined herein; (3) special education expenses due to the mental or physical condition of a child; and (4) disaster or casualty losses. Furtermore, the value of assistance to children or their families shall not be considered as income if prohibited by the authorizing legislation, e.g., the National School Lunch Act, the Child Nutrition Act of 1966, and the Food Stamp Act of 1964.

In applying guidelines, school food authorities may consider both the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of the need for free and reduced-price meals; *Provided, however,* That Children whose parents or guardians become unemployed shall be eligible for free or reduced-price meals or free milk during the period of unemployment, if the loss of income causes the family income to be within the eligibility criteria of the school food authority.

Effective date: This notice shall become effective July 1, 1976.

Dated: June 10, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-17427 Filed 6-11-76;8:45 am]

Soil Conservation Service

BEAVER CREEK WATERSHED PROJECT, OHIO

Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement for the Beaver Creek Watershed Project, Hancock, Henry, Wood, and Putnam Counties, Ohio, USDA-SCS-EIS-WS-(ADM)-75-1-(F)-OH.

The environmental impact statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by channel work. The channel work will involve clearing and minor obstruction removal on approximately 42 miles of existing channels, and channel enlargement by excavation on approximately one mile of existing channel. All channel reaches where work is proposed involve perennial streams that have been previously modified or created by channel excavation.

The Beaver Creek Watershed Project will provide improved water management for both agricultural and urban lands within a northwest Ohio flatland (till and lake plain) watershed. Approximately 90 percent of the watershed area is utilized exclusively for agricultural production.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply of copies are available at the following location to fill single copy requests:

Soil Conservation Service, USDA, Room 314, 311 Old Federal Building, Columbus, Ohio 43215.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-17151 Filed 6-11-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76F-0194]

CALGON CORP.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3199) has been filed by the Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for safe use of diallylediethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride as a retention and/or drainage aid in the manufacture of paper and paperboard intended for food-contact use.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: June 3, 1976.

DONALD W. RIESTER,
Acting Director, Bureau of Foods.

[FR Doc.76-17123 Filed 6-11-76;8:45 am]

[Docket No. 75N-0203; DESI 8076]

TETRACAINE HYDROCHLORIDE AND BENZOCAINE TOPICAL SOLUTION

Withdrawal of Approval of New Drug Application

A notice (DESI 8076; Docket No. 75N-0203) was published in the FEDERAL REGISTER of December 9, 1975 (40 FR 57379), in which the Director of the Bureau of Drugs offered an opportunity for hearing on his proposal to issue an order withdrawing approval of the following drug product which has been used to produce anesthesia of accessible mucous membranes, primarily in the practice of dentistry.

NDA 8-076; Neotopanol Solution contraining tetracaine hdrochloride and benzocaine; Cook-Waite Laboratories, Inc., Division of Sterling Drug Inc., 90 Park Ave., New York, NY 10016.

The basis of the proposed action was that the drug product lacks substantial evidence of effectiveness as a fixed combination for its labeled indications. By letter of December 22, 1975, the firm waived its opportunity for a hearing by requesting withdrawal of approval of the new drug application, and approval is now being withdrawn.

All drug products that are identical, related, or similar to the drug named above, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any persons who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

On January 2, 1976, Cetylite Industries, Inc., 42-38 27th St., Long Island City, NY 11101, sponsor of a related product, Cetacaine Topical Anesthetic containing benzocaine, butyl aminobenzoate, and tetracaine hydrochloride (no NDA), requested a hearing concerning its product. This request for a hearing is under review and the marketing of this product may continue pending a ruling on the request.

No other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the above listed drug product, Neotopanol Solution, will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 8-076 and all amendments and supplements applying thereto, is withdrawn effective June 24, 1976.

Shipment in interstate commerce of the above product or any identical, related, or similar product, not the subject of an approved new drug application, except for the one described above that may continue to be marketed pending ruling on the request for a hearing, will then be unlawful.

Dated: June 6, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-17124 Filed 6-11-76;8:45 am]

[Docket No. 75N-0300; DESI 11145]

CERTAIN THIAZIDES

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Notice of Opportunity for Hearing

A notice (DESI 11145; Docket No. FDC-D-322) (now Docket No. 75N-0300) was published in the FEDERAL REGISTER of May 19, 1975 (40 FR 21751), concernning the effectiveness of the single-active-entity thiazide drug products described below. Thiazides are used to treat high blood pressure and to relieve excessive accumulation of fluids in body tissues. The notice invited comment from interested persons concerning various aspects of the use of thiazides in pregnancy and stated that such issues were to be brought before the Obstetrics and Gynecology Advisory Committee of the Food and Drug Administration. Interested persons were invited to and did make presentations to the Advisory Committee at its meeting on July 17, 1975. Pertinent portions of the minutes of that meeting are on file in the office of the Hearing Clerk, Food and Drug Administration,

Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852 and may be seen in that office during working hours Monday through Friday.

This notice announces final conclusions concerning the appropriate uses of, and requires labeling changes for, thiazide diuretics and offers opportunity for a hearing on certain indications. Requests for a hearing are due by July 14, 1976.

1. Fovane Tablets, containing benzthiazide; Pfizer Laboratories, Div. of Pfizer, Inc., 235 East 42d St., New York, NY 10017 (NDA 12–128).

2. Esidrix Tablets, containing hydrochlorothiazide; Ciba Pharmaceutical Co., Div. of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901 (NDA 11–793).

3. Exna Tablets, containing benzthiazide; A. H. Robins Co., 1407 Cummings Dr., Richmond, VA 23220 (NDA 12–489).

4. Saluron Tablets, containing hydroflumethiazide; Bristol Laboratories, Div. of Bristol-Myers Co., Thompson Rd., P. O. Box 657, Syracuse, NY 13201 (NDA 11–949).

5. Renese Tablets, containing polythiazide; Pfizer Laboratories (NDA 12–845).

6. Metahydrin Tablets, containing trichlormethiazide; Lakeside Laboratories, Inc., 1707 E. North Ave., Milwaukee, WI 53201 (NDA 12–594).

7. Diuril Syrup, containing chlorothiazide; Merck Sharp & Dohme, Div. of Merck and Co., Inc., West Point, PA 19486 (NDA 11–870).

8. Diuril Lyovac Powder for Injection, containing chlorothiazide as the sodium salt; Merck Sharp & Dohme (NDA 11–145).

9. Diuril Tablets, containing chlorothiazide; Merck Sharp & Dohme (NDA 11–145).

10. Naqua Tablets, containing trichlormethiazide; Schering Corp., 60 Orange St., Bloomfield, NJ 07003 (NDA 12–265).

11. Hydrodiuril Tablets, containing hydrochlorothiazide; Merck Sharp & Dohme (NDA 11–835).

12. Enduron Tablets, containing methyclothiazide; Abbott Laboratories, 14th St. & Sheridan Rd., N. Chicago, IL 60064 (NDA 12–524).

13. Oretic Tablets, containing hydrochlorothiazide; Abbott Laboratories (NDA 11–971).

14. Naturetin Tablets, containing bendroflumethiazide; E. R. Squibb & Sons, Inc., Georges Rd., New Brunswick, NJ 08903 (NDA 12–164).

The notice of May 19, 1975, stated that the Director of the Bureau of Drugs had reevaluated available data and the labeling for thiazide diuretics and had concluded that the labeling should be modified to:

1. Eliminate the indication "hypertension of pregnancy" because this did not represent an established condition.

2. Eliminate the indication "edema due to pregnancy" because this was improperly broad and made no reference to the various processes which might cause edema.

3. Eliminate the indication "prevention of the development of toxemia during pregnancy" because available data did not show that thiazides were effective for this purpose and, in fact, rather tended to show that they were ineffective.

These changes left "toxemia of pregnancy," an indication considered probably effective, as the only labeled indication for thiazide diuretics that made specific reference to pregnancy. Thiazide would also be indicated for treatment of edema or hypertension, as defined in the labeling without reference to pregnancy, when these conditions were present during pregnancy and in light of the labeled precautions and contraindications related to pregnancy. Thus, the May 19, 1975 notice described the effectiveness classification for thiazide diuretics as follows:

1. These thiazide drugs in the dosage forms listed above are effective as adjunctive therapy in the treatment of edema due to congestive heart failure, hepatic cirrhosis, and corticosteroid and estrogen administration; edema caused by renal disorders such as nephrotic syndrome, acute glomerulonephritis, and chronic renal failure; and in the management of hypertension when used alone or as adjunctive therapy. The routine use of diuretics in an otherwise healthy pregnant woman is contraindicated and possibly hazardous.

2. These drugs are less than effective (probably effective) for treatment of toxemia of pregnancy; angina accompanying congestive heart failure and/or hypertension; and "drug induced" edema.

3. The drugs lack substantial evidence of effectiveness for all of their other labeled indications (i.e., hypertension of pregnancy, severe edema when due to pregnancy, prevention of the development of toxemia of pregnancy, edema of localized origin, and premenstrual acne flare).

The notice of May 19, 1975, invited comment before FDA's Obstetrics and Gynecology Advisory Committee on a number of important questions related to the use of thiazide diuretics in pregnancy. The Advisory Committee met on July 17, 1975, and received comment from, among others, Dr. Tom Brewer, a physician with a longstanding interest in toxemia of pregnancy and maternal nutrition; Dr. Ronald Chez, Chairman of the Committee on Nutrition of the American College of Obstetrics and Gynecology; and Dr. Leon Chesley, Professor of Obstetrics and Gynecology of the State University of New York Downstate Medical Center.

No person requested a hearing on the indications regarded as lacking substantial evidence of effectiveness, and no comment before the Advisory Committee supported these indications.

No data have been received in support of the indications classified as less than effective (probably effective) in the May 19, 1975 notice, and the Advisory Committee concluded that there was no satisfactory evidence that thiazides are effective in the treatment of toxemia of pregnancy. The less-than-effective indications are now regarded as lacking substantial evidence of effectiveness.

Although the indication "edema due to pregnancy" was considered by the Director of the Bureau of Drugs as too broad, the Committee was asked to consider whether there were instances in which it was appropriate to treat edema during pregnancy. The Committee concluded it was appropriate, taking into account the hazards of such therapy, to use diuretics during pregnancy for the same indications for which they would be used if no pregnancy existed, such as congestive heart failure or edema associated with renal disorders, and in addition, that there were occasional patients with anasarca (generalized edema), without apparent cardiac or renal disease, who would benefit from a short course of a diuretic.

The Committee also was asked whether a section of the labeling stating that "Usage of thiazides in women of childbearing age requires that the potential benefits of the drug be weighed against its possible hazards to the fetus" should refer to "pregnant women" rather than "women of childbearing age." They concluded that the warning properly should refer to women who were actually pregnant.

The Director of the Bureau of Drugs has considered available information, including testimony before the Obstetrics and Gynecology Advisory Committee and the recommendations of that Committee, and concludes that the labeling for thiazide diuretics, including promotional labeling, should be further modified with respect to the sections relating to use of the diuretics in pregnancy to:

1. Eliminate the indication "toxemia of pregnancy."

2. Add to the Indications section a brief discussion of edema during pregnancy and a limited indication for short term diuretic use in women with severe discomfort not relieved by rest.

3. Emphasize in the Indications section that routine use of diuretics in pregnancy is inappropriate and potentially hazardous, that diuretics do not prevent toxemia, and that there is not satisfactory evidence that they are useful in treatment of toxemia, and remove similar wording from the Contraindications section.

4. Eliminate reference to "women of childbearing age" in the pregnancy warning and substitute "pregnant women."

In addition, the indications "angina due to congestive heart failure and/or hypertension" and "drug induced edema" now lack substantial evidence of effectiveness and they are to be eliminated from the labeling.

Also, the indication for management of hypertension has previously been included in the labeling both of oral forms of the thiazide drugs and of chlorothiazide sodium for injection. The Director of the Bureau of Drugs believes that this indication was applicable to and intended for oral forms of the drug which are for chronic use. The indication is not appropriate, he believes, for the parenteral product; the only possible use for a parenteral product in patients with hypertension (without congestive heart failure) would be the treatment of hypertensive emergencies. Substantial evidence to show that the parenteral drug is effective for hypertensive emergencies is lacking.

The above modifications of the labeling are reflected in paragraph B.2. *Labeling conditions* in this notice.

Accordingly, the May 19, 1975 notice is amended to read as set forth below:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug product.

In addition to the holders of the new drug applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has considered the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, as well as other available evidence, and concludes that:

1. Thiazides are effective as adjunctive therapy in edema associated with congestive heart failure, hepatic cirrhosis, and corticosteroid and estrogen therapy. They have been found useful in edema due to various forms of renal dysfunction such as nephrotic syndrome, acute glomerulonephritis, and chronic renal failure.

Oral forms of the drugs are also effective in the management of hypertension either as the sole therapeutic agent or to enhance the effectiveness of other antihypertensive drugs in the more severe forms of hypertension.

2. The drugs lack substantial evidence of effectiveness for all other indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Such preparations are in a form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations and their labeling bears adequate information for safe and effective use of the drug. Those parts of the labeling indicated below are substantially as follows:

Except for the following revised sections of the labeling, all other sections are unchanged from those in the initial implementation notice on these drugs published in the FEDERAL REGISTER of July 26, 1972 (37 FR 14896):

INDICATIONS

(Drug) is indicated as adjunctive therapy in edema associated with congestive heart failure, hepatic cirrhosis, and corticosteroid and estrogen therapy.

(Drug) has also been found useful in edema due to various forms of renal dysfunction such as:

Nephrotic syndrome;
Acute glomerulonephritis; and
Chronic renal failure.

(For oral forms only:) (Drug) is indicated in the management of hypertension either as the sole therapeutic agent or to enhance the effectiveness of other antihypertensive drugs in the more severe forms of hypertension.

Usage in Pregnancy. The routine use of diuretics in an otherwise healthy woman is inappropriate and exposes mother and fetus to unnecessary hazard. Diuretics do not prevent development of toxemia of pregnancy, and there is no satisfactory evidence that they are useful in the treatment of developed toxemia.

Edema during pregnancy may arise from pathological causes or from the physiologic and mechanical consequences of pregnancy. Thiazides are indicated in pregnancy when edema is due to pathologic causes, just as they are in the absence of pregnancy (however, see Warnings, below). Dependent edema in pregnancy, resulting from restriction of venous return by the expanded uterus, is properly treated through elevation of the lower extremities and use of support hose; use of diuretics to lower intravascular volume in this case is illogical and unnecessary. There is hypervolemia during normal pregnancy which is harmful to neither the fetus nor the mother (in the absence of cardiovascular disease), but which is associated with edema, including generalized edema, in the majority of pregnant women. If this edema produces discomfort, increased recumbency will often provide relief In rare instances, this edema may cause extreme discomfort which is not relieved by rest. In these cases, a short course of diuretics may provide relief and may be appropriate.

CONTRAINDICATIONS

Anuria.
Hypersensitivity to this or other sulfonamide-derived drugs.

WARNINGS

Thiazides should be used with caution in severe renal disease. In patients with renal disease, thiazides may precipitate azotemia. Cumulative effects of the drug may develop in patients with impaired renal function.

Thiazides should be used with caution in patients with impaired hepatic function or progressive liver disease, since minor alterations of fluid and electrolyte balance may precipitate hepatic coma.

Thiazides may add to or potentiate the action of other antihypertensive drugs. Potentiation occurs with ganglionic or peripheral adrenergic blocking drugs.

Sensitivity reactions may occur in patients with a history of allergy or bronchial asthma.

The possibility of exacerbation or activation of systemic lupus erythematosus has been reported.

Usage in Pregnancy. Thiazides cross the placental barrier and appear in cord blood. The use of thiazides in pregnant women requires that the anticipated benefit be weighed against possible hazards to the fetus. These hazards include fetal or neonatal jaundice, thrombocytopenia, and possibly other adverse reactions which have occurred in the adult.

Nursing Mothers. Thiazides appear in breast milk. If use of the drug is deemed essential, the patient should stop nursing.

USAGE IN PREGNANCY

(This is eliminated as a separate section and its content is now included in the WARNINGS section.)

3. *Marketing status.* a. Marketing of such drug product which is now the subject of an approved or effective new drug application or an approved abbreviated new drug application may be continued provided that, on or before August 13, 1976, the holder of the application submits (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

c. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of (1) any of the drugs for treatment of toxemia of pregnancy, angina accompanying congestive heart failure and/or hypertension, and "drug induced" edema; or (2) parenteral forms for use in hypertension.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to above in this section on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant (s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 14, 1976, a written notice of appearance and request for hearing, and (2) on or before August 13, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to above in this section may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a geniune and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours Monday through Friday.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11145, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket Number shown in the heading of this notice); Hearing Clerk, Food and Drug Administration, Rm. 4–65, Parklawn Building.

Other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 12, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–17125 Filed 6–11–76;8:45 am]

Office of the Secretary

NATIONAL INSTITUTE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part 12 of the Statement of Organization, Functions, and Delegations of Authority for the National Institute of Education of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER (40 FR 37071. August 25, 1975), is amended to provide for the reorganization within the Office of Planning, Budget, and Policy Analysis. The amended statement should be inserted in Section 12.20 G, and should read as follows:

G. Office of Planning, Budget, and Program Analysis: Carries out responsibilities for the formulation, presentation, and execution of the NIE budget; the development and operation of the Institute's annual and long-range planning processes; program evaluation and analysis; analysis and development of Federal educational research policy; coordination of NIE participation in international educational R&D activities; monitoring the activities of the Equal Educational Opportunity Committee to include analysis of Institute programs as they relate to equality of educational opportunity; programmatic coordination within the Institute and with other Federal agencies.

1. Program Analysis and Budget Division: Carries out responsibilities for the budget formulation, presentation, and execution; development and maintenance of program planning processes; program evaluation and analysis.

2. Policy Analysis and Development Division: Carries out responsibilities for conducting policy analysis and studies related to NIE programs and activities; the analysis and development of Federal educational research policy; coordination of NIE participation in international educational R&D activities; monitoring the activities of the Equal Educational Opportunity Committee to include analysis of Institute programs as they relate to equality of educational opportunity; programmatic coordination within the

Institute and with other Federal agencies.

Dated: June 4, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-17235 Filed 6-11-76;8:45 am]

HEALTH RESOURCES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 7 (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 F.R. 1456, January 9, 1974, as amended), is amended to reflect the following change in the organization and functions of the National Center for Health Services Research under Section 7-B:

ORGANIZATION AND FUNCTIONS

Under the National Center for Health Services Research (7C00 through 7C45), insert the following statement immediately following the statement for the Division of Health Care Information Systems and Technology (7C45):

Division of Intramural Research (7C57). Provides professional expertise required by the National Center to undertake directly health services research, demonstration, and evaluation activities. Specifically: (1) Designs and carries out research, demonstration, and evaluation projects which address the critical issues and research questions identified in the research plan of the National Center; (2) provides information, analyses, and technical support to the Division of Extramural Research and the Division of Demonstration and Assessment with regard to the structure and content of contracts awarded by the Center and the monitoring of grants; (3) provides consultation and technical assistance to HRA, the Office of the Assistant Secretary for Health, and the Department with regard to the development, experimental design, management, and interpretation of research projects; (4) prepares and participates in the dissemination of reports which describe and analyze the findings of research, demonstration, and evaluation projects undertaken by the Center; (5) analyzes program operations to ensure responsible administration of resources allocated for intramural research; (6) provides a summary of findings of current intramural research projects and informs the Office of Policy Analysis and Program Development of results that might have an impact on health policy and legislation; and (7) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services research activities.

Dated: June 7, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-17236 Filed 6-11-76;8:45 am]

CENTER FOR DISEASE CONTROL

Statement of Organization, Functions, and Delegations of Authority

Part 9 (Center for Disease Control) of the Statement of Organization Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1461, January 9, 1974, as amended most recently, and in pertinent part, at 40 FR 57703, December 11, 1975) is amended to reflect changes in the organization of the National Institute for Occupational Safety and Health (9C00), as follows: (1) disestablishment of the Western Area Laboratory for Occupational Safety and Health (9C44); (2) transfer of the major functions of the Western Area Laboratory for Occupational Safety and Health (9C44) to the Appalachian Laboratory for Occupational Safety and Health (9C41); and (3) editorial changes in certain division level statements for clarity.

SEC. 9-B *Organization and Functions*, is hereby amended under the heading entitled "NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (9C00)," as follows:

1. Delete "nonmalignant" from item (1) under Appalachian Laboratory for Occupational Safety and Health (9C41), and add the following items: "(6) designs and conducts research programs in agricultural and noncoal mining safety and health; (7) conducts accident investigations and safety research designed to prevent or mitigate occupational trauma in all industries."

2. Delete the section entitled Western Area Laboratory for Occupational Safety and Health (9C44) in its entirety.

3. Delete "safety and" from item (1) of the Division of Criteria Documentation and Standards Development (9C48).

4. Change item (2) under Division of Technical Services to read: "(2) prepares and annually revises the legislatively mandated toxic substances list."

Dated: June 4, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-17237 Filed 6-11-76;8:45 am]

SOCIAL SECURITY BENEFIT INCREASES

Cost-of-Living Increase

Correction

In FR Doc. 76-13843, appearing at page 19999, in the issue for Friday, May 14, 1976, on page 20001, in the second column of the table entitled *"Table for determining primary insurance amount and maximum family benefits beginning June 1976,"* the fifteenth figure now reading "23.20," should read "24.20."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-73-549]

REDLINING AND DISINVESTMENT AS A DISCRIMINATORY PRACTICE IN RESIDENTIAL MORTGAGE LOANS

Public Meeting

Pursuant to Section 106.3 of the Department of Housing and Urban Development's regulation establishing the procedure for scheduling fair housing public meetings (24 CFR 106.3; 40 FR 20079 (5-8-75)), notice is hereby given of a public fact-finding meeting to be conducted by the Assistant Secretary for Fair Housing and Equal Opportunity. The subject of the meeting will be discrimination in residential mortgage loans through disinvestment and redlining practices in relationship to Title VIII of the 1968 Civil Rights Act.

The meeting will be held in Philadelphia, Pennsylvania; Wednesday the 14th of July, 1976 from 6:00 p.m. to 9:00 p.m. and will continue on Thursday the 15th and Friday the 16th of July, 1976 at 9:00 a.m. in the William J. Green, Jr. Federal Building, Room 3306, 600 Arch Street.

The purpose of the meeting is to obtain information respecting the practice of redlining and disinvestment as it relates to the practice of discrimination in residential mortgage loans. Attendance is open to the interested public, but limited to the space available. To the extent that time permits, the Presiding Officer will allow public presentation of oral statements at the meeting. Any member of the public may file a written statement with the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, before, during or after the meeting.

For further information concerning this meeting, contact James H. Blair, Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Dated at Washington, D.C., June 9, 1976.

JAMES H. BLAIR,
Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc.76-17258 Filed 6-11-76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-76-544]

CENTRAL LAKE ESTATES SOUTH

Hearing

In the matter of Central Lake Estates South—76-66-IS OILSR No. 0-1825-09-540, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Central Lake Estates South, Atgar Development Corporation, Jack Klear, President, its officers and agents, hereinafter referred to as "Respondent" being

subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Atgar Development Corporation, Jack Klear, President, and their agents contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on June 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 7, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 21, 1976.

JAMES W. MAST,
Administrative Law Judge, Department of Housing and Urban Development.

[FR Doc.76-17215 Filed 6-11-76;8:45 am]

[Docket No. N-76-517]

OAKWOOD HILLS

Hearing

In the matter of Oakwood Hills, Units 1, 2, 3, 4, and 5 76-69-IS, OILSR No. 0-1175-09-317 and (A-C), pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Oakwood Hills, Units 1, 2, 3, 4, and 5, Ecological Development Corporation of America, Ivan Goch, President, its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ecological Development Corporation of America, Ivan Goch, President and their agents contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 29, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on June 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before June 17, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 21, 1976.

JAMES W. MAST,
Administrative Law Judge, Department of Housing and Urban Development.

[FR Doc.76-17216 Filed 6-11-76;8:45 am]

[Docket No. N-76-545]

WESTFIELD

Hearing

In the matter of Westfield, Units 1, 2, & 3—75-12-IS OILSR Nos. 0-0802-09-183, 0-0802-09-183(A), 0-0802-09-183(B), pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Westfield Units 1, 2, & 3, Robert Risher, Vice President, Land and Leisure, Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Westfield, Units 1, 2, and 3, Robert Fisher, Vice President, Land and Leisure, Inc., and their agents contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on June 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 17, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

JAMES W. MAST,
Administrative Law Judge, Department of Housing and Urban Development.

[FR Doc.76-17217 Filed 6-11-76;8:45 am]

[Docket No. N-76-546]

WILLIAMS DOUBLE BRANCH ESTATES

Hearing

In the matter of Williams Double Branch Estates—76-13-IS OILSR No. 0-3868-09-1023, pursuant to 15 U.S.C.

1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Williams Double Branch Estates, Bruce Williams, Vice President WLE, Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 17, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Williams Double Branch Estates, Bruce Williams, Vice President WLE, Inc., and their agents contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 5, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on June 21, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearings: All Affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 17, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 21, 1976.

JOHN W. MAST,
Administrative Law Judge, Department of Housing and Urban Development.

[FR Doc.76-17218 Filed 6-11-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

HIGHWAY SAFETY PROGRAM

Program Approval Policy

The purpose of this notice is to repeal the highway safety Program Approval Policy of the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA), concerning the three categories of conditional program approval, published June 13, 1975 (40 FR 25246) and revised on August 27, 1975 (40 FR 38185), November 20, 1975 (40 FR 54022), and January 12, 1976 (41 FR 1838), in accordance with the provisions of Pub. L. 94-280, enacted May 5, 1976.

The Program Approval Policy established three categories of conditional program approval to be followed by FHWA and NHTSA Regional Administrators and FHWA Division Administrators in their review of State Annual Work Programs and Comprehensive Plans for highway safety.

Pub. L. 94-280 provides that the Secretary of Transportation may not withhold any highway safety funds from States that do not require helmets to be worn by motorcycle riders 18 years of age or older. It also provides that the Secretary shall conduct a study on the adequacy and appropriateness of the highway safety program standards and that

Until such report is submitted, the Secretary shall not, pursuant to subsection (c) of section 402 of title 23, United States Code, withhold any apportionment or any funds apportioned to any State because such State is failing to implement a highway safety program approved by the Secretary in accordance with such section 402.

To reflect these statutory provisions, the three categories of conditional program approval enumerated in the Program Approval Policy are hereby cancelled and Comprehensive Plans for States in these categories shall be approved until September 30, 1977, the end of the current planning cycle.

Despite the cancellation of the Program Approval Policy, we want to emphasize that programs affected by this action are important and should remain part of the States Comprehensive Highway Safety Program.

The NHTSA Regional Administrators and FHWA Regional Administrators and/or Division Administrators are authorized to act in accordance with this notice.

(Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 401-406, as amended)

Effective date: June 14, 1976.

Issued on: June 8, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

[FR Doc.76-17246 Filed 6-11-76;8:45 am]

CIVIL AERONAUTICS BOARD

[76-5-156; Docket 29326]

DISCOUNTS CHANGES APPLICABLE TO CAPACITY—CONTROLLED EXCURSION FARES

Various Carriers; Order Vacating Suspension

Correction

In FR Doc. 76-16257 appearing on page 22623 in the issue of June 4, 1976 the 1st paragraph should read as follows:

"Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of May, 1976."

INTERNATIONAL AIR TRANSPORT ASSOCIATION

North-Central Pacific Passenger Fares

In FR Doc. 76-16258 appearing on page 22623 in the issue of June 4, 1976 the 1st paragraph should read as follows:

"Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of May, 1976."

[Order 76-5-120; Docket 28744; Agreement CAB 25762]

CONTINENTAL AIR LINES, INC. AND RIO AIRWAYS, INC.

Suspension of Service; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of May 1976.

In the matter of: application of Continental Air Lines, Inc. for authority to suspend service temporarily over segment 3 of Route 29. (Docket 28744) Agreement between Continental Air Lines, Inc. and Rio Airways, Inc. (Agreement CAB 25762). Published at 41 FR 22120, June 1, 1976.

Ordering paragraph "6" should read as follows:

"6. Frontier Airlines, Trinity Airways, the City of Midland, the Midland Chamber of Commerce, the City of Odessa, the Odessa Chamber of Commerce, the Lubbock Chamber of Commerce, the Tulsa Chamber of Commerce Civic Parties, the City of Wichita Falls, the Texas Aeronautics Commission, and the Air Line

Pilots Association be and they hereby are made parties to Docket 28744; and"

Dated: June 8, 1976.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-17242 Filed 6-11-76;8:45 am]

[Order 76-6-49 Docket 27573; Agreement C.A.B. 25880; Agreement C.A.B. 25881; R-1 and R-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Joint Traffic Conferences

Issued under delegated authority June 8, 1976.

Agreements adopted by the Joint Traffic Conferences of the International Air Transport Association relating to specific commodity rates.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name additional specific commodity rates as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated May 25, 1976.

Agreement CAB	Specific commodity item No.	Description and rate
25880	1021	Greyhounds,[1] 294c/kg,[2] minimum weight 500 kg, from Sydney to Guam.
25881:		
R-1	1407	Floral and nursery stock and seeds,[1] 117c/kg, minimum weight 1,000 kg, from Brussels/Amsterdam to New York.
R-2	0007	Fruits and vegetables,[1] 150c/kg, minimum weight 300 kg, from Tokyo to Honolulu.

[1] See applicable tariffs for complete commodity descriptions.
[2] Based on 02lb rate 1 United Kingdom penny equals United States $0.02605.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered that:

Agreements C.A.B. 25880 and C.A.B. 25881, R-1 and R-2, are approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-17240 Filed 6-11-76;8:45 am]

[Docket 29357]

McGREGOR, SWIRE AIR SERVICES LIMITED, FOREIGN AIR FREIGHT FORWARDER RENEWAL (U.K.)

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on July 19, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Janet D. Saxon.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects and shows reason for postponement on or before July 6, 1976.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., June 8, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-17239 Filed 6-11-76;8:45 am]

[Docket 21162; Order 76-6-55]

OHIO/INDIANA POINTS NONSTOP SERVICE INVESTIGATION

Order Denying Consolidation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of June 1976.

On May 14, 1976, Wright Air Lines, Inc., filed a motion to consolidate its application in Docket 29260 with the instant investigation. Wright's application in Docket 29260 seeks certificate authority in the Cleveland-Dayton market. The motion to consolidate is coupled with a motion for leave to file an otherwise unauthorized document.[1] In support of its motions, Wright states, in pertinent part, that prior to the April 20, 1976 filing by Allegheny for exemption authority in the Cleveland-Indianapolis market (Docket 29161) Wright had no knowledge of the inadequate service provided by Allegheny in the Cleveland-Dayton market; that Allegheny has an average Cleveland-Dayton load factor of 84 percent; and that Wright is ideally suited to provide service in the Cleveland-Dayton market.

Allegheny and North Central each filed motions for leave to file unauthorized answers coupled with answers opposing consolidation of Wright's application.

Upon consideration of the pleadings and all the relevant facts, we have decided to deny Wright's motion to consolidate.[2] Wright has not demonstrated that there is any necessary relationship between the Cleveland-Dayton market and the Cleveland-Indianapolis market or any of the other markets in issue herein. Consolidation of Wright's application would, therefore, make the instant proceeding larger without any economic justification for doing so.

Accordingly, *it is ordered:*

1. That the motions of Wright Air Lines, Inc., Allegheny Airlines, Inc., and North Central Airlines, Inc., for leave to file otherwise unauthorized documents be and they hereby are granted; and

2. That the motion of Wright Air Lines, Inc., to consolidate with the instant proceeding its application in Docket 29260 be and it hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-17243 Filed 6-11-76;8:45 am]

[1] Motions to consolidate applications in the instant proceeding were due on March 3, 1976.

[2] We will, however, grant the various motions to file otherwise unauthorized documents.

[Docket 29296; Order 76-6-54]

U.S.-GERMANY CARGO MATTERS

Request To Engage in Discussions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of June 1976.

On May 21, 1976, Seaboard World Airlines, Inc. (Seaboard) petitioned the Board for permission to engage in discussions with Pan American World Airways, Inc. (Pan American) and Deutsche Lufthansa Aktiengesellschaft (Lufthansa), as well as government representatives, covering various interrelated matters involving cargo air transportation between the United States and the Federal Republic of Germany. These subjects include substitute service via surface transport, carriage of Germany-U.S. freight by charters, U.S./Germany cargo rate levels and their relationships to rates in neighboring markets, interline arrangements, and airport cargo facilities. In support of its petition, Seaboard states that these issues were the subject of intergovernmental

consultations between the United States and Germany from April 26 to April 28, 1976, and that the understanding reached between the two Governments contemplated working group meetings among the three carriers, and representatives of the two Governments, prior to further intergovernmental negotiations expected to take place in September 1976.

The Board will herein authorize the proposed discussions consistent with the April 28, 1976 Memorandum of Consultations between the United States and the Federal Republic of Germany.[1] Any intercarrier agreement reached will, of course, be subject to Board approval under section 412 of the Act prior to implementation.

Accordingly, *it is ordered that:*

1. Seaboard World Airlines, Inc., Pan American World Airways, Inc. and Deutsche Lufthansa Aktiengesellschaft may engage in discussions on the subject of cargo air transportation between the United States and the Federal Republic of Germany;

2. The authority granted herein will expire September 30, 1976;

3. The U.S. carrier participants shall notify the Civil Aeronautics Board in writing sufficiently in advance of the proposed meetings to insure the presence of a U.S. Government observer at said meetings.

4. This order will be served on all U.S.- and foreign-flag carriers holding certificate or permit authority to provide scheduled cargo service between the U.S. and the Federal Republic of Germany.

This order will be pubished in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-17241 Filed 6-11-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 562-2, OPP-180074]

DEPARTMENT OF AGRICULTURE

Crisis Exemption To Use Malathion To Control Citrus Blackfly in Florida

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), the Environmental Protection Agency (EPA) hereby gives notice that the U.S. Department of Agriculture (U.S.D.A.) has availed itself of a crisis exemption for the use of the pesticide malathion to control a citrus blackfly infestation in Palm Beach County, Florida. This exemption is subject to the provisions of §§ 166.2, 165.8, and 166.9 of 40 CFR Part 166. These regulations concerning exemption of Federal and State agencies for the use of pesticides under emergency conditions were published in the FEDERAL REGISTER on December 3, 1973 (38 FR 33303). As required, the U.S.D.A. has submitted in writing the following certified information.

The citrus blackfly (*Aleurocanthus woglumi, Ashby*) poses a serious threat to the United States citrus production, according to U.S.D.A. This pest was first identified in Florida on February 5, 1976, in Broward County, Florida; the pest has now also been found in Palm Beach County, adjacent to Boca Raton. No pesticide registered for this particular use to eradicate or control the citrus blackfly was readily available; the time element was so critical that there was no time to request a specific exemption.

The present infestation covers approximately 6 square miles of Palm Beach County. Repeated applications of malathion spray (20 ounces active ingredient per 100 gallons of water) will be made to host trees with high pest populations scattered throughout urban areas in the Boca Raton environs; control efforts for this pest began on April 29, 1976. All spray applications will be made by ground equipment. The program will be directed by U.S.D.A. personnel or by personnel of the Florida State Department of Agriculture and Consumer Services, all trained and experienced in the use of pesticides.

All spray applications are currently being made with ground equipment to minimize drift. Spray operations are stopped when hazardous drift conditions occur. The control program is being monitored to assess its environmental impact. Malathion is presently being applied under a previous crisis exemption for citrus blackfly in adjacent Broward County, as mentioned above.

In accordance with section 166.8 of the controlling regulations, if treatment pursuant to the crisis exemption is expected to continue for more than a total of fifteen (15) days, an application for a specific exemption shall accompany the required certified information. The U.S.D.A has submitted such an application: however, this notice does not constitute a decision on the application. The official file concerning this exemption is available for inspection in the Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-315, 401 M Street, S.W., Washington, D.C. 20460.

Dated: June 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.76-17263 Filed 6-11-76;8:45 am]

[FRL 562-1, OPP-180070]

DEPARTMENT OF AGRICULTURE

Crisis Exemption To Use Malathion, Dimethoate, and Guthion To Control Citrus Blackfly in Florida

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), the Environmental Protection Agency (EPA) hereby gives notice that the U.S. Department of Agriculture (USDA) has availed itself of a crisis exemption for the use of the pesticides malathion, dimethoate, and guthion to control a citrus blackfly infestation in Broward County, Florida. This exemption is subject to the provisions of sections 166.2, 166.8, and 166.9 of 40 CFR Part 166. These regulations concerning exemption of Federal and State agencies for the use of pesticides under emergency conditions were published in the FEDERAL REGISTER on December 3, 1973 (38 FR 33303). As required, the USDA has submitted in writing the following certified information.

The citrus blackfly (*Aleurocanthus woglumi,* Ashby) poses a serious threat to the United States citrus production. This pest was identified in Florida on February 5, 1976, in Broward County. No pesticide registered for this particular use to eradicate or control the citrus blackfly was readily available; the time element was so critical that there was no time to request a specific exemption.

The present infestation covers approximately 200 square miles. Repeated applications of malathion spray (12 ounces active ingredient per 100 gallons of water) were made to host trees with high pest populations scattered throughout urban areas (Fort Lauderdale and environs). If necessary, commercial citrus groves were to be treated with dimethoate (½ pound active ingredient per 100 gallons of water). The initial three spray applications of azinphosmethyl (guthion) were to be made at 20-day intervals to host nursery stock within the regulated area (½ pound active ingredient per 100 gallons of water). Subsequent applications were to be made at 10-day intervals until stock was sold or moved. Azinphosmethyl could also be used as a dip (⅜ pound active ingredient per 100 gallons of water). The plants would be dipped for 15 seconds, after which they could be moved or sold. All nonhost plants in the nursery were to receive a single application of malathion at the rate of 12 ounces active ingredient per 100 gallons of water. Nonhost nursery plants could be moved or sold after treatment. All spray applications were made by ground equipment. The program was directed by personnel of the USDA or by Florida State Department of Agriculture and Consumer Services, Division of Plant Industry personnel, trained and experienced in the use of pesticides.

As mentioned, all spray applications were made with ground equipment to minimize drift. Spray operations were to be stopped when excessive drift conditions occurred. The control program was being monitored to assess its environmental impact.

In accordance with § 166.8 of the controlling regulations, if treatment pursuant to the crisis exemption is expected to continue for more than a total of fifteen (15) days, an application for a specific exemption shall accompany the required certified information. The USDA has submitted such an application; how-

[1] The Board prefers that the proposed discussions be held in Washington, D.C.

ever, this notice does not constitute a decision on the application. The official file concerning this exemption is available for inspection in the Registration Division (WH–567), Office of Pesticide Programs, EPA, Room E–315, 401 M Street, S.W., Washington, D.C. 20460.

Dated June 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.76–17262 Filed 6–11–76;8:45 am]

[FRL 561–8, OPP–50181]

BASF WYANDOTTE CORP.

Issuance of Experimental Use Permit for Sodium Salt of Bentazon on Rice

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to BASF Wyandotte Corporation, Parsippany, New Jersey 07054. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172. Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 7969–EUP–6) allows the use of 9,600 pounds of the herbicide sodium salt of bentazon on rice to evaluate control of certain broadleaf weeds, rushes, sedges, cattails, and water plantains. A total of 9,600 acres is involved; the program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas. The experimental use permit is effective from Aprl 30, 1976, to April 30, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.76–17261 Filed 6–11–76;8:45 am]

[FRL 562–3, PF39]

DOW CHEMICAL CO., ET AL.

Pesticide and Food Additive Petitions, Notice of Filing

Pursuant to the provisions of Sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1766. Dow Chemical Co., Health and Environmental Research, PO Box 1706, Midland MI 48640. Proposes that 40 CFR 180.342 be amended by establishing a tolerance for combined residues of the insecticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite, 3,5,6-trichloro-2-pyridinol, in or on the raw agricultural commodity sweet potatoes at 0.1 part per million (ppm). Proposed analytical method or determining residues is by gas chromatography using flame photometric detection. PM12

PP 6F1787. FMC Corp., 100 Niagara St., Middleport NY 14105. Proposes that 40 CFR 180.254 be amended by establishing a tolerance for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl - 7-benzofuranyl-N-methylcarbamate), and its carbamate metabolite, 2,3-dihydro-2,2 - dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and the phenolic metabolites, 2,3 - dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-7-benzofurandiol in or on the raw agricultural commodity grapes at 0.4 ppm of which no more than 0.2 ppm is carbamates. Proposed analytical method for determining residues is by gas chromatography using a nitrogen specific coulson electrolytic conductivity detector. PM12

PP 6F1789. FMC Corp. Proposes amending 40 CFR 180.254 by establishing tolerances for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-N-methylcarbamate), its carbamate metabolite, 2,3-dihydro-2,2-dimethyl-3 - hydroxy-7-benzofuranyl-N-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro - 2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3 - dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodities squash at 0.8 ppm of which no more than 0.6 ppm is carbamates, melons at 0.6 ppm of which no more than 0.4 ppm is carbamates, and cucumbers at 0.4 ppm of which no more than 0.2 ppm is carbamates. Proposed analytical method for determining residues is by gas chromatography using a nitrogen specific coulson electroyltic conductivity detector. PM12

FAP 6H5134. FMC Corp. Proposes that 21 CFR 123 and 561 be amended by the establishment of a regulation permitting the use of the insecticide carbofuran (2,3-dihydro-2,2 - dimethyl-7-benzofuranyl-N-methylcarbamate), on the commodity grapes with tolerance limitations for residues of the insecticide and its carbamate metabolite 2,3 - dihydro - 2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and the phenolic metabolites, 2,3 - dihydro - 2,2-dimethyl - 7 - benzofuranol, 2,3-dihydro-2,2 - dimethyl-3-oxo-7-benzofuranol, and 2,3 - dihydro-2,2-dimethyl-3,7-benzofurandiol at 6 ppm in raisin waste, of which no more than 3 ppm are carbamates, 2 ppm in dried grape pomace, of which no more than 1.5 ppm are carbamates, and 2 ppm in raisins, of which no more than 1 ppm is carbamates. PM12

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, East Tower, Room 401, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions referred to in this notice may be directed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone at (202) 755–0135. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.76–17264 Filed 6–11–76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CANADIAN ALLOCATION PROGRAM

Allocation Notice for the July 1 Through December 31, 1976 Allocation Period

In accordance with the provisions of FEA's Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the allocation notice specified in § 214.32 for the allocation period commencing July 1, 1976 is hereby published.

The issuance of Canadian crude oil rights for the July 1, 1976 allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists the name of each refiner and other firm to which rights have been issued; the number of rights, expressed in barrels per day, issued to each such refiner or other firm; and the specific first or second priority refineries for which such rights are applicable.

The issuance of Canadian crude oil rights is made pursuant to the provisions of § 214.31, which provide that rights are issuable to refiners or other firms that own or control a first or second priority refinery based on the number of barrels of Canadian crude oil included in the refinery's volume of crude oil runs to skills or consumed or otherwise utilized by the facility during the base period, November 1, 1974 through October 31, 1975. These calculations have been made and are shown on a barrels per day basis.

The listing contained in the Appendix also reflects any adjustments made by FEA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions as provided by § 214.31(d).

FEA has reviewed the information contained in affidavits, supplemental affidavits, and initial reports filed pursuant to Subpart D of Part 214, information in any comments submitted as to the affidavits, and other information relating to the capability of each refiner or other firm to replace reported base period volumes of Canadian crude oil with other

crude oil. Based on this review and in accordance with the procedures specified in § 214.33 and § 214.34, FEA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by FEA, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e), each refiner or other firm which has been issued Canadian crude oil rights is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian crude oil subject to allocation under Part 214 equal to the number of rights specified in the Appendix.

The total average volume of Canadian crude oil which is anticipated to be authorized by Canada for export to the United States, and therefore subject to allocation under Part 214, for the six month allocation period commencing July 1, 1976, is 420,000 barrels per day. It is expected that monthly exports will be greater than 420,000 barrels per day at the beginning of the six month period and less than 420,000 barrels per day at the end of the period. Any change in the average export level anticipated for this allocation period would be reflected in revised allocations for this period pursuant to a supplemental allocation notice.

Adjustments to issuances of rights to reflect reductions in export levels of Canadian crude oil have been made pursuant to § 214.31(b) as to second priority refineries. No adjustments thereunder have been made as to rights issuances for first priority refineries. In this regard the adjusted base period volumes for all first priority refineries total 264,216 barrels per day, and those for second priority refineries submitting nominations total 468,729 barrels per day. To conform to the anticipated Canadian export level of 420,000 barrels per day a factor of 0.332354 was applied to all second priority base period volumes which, as so adjusted, total 155,784 barrels per day. For any month in which the Canadian export level is not 420,000 barrels per day, firms owning second priority refineries can calculate their refinery's daily allocations for the month by multiplying the refinery's base period Canadian crude oil runs (as adjusted under the regulations) by the following fraction:

$$\frac{\text{Announced Canadian Exports for Month (Barrels per Day)} - 264{,}216}{468{,}729}$$

On or prior to the fiftieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with EPA the supplemental affidavit specified in § 214.41(b) to conform the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the fiftieth day preceding each allocation period.

Within 30 days following the close of each six-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA"s Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 14, 1976.

Issued in Washington, D.C. on June 8, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX.—*Canadian Allocation Program rights for July 1, 1976 allocation period*

Refiner/refinery	Priority	Allocation (barrels per day)
Amoco:		
Whiting, Ind	II	8,801
Casper, Wyo	II	994
Mandan, N. Dak	II	2,989
Sugar Creek, Mo	II	105
Arco:		
Cherry Point, Wash	II	11,375
East Chicago, Ind	II	3,591
American Petrofina: El Dorado, Ark.	II	65
Ashland:		
Buffalo, N.Y	II	12,215
Findlay, Ohio	II	730
St. Paul Park, Minn	I	44,707
Apco: Arkansas City, Kans	II	0
Dow: Bay City, Mich	II	920
Clark: Blue Island, Ill	II	6,236
Consumers Power:		
Essexville, Mich	I	13,872
Marysville, Mich	I	27,306
Continental:		
Billings, Mont	I	25,994
Denver, Colo	II	1,542
Ponca City, Okla	II	395
Wrenshall, Minn	I	20,651
CRA:		
Coffeyville, Kans	II	106
Phillipsburg, Kans	II	57
Scotts Bluff, Nebr	II	133
Crystal Refining: Carson City, Mich.	II	367
Detroit Edison: River Rouge, Mich.	II	0
Exxon: Billings, Mont	I	15,908
Farmers Union: Laurel, Mont	I	13,439
Gladieux: Fort Wayne, Ind	II	257
Gulf: Toledo, Ohio	II	4,405
Husky:		
Cheyenne, Wyo	II	1,617
Cody, Wyo	II	268
Koch: St. Paul, Minn	I	74,383
Lake Superior Distric Power: Ashland, Wis.	I	125
Laketon: Laketon, Ind	II	47
Lakeside: Kalamazoo, Mich	II	412
Little America: Casper, Wyo	II	747
Marathon: Detroit, Mich	II	3,424
Mobil:		
Buffalo, N.Y	II	8,307
Ferndale, Wash	II	15,103
Joliet, Ill	II	4,854
Murphy: Superior, Wis	I	25,625
NCRA: McPherson, Kans	II	278
Pasco: Sinclair, Wyo	II	236
Phillips:		
Great Falls, Mont	II	406
Kansas City, Kans	II	1,114
Rock Island: Indianapolis, Ind	II	353
The Refinery Corp.: Commerce City, Colo.	II	58
Shell:		
Anacortes, Wash	II	18,585
Wood River, Ill	II	2,882
Sun: Toledo, Ohio	II	5,460
Standard Oil of Ohio: Toledo, Ohio.	II	9,099
Tenneco: Chalmette, La	II	587
Tesoro: New Castle, Wyo	II	225
Texaco:		
Anacortes, Wash	II	13,703
Casper, Wyo	II	459
Lockport, Ill	II	413
Thunderbird:		
Cut Bank, Mont	II	184
Kevin, Mont	I	2,206
Total Leonard: Alma, Mich	II	3,233
Union Oil of California: Lemont, Ill.	II	3,893
United Refining:		
Warren, Pa	II	3,296
West Branch, Mich	II	569

[FR Doc.76-17044 Filed 6-8-76;3:12 pm]

FEDERAL MARITIME COMMISSION

CELTIC BULK CARRIERS

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

F. Conger Fawcett, Esquire, Graham & James, One Maritime Plaza, San Francisco, California 94111.

Agreement No. 10035–2, between Irish Shipping Ltd. and Reardon Smith Line, Ltd., extends the scope of the Agreement to include all European ports. The present scope is limited to Antwerp.

Dated: June 9, 1976.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–17253 Filed 6–11–76;8:45 am]

CITY OF LOS ANGELES AND MATSON TERMINALS INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Frank Wagner, Deputy City Attorney, City of Los Angeles, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Agreement No. T–2356–2, between the City of Los Angeles (City) and Matson Terminals Inc. (Matson) modifies the parties' basic agreement providing for the preferential berth assignment of approximately 45 acres and wharf area at Berths 207–9. The purpose of the modification is to extend the basic agreement's term for a further period of four months, or until such time as a new preferential berth assignment superseding Agreement No. T–2356 is approved by the Federal Maritime Commission and becomes effective, if such effective date occurs prior to November 30, 1976. As compensation during the extended term, Matson shall continue to pay at the rate set forth in the basic agreement as a credit against the amount of compensation due under the new preferential berth assignment that will succeed Agreement No. T–2356–2 provided that the new preferential berth assignment is approved by the Federal Maritime Commission.

Dated: June 8, 1976.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–17255 Filed 6–11–76;8:45 am]

GLOBAL TERMINAL & CONTAINER SERVICES, INC. AND ATLANTICA, SOCIETA PER AZIONI

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. N. Barbera, Executive Vice President, Global Terminal & Container Services, Inc., Post Office Box 273, Jersey City, New Jersey 07303.

Agreement No. T–3306, between Global Terminal & Container Services, Inc., (Global) and Atlantica, Societa per Azioni (Atlantica), provides for the operation of a container chassis management service by Global at its marine terminal facility located at New York Harbor. Atlantica is to furnish Global a fleet of container chassis adequate to handle the number of containers it anticipates it will put through Global's facility for the current calendar year. These chassis are to be utilized by Global in a common pool, together with chassis supplied by other users of Global's facility under the same terms and conditions as set forth in the subject agreement. Global will provide the necessary management services for the movement and control of the chassis consisting of: (1) reporting services; (2) repair services; (3) per diem chassis rental billing and collection services; and (4) accounting services. As compensation, Global is to receive all per diem charges for chassis rentals which will be billed and collected by Global directly from the users of the chassis. In addition, Atlantica will pay to Global Atlantica's share of the common pool's total chassis operating costs, such share to be computed in accordance with the formula set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: June 8, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–17254 Filed 6–11–76;8:45 am]

GLOBAL TERMINAL & CONTAINER SERVICES, INC. AND ATLANTICA, SOCIETA PER AZIONI

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 6, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the

agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. N. Barbera, Executive Vice President, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Agreement No. T-3307, between Global Terminal & Container Services, Inc. (Global) and Atlantica, Societa per Azioni (Atlantica), is a container terminal service agreement providing that Global will furnish Atlantica container terminal and stevedoring services at its facility at New York harbor. Atlantica is bound by the agreement to use Global's facility exclusively for containerships trading to and from the Port of New York. As compensation, Global is to receive rates negotiated between the parties plus all applicable tariff charges for demurrage, truck loading and unloading, and rail loading and unloading, which are to be assessed in accordance with the tariff it will file with the Commission.

Dated: June 8, 1976.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-17256 Filed 6-11-76;8:45 am]

[Docket No. 74-28; 74-39]

INTERNATIONAL PAPER COMPANY V. LYKES BROTHERS STEAMSHIP COMPANY, INC.

Adoption of Environmental Negative Declaration

By publication in the FEDERAL REGISTER, notice was given that the Federal Maritime Commission's Office of Environmental Analysis had determined that environmental issues relative to the above referenced proceeding did not constitute major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. and that the preparation of a detailed environmental impact statement was not required under Section 4332(2)(c) of NEPA.

Thirty days were permitted for filing exceptions to the Negative Declaration. In the absence of exceptions the determination was to become final. No exceptions have been filed.

Notice is hereby given that the Environmental Negative Declaration has become final and is adopted as the determination of the Federal Maritime Commission.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-17257 Filed 6-11-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations Temporary Regulation F-393]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in intrastate electric rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agenecies of the Federal Government before the South Carolina Public Service Commission involving the application of the Carolina Power and Light Company for increases in its intrastate rates and charges (Docket Nos. 18361 and 18387).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

TERRY CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76-17208 Filed 6-11-76;8:45 am]

[Federal Property Management Regulations Temporary Regulation G-27]

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Revocation of Delegation of Authority

1. *Purpose.* This regulation revokes a certain delegation of authority to represent the consumer interests of the executive agencies of the Federal Government in a transportation regulatory proceeding which has been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires June 30, 1976.

4. *Revocation.* This revocation identifies the delegation which is no longer in force due to completion of the proceeding for which it was issued. Accordingly, the following FPMR temporary regulation is hereby revoked:

NUMBER, DATE, AND SUBJECT

G-8, Feb. 11, 1971, Delegation of authority to the Secretary of Housing and Urban Development—Regulatory Proceeding.

TERRY CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76-17209 Filed 6-11-76;8:45 am]

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Meeting

Notice is hereby given, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. § 10(a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting just on June 25, 1976, in Room 2010 of the New Executive Office Building located at 17th & H Street, N.W., Washington, D.C. The meeting will begin at 9:30 A.M. (The June 25 meeting date of the Committee constitutes a change in the June meeting date announcement which was published in the Federal Register, Vol. 41, No. 49, dated Thursday, March 11, 1976, which indicated that the Committee would meet both on June 24 and June 25, 1976.)

The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is "* * * to develop recommendations as to the establishment of a policy-making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multistate, regional and state governmental jurisdictions."

The summarized agenda for the meeting is as follows:

1. Reports by the Chairman, Executive Director and Study Group Leaders.

2. Discussion and review of Study Group recommendations on improvements in the Federal policy-making process and structure relating to state and local governmental jurisdiction coordination and decision-sharing.

3. Review and discussion of rough draft recommendations on improvements needed within the Executive and Legislative Branches of the Federal Government relating to the development of national long-range and integrative policy alternatives.

In the event the Committee does not complete its consideration of the items on the agenda on June 25, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct

the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th Floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254-6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 19750 K Street, N.W., 8th Floor, Washington, D.C. 20006.

Dated: June 8, 1976.

ARNOLD A. SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

[FR Doc.76-17160 Filed 6-11-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR EARTH SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Earth Sciences.
Date and time: July 1 and 2, 1976-9:00 a.m. to 5:00 p.m. each day.
Place: Rm. 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. William E. Benson, Chief Scientist, Division of Earth Sciences, Rm. 310, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4210.
Purpose of panel: To provide advice and recommendations concerning support for research in earth sciences.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 522(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.76-17162 Filed 6-11-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-324]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-62 issued to Carolina Power and Light Company which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit No. 2, located in Brunswick County, North Carolina. The amendment is effective as of its date of issuance.

This amendment makes changes in the Appendix B Environmental Technical Specifications to allow the conduct of a condenser chlorination study required by the NPDES permit. In addition, this amendment permits the drywell to be purged without the standby gas treatment system provided that certain release and sampling procedures are followed, and adds reporting requirements for environmental surveillance programs and special studies.

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 prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because the Commission has determined that this is not a major action significantly affecting the quality of the human environment, and that a negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1976 and supplement dated May 7, 1976, (2) Amendment No. 16 to License No. DPR-62, (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Southport Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

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, Maryland, this 3rd day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-16996 Filed 6-11-76;8:45 am]

[Docket No. 50-237]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Provisional Operating License No. DPR-19 to the Commonwealth Edison Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Dresden Nuclear Power Station Unit No. 2 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment revised the provisions in the license and its Technical Specifications for the facility to authorize operation (1) with additional 8 by 8 uranium 235 fuel assemblies, and (2) using modified operating limits based on an acceptable evaluation model that conforms with Section 50.46 of 10 CFR Part 50, and with operating limits based on the General Electric Thermal Analysis Basis (GETAB), in accordance with the licensee's applications for the amendment as referenced in the last paragraph of this notice.

The applications for the amendment comply 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. Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with item (2) above was published in the FEDERAL REGISTER on December 2, 1975 (40 FR 55908). No request for a hearing or peti-

tion for leave to intervene was filed following notice of the proposed action on item (2) above. Prior public notice of item (1) above was not required since the action does not involve a significant hazards consideration. In connection with the action on § 50.46 regarding emergency core cooling system (part of item 2) the Commission has issued a Negative Declaration and Environmental Impact Appraisal. In connection with the action identified as item (1) of this Notice, the Commission has determined that the action will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared.

For further details with respect to this action, see (1) the applications for amendment dated July 1, 1975, September 3, 1975, March 15, 1976, and supplements dated July 7 and 10, August 25, September 19, 1975, February 26, 1976, April 6, 9, 19, 26, and 28, and May 17 and 21, 1976, (2) the April 8, 1975 Quad Cities Unit No. 2 licensee submittal in Docket No. 50-265 which is applicable to Dresden 2 and is the non-proprietary version of the Dresden 2 proprietary submittal dated July 21, 1975, (3) Amendment No. 21 to License No. DPR-19, (4) the Commission's concurrently issued related Safety Evaluation, and (5) the Commission's Negative Declaration dated May 21, 1976 (which is also being published in the FEDERAL REGISTER) and associated Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Morris Public Library at 604 Liberty Street in Morris, Illinois 60451. A single copy of items (2) through (5) 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, Maryland, this 23rd day of May 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-16997 Filed 6-11-76;8:45 am]

[Docket No. 50-237]

DRESDEN NUCLEAR POWER STATION UNIT 2

Negative Declaration Regarding Proposed Changes to the Technical Specifications of License DPR-19

The Nuclear Regulatory Commission (the Commission) has considered the issuance of changes to the Technical Specifications of Facility Operating License No. DPR-19. These changes would authorize the Commonwealth Edison Company (the licensee) to operate the Dresden Nuclear Power Station Unit 2 (located in Grundy County, Illinois) with changes to the limiting conditions for operation associated with fuel assembly specific power (average planar linear heat generation rate) which would limit maximum fuel clad temperature in case of a loss of coolant accident, in accordance with the Acceptance Criteria for Emergency Core Cooling System (10 CFR 50.46 and Appendix K to 10 CFR Part 50).

The U.S. Nuclear Regulatory Commission, Division of Operating Reactors has prepared an Environmental Impact Appraisal for the proposed changes to the Technical Specifications of License No. DPR-19, Dresden Unit 2, described above. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement for Dresden Nuclear Power Station Units 2 and 3 published in November 1973. The Environmental Impact Appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois.

Dated at Bethesda, Maryland, this 21st day of May 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-16998 Filed 6-11-76;8:45 am]

[Docket Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 24, 24, and 21 to Facility Operating Licenses No. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company which revised the licenses for operation of the Oconee Nuclear Station, Units No. 1, No. 2, and No. 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments would allow the dry storage of new fuel assemblies in fuel storage racks located in Unit No. 3 spent fuel pool.

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 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 statement, negative declaration or 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 amendment dated April 16, 1976, (2) Amendments No. 24, 24, and 21 to License Nos. DPR-28, DPR-47, and DPR-55, respectively, 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 Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691.

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, Maryland, this 3rd day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-16999 Filed 6-11-76;8:45 am]

[Dockets Nos. 50-250 and 50-251]

FLORIDA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 17 and No. 16 to Facility Operating Licenses Nos. DPR-31 and DPR-41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Nuclear Generating Units 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

These amendments modify operating limits in the Technical Specifications to allow operation of Turkey Point Nuclear Generating Unit 4, following refueling for core Cycle 3. The operating limits for Unit 3 set forth in its Technical Specifications remain unchanged although the Unit 3 Technical Specifications will be modified to reflect the revisions to the Unit 4 Technical Specifications.

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 were 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 statement, negative declaration or 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 February 25, 1976, and supplements dated February 25, April 21, May 10, May 13, and May 19, 1976, (2) Amendments Nos. 17 and 16 to Licenses Nos. DPR-31 and DPR-41, 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, N.W., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199.

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, Maryland, this 28th day of May 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-17000 Filed 6-11-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft and modifies it to the extent necessary to develop a draft acceptable to the IAEA Technical Review Committee. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group, which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, an IAEA draft Safety Guide on Quality Assurance Programme Preparation is being developed. A draft of this Safety Guide was approved by the IAEA Technical Review Committee on Quality Assurance which met in April 1976. As the next step in its development, the draft Safety Guide is scheduled to be reviewed by the IAEA Senior Advisory Group at a meeting on August 30, 1976. The draft Safety Guide as approved by the Technical Review Committee is now available for public comment and the NRC staff is soliciting U.S. public comment on the draft.

In order to have them in time for the August 1976 meeting of the Senior Advisory Group, comments on this draft Safety Guide are requested by July 16, 1976. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 1st day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-17001 Filed 6-11-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft and modifies it to the extent necessary to develop a draft acceptable to the IAEA Technical Review Committee. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group, which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, a Safety Guide on Fire Protection in Nuclear Power Plants is being developed. A draft of this Safety Guide was approved by the IAEA Technical Review Committee on Design which met in April 1976. As the next step in its development, the draft Safety Guide is scheduled to be reviewed by the IAEA Senior Advisory Group at a meeting in October 1976. The draft Safety Guide as approved by the Technical Review Committee is now available for public comment and the NRC staff is soliciting U.S. public comment on the draft.

In order to have them in time for the October 1976 meeting of the Senior Advisory Group, comments on this draft Safety Guide are requested by August 16, 1976. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 3rd day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-17002 Filed 6-11-76;8:45 am]

[Docket Nos. 50-514 and 50-515]

PORTLAND GENERAL ELECTRIC CO. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 & 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. Lawrence R. Quarles
Richard S. Salzman

Dated: June 4, 1976.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.76-17003 Filed 6-11-76;8:45 am]

[Docket Nos. 50-259 and 50-260]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-33 and Amendment No. 19 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee) which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units 1 and 2, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments revise the provisions in the Technical Specifications to require annual reporting of the nonradiological environmental monitoring program.

The application for these 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 Com-

mission 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 statement, negative declaration, or 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 November 7, 1975, and (2) Amendment No. 22 to License No. DPR-33 and Amendment No. 19 to License No. DPR-52. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

A copy of item (2) 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, Maryland, this 3rd day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-17004 Filed 6-11-76;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-3 issued to Yankee Atomic Electric Company (the licensee) which revised Technical Specifications for operation of the Yankee Nuclear Power Station located in Rowe, Massachusetts. The amendment is effective as of its date of issuance.

This amendment changes the restrictions in the Technical Specifications relating to the allowable Linear Heat Generation Rate (LHGR) for operation of the reactor based on the results of the licensee's additional ECCS performance analysis for Core XII and in compliance with 10 CFR Part 50, § 50.46.

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 is not required since this amendment relates to substantially the same matters identified in the Notice of Proposed Issuance of Amendment to Facility Operating License, published in the FEDERAL REGISTER on October 17, 1975 (40 FR 48735), which was implemented by issuance of Amendment No. 21 on December 4, 1975, and such differences as do exist, do not involve a significant hazards consideration. No request for a hearing or petition for leave to intervene was filed following notice of the earlier proposed action.

For further details with respect to this action, see (1) Amendment No. 21 with related Safety Evaluation, dated December 4 ,1975 (2) the Commission's Negative Declaration with supporting Environmental Impact Appraisal dated November 5, 1975, publisher in FEDERAL REGSTER December 4, 1975 (40 FR 57869), (3) the application for amendment dated February 20, 1976, (4) Amendment No. 26 to Facility Operating License No. DPR-3, and (5) 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 Greenfield Public Library, 402 Main Street, Greenfield, Massachusetts 01581.

A copy of items (1), (2), (4), and (5) 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, Maryland, this 2nd day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reator Branch No. 1, Division of Operating Reactors.

[FR Doc.76-17005 Filed 6-11-76;8:45 am]

[Docket Nos. 50-440 and 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO. PERRY NUCLEAR POWER PLANT, UNITS 1 & 2

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Cleveland Electric Illuminating Company to conduct certain site activities in connection with the Perry Nuclear Power Plant, Units 1 and 2, prior to a decision regarding the issuance of a construction permit. Notice of the Limited Work Authorization (LWA 1) was published in the FEDERAL REGISTER on October 29, 1974 (39 FR 38125).

At that time no activities were authorized relating to the turbine buildings and other buildings adjacent to them. The staff has now found that there is no need to reorient the turbine building, and determined that these activities could begin. Construction of the turbine buildings and other buildings immediately adjacent to them is within the scope of activities authorized in 10 CFR 50.10(e)(1).

A copy of (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated April 1974; (5) the Commission's letter of authorization, dated October 21, 1974; and (6) the Commission's letter revising the Limited Work Authorization to include the turbine building construction activities dated June 4, 1976, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Perry Public Library, 3753 Main Street, Perry Township, Ohio.

Dated at Rockville, Maryland, the 4th day of June 1976.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 3, Division of Site Safety and Environmental Analysis.

[FR Doc.17166 Filed 6-11-76;8:45 am]

[Docket No. P-636-A]

FLORIDA POWER & LIGHT CO.

Antitrust Hearing

Before the Atomic Safety and Licensing Board.

On July 14, 1975, the Florida Power and Light Company filed an application with the U.S. Nuclear Regulatory Commission (the Commission) for licenses to construct and operate two 1140 megawatt nuclear power plants. The application included information requested by the Attorney General of the United States for an antitrust review of the proposed nuclear power plants.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the regulations in Part 2 and Part 50 of Title 10, Code of Federal Regulations, the Notice published in the FEDERAL REGISTER on March 15, 1976 (41 FR 10969) by the Commission, and the Memorandum and Order issued June 8, 1976, by the Atomic Safety and Licensing Board, notice is hereby given that a hearing will be held, pursuant to subsection 105(c) of the Act, to determine whether the activities under the proposed licenses will create or maintain a situation inconsistent with the antitrust laws.

This hearing will be held by an Atomic Safety and Licensing Board appointed to conduct this proceeding. The members of the Board designated by the Acting Chairman of the Atomic Safety and Licensing Board Panel are John M. Frysiak, Esq., Daniel M. Head, Esq., and

Ivan W. Smith, Esq., who has been named Chairman. The time and place of the hearing will be set by the Board.

The record of this antitrust proceeding to date is available for public inspection in the public document room of the Nuclear Regulatory Commission at 1717 H Street, N.W., Washington, D.C. Further documents relating to this proceeding will also be placed in the public document room and will be available for inspection by members of the public.

Any person who wishes to make an oral or written statement setting forth his position on the antitrust aspects of this proceeding but who has not filed a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of Section 2.715 of the Commission's Rules of Practice, 10 CFR Part 2. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing.

Papers required to be filed in this proceeding may be filed by mail or telegram to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Supervisor, Docketing and Service Section, 1717 H Street, N.W., Washington, D.C. Pending further order of the designated Atomic Safety and Licensing Board, parties are required to file, pursuant to the provisions of Section 2.708 of the Commission's Rules of Practice, an original and twenty (20) conformed copies of each such paper with the Commission.

Issued at Bethesda, Maryland this 8th day of June 1976.

By order of the Atomic Safety and Licensing Board established to rule on petitions for intervention.

DANIEL M. HEAD,
Chairman.

[FR Doc.76-17164 Filed 6-11-76;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Proposed Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-18 issued to Rochester Gas and Electric Corporation (the licensee), for operation of the R. E. Ginna Nuclear Power Plant located in Wayne County, New York.

The amendment would change the license to allow more fuel to be stored at the R. E. Ginna Nuclear Power Plant by modifying the storage racks in the spent fuel pool. The proposed modifications would increase the storage capacity from 210 to 595 fuel assemblies by replacing the existing storage racks with those of a design capable of accommodating an increased number of assemblies in accordance with the licensee's application for amendment dated January 30, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By July 14, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject provisional operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arvin E. Upton, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1757 N Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated January 30, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Lyons Public Library, 67 Canal Street, Lyons, New York 14489, and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy 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, Maryland, this 2nd day of June, 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Reactor Licensing.

[FR Doc.76-17165 Filed 6-11-76;8:45 am]

[Docket No. PRM-50-17]

BOSTON EDISON CO., ET AL.

Filing of Petition for Rule Making

Notice is hereby given that Lowenstein, Newman, Reis, and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C., by letter dated May 7, 1976, has filed with the Nuclear Regulatory Commission a petition for rule making on behalf of The Boston Edison Company, Florida Power and Light Company, and Iowa Light and Power Company.

The petitioners request the Commission to amend 10 CFR Part 50 and 10 CFR Part 2 of its regulations with respect to the issuance of amendments to operating licenses for production and utilization facilities. The petitioners state that in cases where the Commission determines that there is no "significant hazards consideration" the Commission may issue an amendment to an operating license followed by notice and publication in the FEDERAL REGISTER and, in such cases, interested members of the public who wish to object to the amendment and request a hearing may do so, but the request for hearing does not delay the effectiveness of the amendment.

The petitioners request the Commission to initiate a rule making proceeding to amend 10 CFR 50.58(b), 50.91, and 10 CFR 2.105(a)(3) in accordance with the suggested amendments set out in section V of the petition. The petitioner's draft amendments would specify criteria for determining when a proposed amendment to an operating license involves no "significant hazards considerations" and, therefore, may be issued by the Commission without prior public notice and opportunity for hearing.

The petitioners state that although questions frequently arise as to whether proposed amendments do or do not involve "significant hazards considerations" the Commission has not published criteria in its regulations or elsewhere for making such determinations, and although § 50.59 does set forth criteria for determining when a proposed change, test, or experiment involves an "unreviewed safety question," not every such question involves a "significant hazards consideration." The petitioners state further that the time has come for the Commission to publish criteria to guide its Staff in making "significant hazards considerations" determinations and that such guidance is essential today in light of the large number of reactors which are now in operation and which are scheduled for operation in the near future.

A summary of the petitions' proposed rule is set out in section IV of the petition as follows:

The amendments to Part 50 which petitioners proposed the Commission adopt require that the Staff take into consideration, in determining whether a proposed operating license involves a significant hazards consideration, whether the proposed amendment will (1) substantially increase the probability or consequences of a major credible accident or (2) reduce the plant's safety margins substantially below those previously evaluated and below those approved for similar facilities. If the Staff reaches a negative conclusion as to these two criteria, the proposed amendment will not involve a significant hazards consideration and prior public notice need not be given.

Petitioners submit that the criteria established in the proposed rule which requires a determination of substantiality with regard to reactor accidents and plant safety margins are consistent with statutory provisions and congressional intent as discussed above. Petitioners believe that these criteria will help reduce the uncertainty and unnecessary delay in the Commission's procedures for approving license amendments without compromising the rights of members of the public to participate in Commission proceedings involving significant safety considerations.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C 20555, Attention: Docketing and Service Section by August 13, 1976.

Dated at Washington, D.C. this 9th day of June 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-17284 Filed 6-11-76;8:45 am]

[Docket No. 50-334]

DUQUESNE LIGHT CO., ET AL. (BEAVER VALLEY POWER STATION, UNIT NO. 1)

Order Convening Evidentiary Hearing

The Regulatory Staff of the Commission has informed the Atomic Safety and Licensing Board that all parties and attorneys have agreed that a convenient place would be Washington, D.C. for the previously announced evidentiary hearing set for Monday, June 21, 1976.

Wherefore, *it is ordered*, In accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission that an evidentiary hearing on this proceeding shall convene at 9:30 a.m. on Monday, June 21, 1976 in the South Courtroom, Room 358 of the United States Tax Court Building, 400 Second Street, N.W., Washington, D.C.

Issued: June 9, 1976, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

SAMUEL W. JENSCH,
Chairman.

[FR Doc.76-17285 Filed 6-11-76;8:45 am]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Intent To Issue a Revised Draft Environmental Statement and Reopening of Comment Period for the Atlantic Generating Station, Unit Nos. 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, a notice of availability of a Draft Environmental Statement relating to the proposed construction and operation of the Atlantic Generating Station, Unit Nos. 1 and 2 was published in the FEDERAL REGISTER (41 FR 15061) on April 9, 1976. The proposed location for the Station is off the southeastern coast of New Jersey about 2.8 statute miles offshore of Atlantic and Ocean Counties.

The Nuclear Regulatory Commission hereby issues a notice of intent to publish a Revised Draft Environmental Statement for the proposed Atlantic Generating Station. This Revised Statement will include applicable results of the liquid pathway study currently being prepared by the Commission.

The Commission also hereby notices that the comment period is reopened on the Draft Environmental Statement issued by the Commission on April 8, 1976. Upon completion of the Revised Draft Environmental Statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the Revised Draft Environmental Statement, with a request for comments from interested persons on the Revised Draft Statement.

The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. This subsequent FEDERAL REGISTER notice will also include an appropriate closing date for receipt of comments on both the Draft Environmental Statement published in April 1976 and the Revised Draft Environmental Statement for the proposed Atlantic Generating Station, Unit Nos. 1 and 2. Upon consideration of comments submitted with respect to the Draft Statements, the staff will issue a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Rockville, Maryland this 8th day of June 1976.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76-17236 Filed 6-11-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of ACRS Working Groups, Subcommittees, and the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed Subcommittee and full Committee meetings published in FR Vol. 41, Monday, May 17, 1976, page 20230. Those meetings that are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Working Group and Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 8-10, 1976 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-1406, Attn: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m. e.d.t.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

***Emergency Core Cooling Systems (ECCS), June 15, 1976, Washington, DC to discuss current items relating to ECCS such as the effects of upper head injection (UHI) on the Westinghouse Electric Corporation's analytical models formulated to meet current ECCS criteria, effects of plugging of steam generator tubes, FLECHT Test modifiers and best estimate calculations. Notice has been published in FR Vol. 41, May 27, 1976, page 21710.**

*Westinghouse Water Reactors (RESAR–3S), June 16, 1976, Washington, DC to discuss the Reference Safety Analysis Report–3S (RESAR–3S) pertaining to the Westinghouse Nuclear Steam Supply System. Notice has been published in FR Vol. 41, May 27, 1976, page 21708.

Security of Nuclear Facilities, June 17, 1976, Chicago, IL. Postponed until late August or early September.

*Emergency Core Cooling Systems (ECCS), June 17, 1976, Washington, DC to discuss changes to the Combustion Engineering, Inc. evaluation model such as the geometry correction method for extrapolating FLECHT reflood heat transfer coefficients to 16 x 16 fuel bundle geometry, to discuss planned improvements to emergency core cooling systems, and to discuss the status of development of a "best estimate" evaluation model. Notice has been published in FR Vol. 41, May 27, 1976, page 21709.

General Electric Water Reactors, June 21 and 22, 1976, Washington, DC to develop information for consideration by the ACRS in its review of General Electric Standard Safety Analysis Reports 238 and 251 pertaining to the nuclear steam supply system. Notice has been published in FR Vol. 41, June 3, 1976, page 22431.

*Clinch River Breeder Reactor (CRBR), June 23 and 24, 1976, Washington, DC to discuss current status of review and NRC Staff positions. Notice has been published in FR Vol. 41, June 7, 1976, page 22893.

Peaking Factors, June 24, 1976, Washington, DC to continue discussion of methods of measuring power distribution in reactors whose cores have been fabricated by the Westinghouse Electric Corporation. Notice has been published in FR Vol. 41, June 7, 1976, page 22893.

Diablo Canyon Nuclear Power Station, Units 1 and 2, June 25 and 26, 1976, San Luis Obispo, CA to continue the review of the application of the Pacific Gas and Electric Company for an operating license. Notice has been published in FR Vol. 41, June 10, 1976, page 23495.

Light Water Breeder Reactor, June 6, 1976, Washington, DC. Rescheduled for July 20, 1976 in Pittsburgh, PA.

Fire Protection, July 7, 1976, Washington, DC to review a proposed Regulatory Guide on Fire Protection.

Regulatory Guides, July 7, 1976, Washington, DC to review working papers regarding future Regulatory Guides and proposed changes to existing Guides.

North Anna Power Station, Units 1 and 2, July 7, 1976, Washington, DC to review the application of the Virginia Electric and Power Company for an operating license for Units 1 and 2.

Safety of Operating Reactors, July 7, 1976, Washington, DC to consider potential requirements for the periodic review of operating reactors.

Peaking Factors, July 19, 1976, Washington, DC to continue discussion of methods of measuring power distribution in reactors whose cores have been fabricated by Combustion Engineering, Inc.

Light Water Breeder Reactor, July 20, 1976, Pittsburgh, PA to discuss matters related to the development of the light water breeder reactor to be installed in the Shippingport Nuclear Plant.

*Emergency Core Cooling Systems, (ECCS), July 21, 22, and 23, 1976, Hanford, WA to review the EXXON ECCS evaluation model and to review basic research concerning ECCS.

Waste Management, July 22 and 23, Washington, DC to review recent Nuclear Regulatory Commission and Energy Research and Development Administration nuclear waste management documents and plans.

*Emergency Core Cooling Systems, (ECCS), July 28, 29, and 30, 1976, Idaho Falls, ID to review work at Aerojet Nuclear Corporation pertaining to ECCS and, in particular, code development and experimental programs.

*Diablo Canyon Nuclear Power Station, Units 1 and 2, (Tentative) August 3, 1976, Los Angeles, CA to continue the review of the application of the Pacific Gas and Electric Company for an operating license.

*Peaking Factors, August 6, 1976, Washington, DC to continue discussion of methods of measuring power distribution in reactors whose cores have been fabricated by the General Electric Company.

*Regulatory Guides, August 11, 1976, Washington, DC to review working papers regarding future Regulatory Guides and proposed changes to existing Guides.

*North Anna Power Station, Units 1 and 2, August 11, 1976, Washington, DC to continue the review of the application of the Virginia Electric and Power Company for an operating license for Units 1 and 2.

*Peaking Factors, August 20, 1976, Washington, DC to continue discussion of methods of measuring power distribution in reactors whose cores are fabricated by the Babcock and Wilcox Company.

*Three Mile Island Nuclear Station, Unit 2, August 27, 1976, Harrisburg, PA to review the application of the Metropolitan Edison Company for an operating license.

FULL COMMITTEE MEETINGS

July 8–10, 1976

A. *Diablo Canyon Nuclear Power Station, Units 1 and 2 Seismicity and Seismic Design—Operating License Review.

B. *Westinghouse Electric Corporation Reference Safety Analysis Report–3S (RESAR–3S)—Preliminary Design Approval.

C. *Clinch River Breeder Reactor (CRBR)—Review of Current Status.

August 12–14, 1976

Agenda to be announced.

Dated: June 10, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76–17442 Filed 6–11–76;10:35 am]

[Docket No. 50–549]

NEW YORK STATE POWER AUTHORITY (GREENE COUNTY NUCLEAR POWER PLANT)

Consideration of Joint Hearings; Request for Comments

A utility in the State of New York which plans to construct a nuclear power plant must apply both to the Nuclear Regulatory Commission ("Commission") for permits and licenses to construct and operate the plant and to the New York State Board on Electric Generation Siting and the Environment ("Siting Board") for a Certificate of Environmental Capability and Public Need for construction, operation, and maintenance of the plant. Various persons and governmental agencies may be admitted as parties to the proceedings before either the Commission or the Siting Board, or both.

In the last several months there have been discussions between the Commission and the Chairman of the Siting Board on ways to better coordinate the exercise of their respective licensing authorities. One possible coordination mechanism which the Commission and the Siting Board are considering is the conduct of joint hearings. Joint hearings before the Commission and the Siting Board on matters within their concurrent jurisdiction (the National Environmental Policy Act of 1969 and Article VIII of the New York State Public Service Law, respectively) offer the potential to avoid unnecessary duplication and reduce the effort and costs which would otherwise be incurred by the parties were separate proceedings held. In addition, the holding of joint hearings offers the potential of materially assisting both agencies in compiling a full and complete evidentiary record on matters within their concurrent jurisdiction. On the other hand, there is the possibility that the conduct of joint hearings could give rise to difficulties in developing and implementing a common procedural format for the hearing.

The Commission and the Chairman of the Siting Board are considering a draft protocol which could be used for the conduct of joint hearings on aspects of applications by persons proposing to construct and operate nuclear power plants within the State of New York that are within the concurrent jurisdiction of both agencies. The draft protocol is primarily directed at future applications, but could be applied to the pending applications of the Power Authority of the State of New York to construct the Greene County Nuclear Power Plant in Greene County, New York.

Since the conduct of joint hearings will substantially affect the course of proceedings before the Commission and the Siting Board, and because the concept of joint hearings is a relatively new one, the Commission and the Chairman of the Siting Board have determined that public comments should be solicited. Any person desiring to submit comments on the feasibility and desirability of the conduct of joint hearings by the Commission and the Siting Board in general, and on the draft protocol, in particular, and its possible application to the proceedings on the Greene County plant, may do so by filing a written statement with:

Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

and

Samuel R. Madison, Secretary, State of New York, Board on Electric Generation Siting, and the Environment, Empire State Plaza, Albany, New York 12223.

Any comments submitted should be filed by July 14, 1976.

The proposed protocol is set forth below. Copies of any written statements filed in response to this notice will be available for public inspection at the following locations:

Nuclear Regulatory Commission, Public Document Room, 1717 H Street, N.W., Washington, D.C.

Nuclear Regulatory Commission, Local Public Document Room, Catskill Public Library, Franklin Street, Catskill, New York.

New York Public Service Commission, Agency Building Three, Empire State Plaza, Albany, New York 12223.

Copies of this notice are being served on all parties and petitioners for leave to intervene in the Greene County proceedings before both the Commission and the Siting Board.

Dated at Washington, D.C. this 10th day of June 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

DRAFT PROTOCOL FOR THE CONDUCT OF JOINT HEARINGS BEFORE THE UNITED STATES NUCLEAR REGULATORY COMMISSION AND THE NEW YORK BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT

I. STATEMENT OF PURPOSES

---------- has applied to the United States Nuclear Regulatory Commission (NRC) for a permit to construct the ---------- plant located at ---------- ----------, New York, and applied to the New York State Board on Electric Generation Siting and the Environment (Siting Board) for a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility. ---------- ---------- have petitioned to intervene as parties to the proceedings before either the NRC or the Siting Board, or both agencies.

A joint hearing before the NRC and the Siting Board on matters within their concurrent jurisdiction (the National Environmental Policy Act of 1969 and Article VIII of the New York State Public Service Law, respectively) would avoid unnecessary duplication, thereby expediting the decision-making process and reducing the time, effort, and costs which would otherwise be incurred by the parties were separate proceedings held. In addition, the holding of joint hearings will materially assist both agencies in compiling a full and complete evidentiary record on matters within their concurrent jurisdiction.

II. LOCATION OF JOINT HEARING

The joint hearing will be held in the vicinity of the proposed location for the ---------- plant and such other locations as may be suitable.

III. COMPOSITION OF THE JOINT HEARING BODIES

The joint hearings shall, for the NRC, be held before an Atomic Safety and Licensing Board (ASLB) and, for the Siting Board, a hearing body composed of a Presiding Examiner appointed by the New York State Department of Public Service and an Associate Examiner appointed by the New York State Department of Environmental Conservation (DEC).

IV. PROCEDURES FOR THE JOINT HEARING

A. *Transcript.* There shall be a single transcript of the evidence adduced at the joint hearing.

B. *Status Of Counsel For Agency Staffs.* For the purposes of preparing for and holding the joint hearing, Public Service Commission (PSC) Staff Counsel and Counsel for the DEC Staff shall be accorded all the rights and remedies of an interested State under § 2.715(c) of the NRC Rules of Practice [10 CFR 2.715(c)]. And for the purposes of preparing for and holding the joint hearing, Counsel for the NRC Staff shall be accorded all the rights and remedies of a party under Part 70 of the PSC Rules of Procedure [16 NYCRR 70.1 et seq.].

C. *Motions.* Presentation, disposition, form, content, and answers to a motion made before one hearing body, but not the other, shall be governed by that hearing body's rules of practice. Unless made orally on the record during the joint hearing, motions made before both hearing bodies shall be in writing, shall state with particularity the grounds and relief sought, and shall be accompanied by such supporting material as may be suitable. Within 10 business days after service of a written motion before both hearing bodies, a party may file an answer in support of, or in opposition to, the motion, accompanied by supporting material.

D. *Rulings.* The hearing bodies shall each make necessary rulings on procedural questions in accordance with the rules and regulations governing the respective agencies. Any objection to evidentiary offerings and motions shall be heard by both bodies and separate rulings by each body shall be made thereon. Where both bodies rule that an evidentiary offering is objectionable, the offering shall not be received in evidence and, except upon the concurrence of the hearing bodies, shall not be subject to cross-examination. Where only one body rules an evidentiary offering objectionable, the offering shall be received in evidence only by the other body. In such an instance, the ruling that the evidence is objectionable shall be entered into the transcript of the joint hearing, but the evidence so entered shall not be part of the evidentiary record of the body ruling that it is objectionable.

E. *Consolidation.* In view of the provisions of Section 145(1) of Article VIII of the New York Public Service Law, which prohibits the Presiding Examiner from consolidating the representation of governmental bodies or agencies, there shall be no consolidation of governmental bodies or agencies which are parties to the Siting Board proceeding.

V. COMMONALITY OF EVIDENTIARY RECORD

In order to assist both agencies in compiling a full and complete evidentiary record, any evidence or offer of proof on a matter within their concurrent jurisdiction submitted to one hearing body shall be deemed submitted to both hearing bodies. During the pendency of the joint hearing, no evidence or offer of proof shall be excluded on the ground that it is beyond the scope of specification of controverted issues. However, objections may be made for the purposes of the NRC proceeding on the ground that matters are beyond the scope of specification of controverted issues, and, after the conclusion of the joint hearing, the ASLB shall afford the parties to the NRC proceeding an opportunity to move to strike any evidence previously received and objected to on the ground that the evidence is beyond the scope of specification of controverted issues.

VI. PREHEARING CONFERENCES

Prior to the evidentiary hearing, the hearing bodies shall schedule and hold one or more joint prehearing conferences for the following purposes:

(1) Determining those matters which are properly the subject of the joint hearing;
(2) Formalizing and designating contentions already proffered as matters in controversy in the NRC proceeding;
(3) Considering the necessity or desirability of amending pleadings;
(4) Obtaining stipulations and admissions of fact and of the contents and authenticity of documents;
(5) Considering, to the extent feasible, identification of witnesses, limitation of the number of expert witnesses, and other measures to expedite the presentation of evidence;
(6) Setting of the hearing schedule, including the order in which subject areas shall be heard;
(7) Determining the necessity or desirability of site visits by the hearing bodies;
(8) Setting, in accordance with Section 145(3) of Article VIII of the New York Public Service Law, a date for filing notices of intent to submit testimony on a site not primarily proposed or alternatively listed by the applicant or an alternate facility or source of power not discussed by the applicant; and
(9) Considering any other measure which may expedite the orderly conduct and disposition of the joint hearing.

VII. WRITTEN TESTIMONY

A. *Use Of Written Testimony.* Unless otherwise allowed by the concurrence of the hearing bodies upon a showing of good cause, the direct testimony of a witness shall be submitted in written form. The proposed written testimony of an expert witness shall contain a statement of the witness' professional qualifications.

B. *Service Of Written Testimony.* Each party shall serve copies of its proposed written testimony on every other party and the hearing bodies in accordance with a schedule to be set jointly by the hearing bodies. In no event shall proposed written testimony be served less than 10 business days prior to the session at which that testimony is scheduled to be presented.

C. *Form Of Written Testimony.* Written testimony shall be typewritten and double spaced on paper measuring eight and one-half inches in width and 11 inches in length. The top, bottom, and left margins should be at least one and one-half inches. The name of the witness should be typed at the top center of each page one inch from the edge. The number for each page should be typed at the bottom center one inch from the edge. Each page should contain line numbers on the left side of the page.

VIII. SERVICE OF DOCUMENTS

Documents shall be served on each person on the attached list, or any revised list issued by the agencies, in the numbers specified. Service may be made by personal delivery, first class, certified, or registered mail, telegraph, or as otherwise authorized by law.

IX. CONDUCT OF EVIDENTIARY HEARING

A. *Commencement.* The evidentiary hearing shall commence at the place and on the date and time specified jointly by the hearing bodies.

B. *Preliminary Matters.* After such opening statements as members of the hearing bodies may wish to make and disposition of all preliminary matters, the hearing bodies shall hear all persons wishing to make limited appearances. Upon the completion of limited appearances, opening statements, if any, of the parties will be heard.

C. *Order Of Evidentiary Hearing.* The evidentia hearing shall commence with cross-examination of the applicant's direct case, after which there shall be an adjournment to allow the other parties time to prepare and serve their cases. The hearing shall resume with the presentation and cross-examination of these other parties' cases. The hearing bodies may provide for the presentation and cross-examination of these other parties' cases on a subject matter basis.

D. *Order For Cross-Examination.* Parties shall conduct cross-examination and recross-examination, if any, in the following order: applicant, PSC Staff, DEC Staff, intervenors, and NRC Staff. If they concur, the ASLB and the Presiding Examiner may change this order to accommodate the convenience of the parties, consistent with the orderly and expeditious conduct of the joint hearing.

E. *Rebuttal and Surrebuttal.* Rebuttal and surrebuttal cases, if any, shall, to the extent possible, be conducted at a single hearing session. The hearing bodies may provide for the presentation and cross-examination of rebuttal and surrebuttal cases on a subject matter basis.

F. *Procedure After Conclusion Of Joint Hearing.* After the conclusion of the joint hearing, each hearing body shall set a schedule for the submission of briefs, findings, conclusions, and recommendations as may be required under its own rules of practice. Each agency shall separately issue such decisions, certificates, licenses, or permits as may be called for under its governing laws, rules, and regulations.

X. PARTICIPATION

A party may participate pro se or by an attorney or other representative designated by that party. A party may designate an individual to conduct examination or cross-examination on that party's behalf regardless of whether that individual is the party's designated attorney or representative. A party is responsible for any examination or cross-examination conducted on its behalf.

XI. STANDARD OF CONDUCT

Any individual participating in the joint hearing shall conform to the standards of conduct and responsibility for attorneys appearing before courts of the United States or of the State of New York. Failure of an individual to conform to these standards will be ground for refusing to permit that individual's continued participation in the joint hearing.

XII. COOPERATION AMONG AGENCY STAFFS

The staffs of the Nuclear Regulatory Commission, the Public Service Commission, and the Department of Environmental Conservation shall cooperate to avoid unnecessary duplication in discharging their respective responsibilities in the joint hearing. The staffs shall consult each other in conducting their analyses and in preparing for, and participating in, the joint hearing. To the maximum extent possible, the staffs should avoid presenting repetitive evidence and should, if at least two of the staffs are in agreement on the merits of an issue, present only one set of testimony or one witness on that issue on behalf of the agreeing staffs.

[FR Doc.76-17441 Filed 6-11-76;10:34 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-238]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

JUNE 7, 1976.

By the Chief, Common Carrier Bureau.

The applications listed herein have been found, upon initial review to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309 (D) (1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Satellite Communications Services

349-DSE-P/L-76, Clinton Cablevision. For authority to construct and operate a domestic communications satellite receive-only earth station at this location Lat. 41°50'50" Long. 90°13'49". Rec. Freq: 3700-4200 MHz. Emission 36000F9. 10 meter antenna.

350-DSE-P/L-76, Cox Cable Communications, Inc., Morristown, Indiana. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location Lat. 39°38'47" Long. 85°40'55" Rec. freq: 3700-4200 MHz. Emission 36000F9, using a 10 meter antenna.

351-DSE-P-76, News-Press Gazette Co. D/B/A St. Joseph Cablevision St. Joseph, Missouri. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°44'19" Long. 94°45'09". Rec. Freq: 3700-4200 MHz. Emission 34000F9, using a 10 meter antenna.

352-DSE-P/L-76, RCA Alaska Communications, Inc., Shageluk, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 62°39'25" Long. 159°31'44". Rec. Freq. 3700-4200 MHz. Trans. Freq. 5925-6425 MHz Emission 25.7 F9. using a 4.5 meter antenna.

353-DSE-P/L-76, Potomac Valley Television Co., Inc., Cumberland, Maryland. For authority to construct and operate a domestic communications satellite received-only earth station at this location. Lat. 39°38'58" Long. 78°45'41" Rec. Freq. 3700-4200 MHz. Emission 36000F9. using an 11 meter antenna.

[FR Doc.76-17175 Filed 6-11-76;8:45 am]

[Report No. 809]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JUNE 7, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under Part 68, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21776-CD-P-76, Radio Broadcast Company (KWU209), C.P. for additional facilities to operate on 72.88 MHz, control to be located at a new site described as Loc. #5: 3600 Conshohocken, Philadelphia, Pennsylvania.

22126-CD-P-76, David M. Crouch dba Cactus Communications, Inc. (KUS217), C.P. for additional facilities to operate on 454.100 MHz to be located at a new site described as Loc. #2: 7711 Louis Pasteur Drive, San Antonio, Texas.

22127-CD-P-(2)-76, Nashville Mobilphone, Inc. (KUD203), C.P. for additional facilities to operate on 35.22 MHz at (2) new sites described as Loc. #2: 0.5 miles N of Old Hickory Blvd. & 1 mile W. of Granny White Pike, Nashville, Tennessee; and Loc. #3: 1¼ miles E. of U.S. 31 & East of Anderson Lane, Hendersonville, Tennessee.

22128-CD-P-76, Phenix Communications Company of Georgia, Inc. (KU0603), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. #2: 1932 Wynnton Road, Columbus, Georgia.

22129-CD-P-76, South Shore Radio-Telephone, Inc. (KUC967), C.P. for additional facilities to operate on 454.225 MHz to be located at a new site described as Loc. #2: Hines Hospital, Maywood, Illinois.

22130-CD-MP-(3)-76, Telephone Answering Bureau, Inc. (KWT998), Modification of C.P. for additional facilities to operate on 152.09 MHz, base, and 454.050 MHz, repeater, at Loc. #2: Mt. Mansfield, near Underhill, Vermont; and for additional facilities to operate on 459.050 MHz, control, at Loc. #3: 217 South Union Street, Burlington, Vermont.

22131-CD-P-76, William G. Bowles Jr., dba Mid-Missouri Mobilfone (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located 2.5 miles NW of Rolla on Camp Creek Rd., Missouri.

22132-CD-P-76, Buckeye Communications Company (KUS347), C.P. to reinstate expired C.P. operating on 152.24 MHz, located 50 W. Broad Street, Columbus, Ohio.

22145-CD-P-76, Radio Telephone Service, Inc. (New), C.P. for a new station to operate on 152.21 MHz to be located 2½ miles SSW of Bluefield, East River Mountain, Virginia.

22146-CD-P-(2)-76, Wyoming Telephone Company, Inc. (New), C.P. for a new station to operate on 152.66 & 152.54 MHz to be located approximately 3 miles SW of Pinedale, Wyoming.

22147-CD-P-76, Southwestern Bell Telephone Company (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located at 2205 NW Third Street, Amarillo, Texas.

22148-CD-P-76, E. B. Brownell dba Worland Services (new), C.P. for a new Dispatch station to operate on 158.55 MHz to be located South 7th Street and Big Horn River, Thermopolis, Wyoming.

22149-CD-P-76, The Lincoln Telephone & Telegraph Company (KUS403), C.P. to relocate facilities operating on 35.58 MHz to be located 2 miles East of Beatrice, Nebraska.

22150-CD-R-76, The Mountain States Telephone & Telegraph Company (KAR68) (developmental), Renewal of License expiring June 1, 1976. Term: June 1, 1976 to June 1, 1977.

22151-CD-P/ML-76, Anserphone, Inc. (KQK-587), C.P. to change antenns system and relocate facilities operating on 152.21 MHz to be located at Loy's Corner, 1 mile North of Girard, Ohio, Loc. No. 2.

22152-CD-R-76, General Telephone Company of California (KWT906) (developmental), Renewal of license expiring July 14, 1976. Term: July 14, 1976 to July 14, 1977.

22153-CD-R-76, Pacific Northwest Bell Telephone Company (KF2010) (developmental), Renewal of License expiring July 14, 1976. Term: July 14, 1976 to July 14, 1977.

22155-CD-R-76, New York Telephone Company (KC5161) (developmental), Renewal of License expiring July 6, 1976. Term: July 6, 1976 to July 6, 1977.

22157-CD-R-76, Walnut Hill Telephone Company, Inc. (KLB682), Renewal of License expiring July 1, 1976. Term: July 1, 1976 to July 1, 1978.

22158-CD-R-76, Redfield Telephone Company, Inc. (KLB515), Renewal of License expiring July 1, 1976. Term: July 1, 1976 to July 1, 1978.

22160-CD-P-76, Kern Valley Dispatch (new), C.P. for a new station to operate on 152.12 MHz to be located 5 miles South of Kernville, California.

22161-CD-P-76, William L. Eisele dba Lake Shore Communications (KJU804), C.P. for additional facilities to operate on 152.21 MHz located 4 miles NW of LaPorte, Junction of Johnson RD. 250 N. & road 500 west, LaPorte, Indiana.

22162-CD-P-76, William L. Eisele dba Lake Shore Communications (KSJ818), C.P. for additional facilities to operate on 152.21 MHz located at Junction of Route 49 and Road 750 North, Four Miles North, Valparaiso, Indiana.

22163–CD–MP–76, Gulf Central Communications & Electronics, Inc. (KLF621), C.P. for additional facilities to operate on 72.18 MHz, control, located North side of SPRR tracks, 1 mile West of LaFayette, Louisiana.

22164–CD–MP–76, Gulf Central Communications & Electronics, Inc. (KWT974), C.P. for additional facilities to operate on 72.18 MHz, control, located North side of SPRR tracks, 1 mile West of LaFayette, Indiana.

22165–CD–MP–76, Gulf Central Communications & Electronics, Inc. (KWT975), C.P. for additional facilities to operate on 72.18 MHz, control, located North side of SPRR tracks, 1 mile West of LaFayette, Indiana.

22166–CD–P–(2)–76, P. L. Woodbury dba Mobilfone of Kansas (KWH 300), C.P. for additional facilities to operate on 454.100 & 454.175 MHz located 2 miles East of McPherson, Kansas.

MAJOR AMENDMENTS

20332–CD–P–(2)–75, Texas Comco, Inc., Hereford, Texas (new), Amend base frequency 454.375 MHz to read 454.325 MHz. All other particulars to remain as reported on PN No. 718 dated September 9, 1974.

20859–CD–P–(6)–75, Summit Mobile Radio Company, Buckfield, Maine. Amend base frequency 152.06 MHz to 152.18 MHz. All other particulars to remain as reported on PN No. 732 dated December 16, 1976.

CORRECTIONS

22117–CD–P–(3)–76, Radio Telephone Service, Inc. Correct entry to include 43.22 and 43.58 MHz. All other particulars to remain as reported on PN No. 808 dated June 1, 1976.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Informative

The following application is a major action as edfined by Section 1.11305 of the Commisison's Rules concerning the implementatoin of the National Environmental Policy Act of 1969 and may be subject to Petitions to Deny on Environmental grounds pursuant to Section 1.1311 of the Commission's Rules:

22154–CD–P–76, South Shore Radio-Telephone, Inc. (New), Lowell, Indiana.

RURAL RADIO SERVICE

60356–CR–P/L–76, The Mountain States Telephone and Telegraph Company (New), C.P. for a new rural subscriber station to operate on 158.04 MHz located 23.5 miles SW of Bairoil, Wyoming.

60357–CR–P/L–76, Vernon H. Johnson dba Grants Radiotelephone Service (KOA47) (reinstatement), C.P. to reinstate expired facilities operating on 158.67 MHz, located 16 miles NE of Grants, New Mexico, La Mosca Peak, New Mexico.

POINT TO POINT MICROWAVE RADIO SERVICE

3993–CF–P–76, N-Triple-C, Inc. (W0I31), 3 Miles SSE of Blanchard, Oklahoma. Lat. 35°05'57" N., Long. 97°38'10" W. C.P. to add 6226.9V towards Norman, Oklahoma via power split; 6226.9V towards Chickasha, Oklahoma via power split; and 6226.9H towards Purcell, Oklahoma via power split.

4018–CF–P–76, The Western Union Telegraph Company (KSG89), 4.7 Miles SE of Lebanon, Indiana, Lat. 40°01'17" N., Long. 86°-24'09" W. C.P. to add 3790V towards Indianapolis, Indiana on azimuth 143.4 degrees.

4019–CF–P–76, Same (New), Merchants Bank Bldg., Indianapolis, Indiana. Lat. 39°45'-59" N., Long. 86°09'28" W. C.P. for a new station on 3990V towards Lebanon, Indiana on azimuth 323.6 degrees.

4040–CF–MP–76, United States Transmission Systems, Inc. (KFA62), Highway 10, East of Viva, Louisiana. Lat. 30°44'00" N., Long. 91°37'44" W. Mod. C.P. to replace transmitter, correct coordinates to the above; change frequencies to 6226.9H towards St. Francisville, Louisiana on azimuth 88.0 degrees and 6197.2H towards Washington, Louisiana on azimuth 260.0 degrees.

4041–CF–MP–76, Same (KFA65), 4.0 Miles NE of Washington, Louisiana. Lat. 30°40'19" N., Long. 92°01'14" W. Mod. C.P. to replace transmitters, correct coordinates to the above, change frequencies to 5974.8H towards Viva, Louisiana on azimuth 79.6 degrees and 5974.8V towards Eunice, Louisiana on azimuth 255.0 degrees.

4042–CF–MP–76, Same (KFA67), 5.5 Miles North of Eunice, Louisiana. Lat. 30°34'36" N., Long. 92°25'43" W. Mod. C.P. to replace transmitter, correct coordinates to the above; change frequencies to 6197.2V towards Washington, Louisiana on azimuth 74.8 degrees and 6226.9V towards Kinder, Louisiana on azimuth 261.3 degrees.

4043–CF–MP–76, Same (KFA79), 3.2 Miles NE of Kinder, Louisiana. Lat. 30°31'25" N., Long. 92°49'23" W. Mod. C.P. to replace transmitter, correct coordinates to the above, change polarization on 5974.8 from H to V towards Gillis, Louisiana on azimuth 255.7 degrees and change frequency to 5945.2V towards Eunice, Louisiana on azimuth 81.1 degrees.

4044–CF–MP–76, Same (KFA80), Highway 171, 4.3 Miles NNW of Gillis, Louisiana. Lat. 30°25'59" N., Long. 93°13'49" W. Mod. C.P. to replace transmitter, change frequencies to 5945.2V towards Kinder, Louisiana on azimuth 74.5 degrees and 6226.9H towards Starks, Louisiana on azimuth 255.5 degrees.

4045–CF–MP–76, Same (KFA81), 1.4 Miles NNW of Starks, Louisiana. Lat. 30°20'03" N., Long. 93°40'00" W. Mod. C.P. to replace transmitter, correct coordinates to the above, change frequencies to 5974.8H towards Gillis, Louisiana on azimuth 75.2 degrees and 5974.8V towards Evadale, Texas on azimuth 260.7 degrees.

4046–CF–MP–76, United States Transmission Systems, Inc. (KFA84), 5.5 Miles SSE of Evadale, Texas. Lat. 30°16'49" N., Long. 94°02'27" W. Mod. C. P. to replace transmitters, correct coordinates to the above; change frequency to 6197.2V towards Loeb, Texas on azimuth 254.8 degrees.

4047–CF–MP–76, Same (New) 3.0 Miles NNW of Loeb, Texas. Lat. 30°14'20" N., Long. 94°12'59" W. C.P. for a new station on 5974.8V twoards Evadale, Texas on azimuth 74.7 degrees and 5974.8H towards Sour Lake, Texas on azimuth 256.1 degrees.

4048–CF–MP–76, Same (KFB21), Highway 105, 6.5 Miles NW of Sour Lake, Texas. Lat. 30°10'36" N. Long. 94°30'16" W. Mod. C.P. to replace transmitter, correct coordinates to the above; change frequencies to 6197.2H towards Loeb, Texas on azimuth 76.0 degrees and 6226.9V towards Hardin, Texas on azimuth 248.4 degrees.

4049–CF–P–76, Same (New), 3.5 Miles SSE of Hardin, Texas. Lat. 30°06'24" N., Long. 94°42'46" W. C.P. for a new station on 5945.2V towards Sour Lake, Texas on azimuth 68.3 degrees and 5945.2H towards Dayton, Texas on azimuth 246.2 degrees.

4050–CF–MP–76, Same (KFB22), Highway 90W, 5.0 Miles South of Dayton, Texas. Lat. 30°00'36" N., Long. 94°57'31" W. Mod. C.P. to replace transmitters, change frequencies to 6226.9H towards Hardin, Texas on azimuth 66.1 degrees and 6197.2H towards Humble, Texas on azimuth 257.9 degrees.

4051–CF–P–76, Same (New), 3.5 Miles SSW of Humble, Texas. Lat. 29°57'04" N., Long. 95°16'20" W. C.P. for a new station on 5974.8H towards Dayton, Texas on azimuth 77.7 degrees and 5974.8V towards Houston, Texas on azimuth 213.2 degrees.

4052–CF–MP–76, Same (KFB23), 2.0 Miles WNW of Downtown Houston, Texas. Lat. 29°45'50" N., Long. 95°24'47" W. Mod. C.P. to replace transmitters, change frequency to 6197.2V to 6197.2V towards Humble, Texas on azimuth 33.2 degrees.

4066–CF–P–76, Southern Pacific Communications Company (WQ035) Southern Pacific Station, El Centro, California. Lat. 32°47'36" N., Long. 115°33'03" W. C.P. to add 6226.9V towards Holtville, California on azimuth 95.4 degrees.

4067–CF–P–76, Same (New), 6.5 Milese SE of Holtville, California. Lat. 32°46'19" N., Long. 115°17'09" W. C.P. for a new station on 5974.8H toward El Centro, California on azimuth 275.5 degrees and 5945.2V towards Midway Wells, California on azimuth 114.6 degrees.

4068–CF–P–76, Same (WQ034), Southern Pacific Bldg., Midway Wells, California. Lat. 32°42'36" N. Long. 115°07'33" W. C.P. to add point of communications at 6226.9V towards Holtville, California on azimuth 294.7 degrees.

3981–CF–P–76, General Telephone Company of Kentucky (KYC62), Morehead CO, 154 East Second Street, Morehead, Kentucky. Lat. 38°11'01" N., Long. 83°26'05" W. C.P. to change polarity from V to H on 10955; replace transmitters and increase power on 10715V & 10875V; replace antenna toward Morehead R.S., Kentucky on azimuth 106 degrees.

3982–CF–P–76, Same (KYC63), Morehead R.S., 1.7 miles East of Morehead Kentucky. Lat. 38°10'38" N., Long. 83°24'24" W. C.P. to change polarity from V to H on 11485; replace transmitter and increase power on 11245V & 11405V; replace antenna; toward Morehead CO., on azimuth 286 degrees.

The following Renewal Application for the term ending February 1, 1981 has been received: Pioneer Telephone Company, 7905–CF–R–76, WQO50, Lacrosse, Washington.

4001–CF–P–76, Puerto Rico Communications Authority (WWT52), El Yunque, (U.S. Forest) Rd. #191, Luquillo, Puerto Rico. Lat. 18°18'45" N., Long. 65°47'31" W. C.P. to add 2178.0V toward a new point of communication at Culebra, Puerto Rico on azimuth 90.1 degrees.

4002–CF–P–76, Same (WWY89), Culebra, Pedro Marquez St., Culebra, Puerto Rico. Lat. 18°18'17" N., Long. 65°18'09" W. C.P. to add 2128.0V toward a new point of communication at El Yunque, Puerto Rico on azimuth 270 degrees.

4015–CF–P–76, American Telephone and Telegraph Company (KZA49), 2.75 miles West of Attica, New York. Lat. 42°51'42" N., Long. 78°20'19" W. C.P. to add 3870.0H, decrease power on 3710H and 3790H toward Middleport, New York on azimuth 340 degrees.

4016–CF–P–76, Same (WPE78), 1.6 miles SW of Middleport, New York. Lat. 43°11'37" N., Long. 78°30'03" W. C.P. to add 3990.0H; decrease power on 4070.0H and 4150.0H toward Attica, New York on azimuth 160 degrees; add 3910.0H, decrease power on 3750.0H & 3830.0H toward Olcott, New York on azimuth 316 degrees.

4017–CF–P–76, Same (WPE79), 1.9 miles SE of Olcott, New York. Lat. 43°19'45" N., Long. 78°40'45" W. C.P. to add 3950.0H and decrease power on 4030.0H & 4110.0H toward Middleport, New York on azimuth 136 degrees; add 3870.0H toward Toronto, Canada on azimuth 311 degrees.

3803–CF–MP–76, Microwave Transmission Corporation (WAU 218), 3.5 miles South of Ojai, California. (Lat. 34°24'17"N., Long. 119°14'44" W.); Modification of construc-

tion permit (1369-CF-P-76)—(a) to add 10855H MHz toward Broadcast Peak, California and (b) to replace transmitter (11095 MHz) toward Broadcast Peak, California, on azimuth 281 degrees/45 minutes.

3804-CF-MP-76, Microwave Transmission Corporation (KUV 78), 16 miles NW of Santa Barbara, California. (Lat. 34°31'31" N., Long. 119°57'29" W.): Modification of construction permit to add 11665H MHz toward San Antonio Hill, California, on azimuth 305 degrees/30 minutes.

3805-CF-MP-76, Microwave Transmission Corporation (WDD 52), 1.7 mile East of Casmalia, California. (Let. 34°50'30" N., Long. 120°29'53" W.): Modification of construction permit to replace transmitter (10735H MHz) toward Cuesta Ridge, California, on azimuth 346 degrees/05 minutes.

3994-CF-P-76, Eastern Microwave, Inc. (WQR 72), 1.4 mile SE of Hookstown, Pennsylvania. (Lat. 40°34'37" N., Long. 80°27' 24" W.): Construction permit to add 11135.OH MHz toward Coraopolis, Pennsylvania, on azimuth 106.7 degrees.

3998-CF-MP-76, United Wehco, Inc. (WPE 65), 2 miles ENE of Malvern, Arizona. (Lat. 34°22'41" N., Long. 92°47'06" W.): Modification of construction permit (5397-C1-P-73) to add new points of communications, 6226.9H and 6345.5H toward Arkadelphia, Arizona, on azimuth 226.0 degrees.

3999-CF-P-76, United Video, Inc. (WOE 68), 1 mile N. of Scullin, Oklahoma. (Lat. 34° 32'11" N., Long. 96°51'41" W.): Construction permit to add 6345.5H MHz toward Sulpher, Oklahoma and 6345.5V MHz toward Pauls Valley, Oklahoma, on azimuths 259.5 and 297.6 degrees, respectively.

4003-CF-P-76, Tower Communication Systems Corp. (New), Richfield, Ohio. (Lat. 41°14'53' N., Long. 81°35'56" W.): Construction permit for new station—10975H MHz toward Akron (W.), Ohio, on azimuth 176.5 degrees.

4004-CF-P-76, Tower Communication Systems Corp. (New), 0.16 mile on Dreisbach Road, Akron, Ohio. (Lat. 41°03'41" N., Long. 81°35'02" W.): Construction permit for new station—11385V MHz toward Canton (W.), Ohio, on azimuth 160.2 degrees.

4005-CF-P-76, First Television Corporation (New), ¼ mile N. of Route 50, 1 mile East of Berlin, Maryland. (Lat. 38°22'50" N., Long. 75°11'18" W.): Construction permit for new station—6360.3V MHz toward Salisbury, Maryland, on azimuth 99.2 degrees.

3919-CF-AL-(3)-76, Telecommunications of Oregon, Inc. Application for assignment of radio station licenses from Telecommunications of Oregon, Inc., Assignor, to Western Telecommunications, Inc., Assignee, for the following stations in the Point to Point Microwave Radio Service.

KPV 56, Goodnoe Hill, Washington.
KPV 59, Spout Springs, Oregon.
KOS 36, LaGrande, Oregon.

3920-CF-AL-(18)-76, Telecommunications, Inc. Application for assignment of radio station licenses from Telecommunications, Inc., Assignor, to Western Telecommunications, Inc., Assignee, for the following stations in the Point to Point Microwave Radio Service.

KPR 28, Capitol Peak, Washington.
KPR 29, Aberdeen, Washington.
KPZ 61, Wickiup Mtn., nr. Astoria, Oregon.
WHA 88, Scappoose, Oregon.
WHA 89, Silver Lake, Washington.
WHA 90, Seattle, Washington.
WHA 91, Mt. Defiance, Oregon.
WHA 92, Satus Peak, Washington.
WHA 93, Rattlesnake, Washington.
WHA 94, Jump Off Joe Butte, Washington.
WHA 95, Dayton, Washington.
WHA 96, Rosalia, Washington.
WHA 97, Browne Mtn., nr. Spokane, Washington.
WIV 64, Portland, Oregon (TOC).
WIV 67, Seattle, Washington (KING-TV).
WIV 69, Yakima, Washington (KIMA-TV).
WIV 70, Spokane, Washington (KXLY-TV).
WOE 80, Denver, Colorado (temp. fixed).

4039-CF-P-76, American Television & Communications Corporation (WAT 977), Carter Mtn. (WVIR-TV), Charlottesville, Virginia. (Lat. 37°59'00" N., Long. 78°28'54" W.): Construction permit to add 6226.9H MHz and 6286.2H MHz, via power split, toward Charlottesville (Virginia Television Company, Inc.), Virginia, on azimuth 355.2 degrees.

[FR Doc.76-17177 Filed 6-11-76;8:45 a.m.]

[Docket No. 20831; File No. TS 42-75]

HOWARD STEVEN STROUTH AND THE WESTERN UNION TELEGRAPH CO.

Memorandum Opinion and Order

By the Commission: Commissioner Reid absent.

1. We have before us for consideration (1) a formal complaint filed by Howard Steven Strouth (Strouth) on September 16, 1975, pursuant to Section 208 of the Communications Act of 1934, as amended, (the Act) directed against The Western Union Telegraph Company (Western Union) and (2) an answer and a motion to dismiss timely filed on October 22, 1975, by Western Union. Strouth alleges that Western Union unlawfully divulged to a third party a copy of, and additional information concerning, a telegram he sent on September 21, 1974. For the reasons set forth herein, we will designate this matter for hearing to determine whether Western Union has violated Section 605 of the Act.

2. The telegram in question was sent by Strouth from New York City via Western Union addressed to himself in Calgary, Alberta, Canada, and signed with the name of Bernard Hirschhorn,[1] an attorney in New York City. The purpose of the telegram appears to have been to indicate that Hirschhorn was familiar with certain information relevant to a lawsuit then being prosecuted by Strouth against Norsul Oil & Mining Ltd. (Norsul) in the Supreme Court of Alberta in Calgary. On September 23, 1974, Strouth prepared an affidavit to which he attached a copy of the telegram for the purpose of offering it as evidence in court. In the affidavit, he represented the September 21, 1974 telegram to be one "* * * which I have received from Bernard Hirschhorn." Although the affidavit, which contained other statements relevant to the lawsuit, was admitted into evidence on October 4, 1974, Strouth claims that the telegram and his statement concerning it were never entered into evidence in court.

3. Prior to the October hearing, attorneys for Norsul apparently came into possession of the affidavit and the copy of the telegram attached thereto.[2] In their pretrial preparation Norsul's attorneys requested the assistance of another attorney in New York City to confirm the telegram. Western Union admits that this attorney, acting on behalf of Norsul, by telephone, "* * * inquired and received from Western Union employees certain limited information relating to the telegram sent on September 21, 1974." Western Union does not disclose specifically what "limited information" was then given to Norsul's attorney or whether the substance of the telegram was divulged. However, it does appear that information concerning the contents of the telegram could have been divulged during that telephone conversation prior to any presentation by the attorney to Western Union of the telegram Strouth had attached to his September 23, 1974 affidavit. Western Union further admits that Norsul's attorney subsequently was given a copy of the telegram from its files and the symbols on the telegram were explained to him. Finally, Western Union admits that thereafter on October 3, 1974, one of its employees executed an affidavit prepared by Norsul's attorney, specifying information previously given to him by Western Union employees concerning the telegram and attaching to it the file copy of the telegram.[3] The record does not reveal whether Norsul's attorney at any time presented a copy of the telegram attached to Strouth's September 23, 1974 affidavit to Western Union before obtaining the file copy of the telegram sent by Strouth to himself bearing Bernard Hirschhorn's signature. As a result of Western Union's alleged unlawful divulgence of the telegram and information concerning it, Strouth claims that additional hearings were held in both Calgary and New York City, requiring his attendance or that of his attorney, and additional legal fees and expenses were incurred.[4] He therefore asks us to award him $10,000 in damages and

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[1] Strouth admitted that he sent the telegram in a letter addressed to the Commission dated February 11, 1975.

[2] The present record does not reveal whether Norsul obtained a copy of the telegram by normal service of process or by other means. Western Union claims that Strouth provided a copy of the telegram to Norsul's representatives.

[3] The affidavit stated in pertinent part the following information concerning the telegram:

(1) The telegram was sent on September 21, 1974, at 11:28 p.m. eastern daylight time.

(2) The telegram was called in from telephone number (212) 322-8700 which appears in the Queens telephone directory as the number for the Hilton Inn at JFK Airport.

(3) The telegram was charged to Dr. Howard Strouth, 120 Wall Street, New York, N.Y. 10004, telephone number (212) 944-4065.

(4) The individual calling in the telegram gave his name as Bernard Hirschhorn and his telephone number as that of the Hilton Inn at JFK Airport.

[4] A Commission of Inquiry was instituted by the Supreme Court in Calgary to investigate the circumstances surrounding the telegram by taking the deposition of Hirschhorn in New York. Hirschhorn denied sending the telegram in his deposition. We are informed that Strouth's suit against Norsul in the Calgary court is still proceeding.

to assess punitive damages against Western Union.

4. Western Union denies that it unlawfully divulged information concerning the telegram in violation of Section 605 of the Act since, it asserts, the full text of the telegram had been divulged by Strouth prior to the acts of its employees. Western Union argues that, once the telegram was published by Strouth, its existence, contents, substance, purport, effect or meaning had already been divulged and hence could be confirmed by Western Union employees without violation of Section 605. It concludes that the effect of the actions of its employees was to authenticate that which had already been divulged. Finally, Western Union contends that Section 605 does not prohibit disclosure of the name, address and telephone number of any person billed for a telegram and claims that this was the only information divulged by its employees not evident on the telegram previously disclosed by Strouth in his September 23, 1974 affidavit.

DISCUSSION

5. Western Union seeks dismissal of the complaint on grounds that Strouth did not verify it in accordance with Section 1.721 of the Commission's Rules because he failed to state that he believed the complaint's allegations to be true. We will deny the motion to dismiss. We do not agree that failure of the verification provided in the complaint to specifically state that Strouth believes the allegations contained therein to be true violates Section 1.721 of our rules. That rule merely provides a suggested form of verification for formal complaints filed thereunder. It clearly provides that:

> "The following form may be used in cases to which it is applicable, *with such alterations as circumstances may render necessary.*" (Emphasis added.)

Strouth has advised that the form of verification he used was the only one acceptable to the United States Consul in Costa Rica.[*] We believe that the form used constitutes an alteration in our suggested form rendered necessary by the requirement of the United States Consul. Furthermore, we view the form of verification provided to be in substantial compliance with Section 1.721 of our rules. Strouth has made certain representations in the complaint and has verified that he has been informed of the contents thereof. Therefore, we will hold him no less responsible for the truthfulness of those representations than we would had the form of verification suggested in our rules been used. The purpose of our procedural rules governing complaints is to make it easy, not difficult, for users of common carrier services to assert their rights under the Communication Act. In addition, these rules are designed to give a defendant notice of the nature of a claim and of the theory upon which the complaint seeks relief. We have previously made clear our intent that our procedural rules governing complaints should be liberally construed to achieve these objectives. The Bunker-Ramo Corp. et al., 25 FCC 2d 691, 696 (1970).

6. We now turn to the merits of the complaint and consider whether it states a cause of action under the Communications Act. For this purpose we must accept as true the material allegations therein. *Conely* v. *Gibson*, 355 U.S. 41 (1957). The issue therefore becomes whether Western Union violated Section 605 of the Communications Act by supplying a file copy of, and additional information concerning, the telegram to one other than its sender or addressee. Section 605 provides, in part:

> • • • no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority.

The original purpose of Section 605 was to prohibit blatant public or private encroachments on the privacy of telecommunication messages and to ensure the integrity of the communications system. *Nardone* v. *United States*, 302 U.S. 379, 383, 58 S. Ct. 275, 82 L. Ed. 314 (1937). Section 605, as amended in 1968, is designed to regulate, among other things, the conduct of communications common carrier personnel by prohibiting unauthorized divulgence of interstate communications by persons assisting in receiving or assisting in transmitting such communications. S. Rep. N. 1097 90th Cong., 2d Sess. (1968); 2 U.S. Cong. & Admin. News (1968) p. 2197.

7. We have in the past ordered a hearing to determine whether certain carriers had violated Section 605 and whether damages should be awarded for such violation. Sidney Gelb et al., 21 FCC 2d 407 (1970); 30 FCC 2d 679 (1971). We believe that Section 605, when read in conjunction with other provisions of the Act, vests in the sender of a telegram the right to seek an award of damages for injuries sustained as the result of a carrier's unlawful divulgence of its "existence, contents, substance, purport, effect or meaning." Section 206 of the Act provides that if any carrier commits an act prohibited by the Act, the carrier may be held liable for damages; and, under Section 207 "any person" claiming to be so damaged by a common carrier may either make a complaint to this Commission requesting damages or file suit in federal district court. If a complaint is filed with this Commission, Section 209 specifically authorizes us to award damages after a hearing on the complaint. We therefore conclude that Strouth, as the sender of the telegram, is entitled to seek damages from Western Union as the carrier of the telegram for injuries sustained as the result of any unlawful divulgence in violation of Section 605.

8. The prohibitions of Section 605 apply to those employees of a carrier who have intimate knowledge of the content of a communication. The section recognizes that the integrity of the communications system demands that the public be assured that employees of carriers who come to know the content of messages will in no way breach the trust which such knowledge imposes on them. *United States* v. *Russo*, 250 F. Supp. 55, 59 (Eastern District, Pennsylvania, 1966). "Persons" within the meaning of the section include both the carrier itself and persons employed by the carrier. *United States* v. *Finn*, 502 F. 2d 938, 942 (7th Cir, 1974). Carriers are responsible for violations committed by their employees. Moreover, it has been held that Section 605 specifically applies to telegram operators who either learn the content of the message or handle a written record of communications in the course of their employment. *United States* v. *Russo*, *supra*, p. 59. Although we are unable to determine from the record before us the identity of the persons who provided over the telephone "limited information" to Norsul's attorney concerning the Strouth telegram, Western Union admits that they were its employees. In addition, Western Union's employee who subsequently executed the affidavit prepared by Norsul's attorney stated that he was an "• • • employee of Western Union, fully conversant with the transmission, routing and billing of the telegrams transmitted in the normal course of a business day." Therefore, it appears that those employees of Western Union who disclosed information concerning the telegram were bound by the restrictions of Section 605 and that Western Union is thereby liable if any unlawful acts were committed by them in doing so.

9. The basic question before us therefore is whether any of the following alleged acts by Western Union's employees constituted an unlawful divulgence within the meaning of Section 605: (1) the disclosure during a telephone conversation with the New York attorney acting on behalf of Norsul of certain "limited information" concerning the telegram; (2) the disclosure in an affidavit signed by Western Union's Manager of Customer Services of certain information concerning the telegarm; and (3) the attachment of a file copy of the telegram to that affidavit. Divulgence within the meaning of Section 605 has been defined as the transmitting of a message to a third person without the consent of the sender. *U.S.* v. *Gruber*, 123 F. 2d 307, 309 (2d Cir 1941). We note that Western Union has not claimed to have had the direct consent of the sender of the telegram, whether he was either Strouth or Mr. Hirschhorn. Moreover, at least on the present record none of the acts of Western Union's employees appears to be conduct exempted under the provisions of Section 605 from the general rule

[*] Strouth resides in San Jose, Costa Rica.

against divulgence.[6] Western Union makes no claim that disclosures its employees made were in response to a subpena issued by a court of competent jurisdiction or on demand of other lawful authority. We therefore must consider whether the alleged actions of Strouth in filing the copy of the telegram in court or otherwise making a copy of it available to representatives of Norsul prior to the actions of Western Union's employees constituted implied consent to divulge or publish its existence or contents.

10. Even if, assuming arguendo, Western Union is correct in contending that once a communication has been made a matter of public record by its sender, subsequent disclosure of its existence and contents by the carrier for the purpose of confirming that which has been made a matter of public record would not violate Section 605 on the theory that all persons are presumed to have constructive knowledge of what is part of the public record, it is not clear on the present record whether the telegram was ever divulged by the sender, recipient, or agent prior to the acts of Western Union's employees in question. Western Union has not established the date upon which the telegram was allegedly filed in the Supreme Court of Alberta. More important, Western Union fails to make any showing that the alleged filing of the telegram in the Calgary proceeding actually made it a matter of public record. On the contrary, Strouth asserts that the telegram was never "used" in court as evidence in that proceeding. Finally, we are unwilling to accept on the record before us Western Union's argument that it was relieved from the restrictions of Section 605 when Strouth provided a copy of the telegram to Norsul. Section 605 clearly proscribes divulgence or publication of an interstate or foreign wire communication "* * * to any person other than the addressee, his agent, or attorney * * *" except for those exceptions in clauses (2) through (6). (See footnote number 6.) We find no support for Western Union's contention that the statute allows a carrier to divulge a telegram to a third party for purposes of verifying its existence and contents on the theory that the sender has implicitly consented to such divulgence merely by providing a copy of the message to the third party. The mere possession of a copy of a telegram by a third party, in and of itself without a more convincing manifestation of intent, certainly does not indicate either express or implied consent of the sender to its divulgence by a carrier.

11. Furthemore, we reject Western Union's argument that Section 605 does not prohibit the disclosure of telegraph company billing records. Western Union's reliance is misplaced on cases holding that disclosure for submission as evidence in a criminal proceeding of telephone toll records kept in the ordinary course of business by telephone companies is not proscribed by Section 605.[7] The holdings of these cases with regard to telephone toll records have never been extended to telegraph records of any form. Section 605 seeks to protect the integrity of communications from unscrupulous common carrier employees who are in a position to have knowledge of either the contents thereof, or the identity of those persons involved in the communication, or both.[8] Telephone calls are "fleeting and ephemeral things." Russo, supra, p. 59. Telephone company accounting and toll records do not show, nor can they be associated with, any records of either the content or substance of conversations or the identity of the particular persons engaged in them. Moreover, those telephone company employees handling accounting and toll records have no means of obtaining such knowledge. However, telegraph billing records are associated with a copy of the message sent, the name of the person sending the telegram, and the name of the person to whom the telegram is sent. Thus, telegraph company employees having access to the billing records of a telegram also have access to both the content and substance of the message and the identity of the parties to the communication. Section 605 proscribes the divulgence of such information by common carrier employees except in response to a subpena issued by a court of competent jurisdiction or on demand of other lawful authority.

CONCLUSIONS

12. There appear to be questions of fact which must be resolved before we can determine whether Western Union has violated Section 605. The attachment of a file copy of the telegram to the affidavit clearly did divulge the subject matter and contents of the message and the identity of the parties involved. There is inadequate information to determine whether the Western Union employees who divulged such information had the consent of the sender to do so. Furthermore, we are not provided with the extent of the information concerning the telegram orally given by Western Union employees to Norsul's attorney. Our record does not reveal what the "limited information" orally provided to Norsul's attorney during his telephone conversation with unnamed employees of Western Union prior to the execution of the affidavit was. Nor are we provided with the date of this conversation which Western Union admits took place. Finally, we are unable to determine the extent of the damages, if any, allegedly suffered by Strouth. Accordingly, we will designate this matter for evidentiary hearing.

13. In view of the foregoing, *It is ordered*, That pursuant to the provisions of Sections 4(i), 4(j), 206, 207, 208, 209, 409 and 605 of the Communications Act of 1934, as amended, this matter is designated for hearing on the following issues:

(1) Whether Western Union has violated Section 605 of the Communications Act; and

(2) What damages, if any, should be awarded to Strouth for any violation found under issue (1).

14. *It is further ordered*, That the hearing in this proceeding shall be held before an Administrative Law Judge at a time and place to be specified by subsequent order; and that such Administrative Law Judge shall upon closing of the record, prepare and issue an initial decision, which shall be subject to the submittal of exceptions and requests for oral argument as provided in Sections 1.276 and 1.277 of the Commission's Rules (47 C.F.R. Sections 1.276 and 1.277), after which the Commission shall issue its decision as provided in Section 1.282 of the Commission's Rules (47 C.F.R. Section 1.282).

15. *It is further ordered*, That Mr. Howard Steven Strouth and The Western Union Telegraph Company and the Chief, Common Carrier Bureau, are made parties to this proceeding.

16. *It is further ordered*, That, the burden of proof with regard to the issues specified herein shall be upon Strouth.

17. *It is further ordered*, That, where appropriate, the burden of production of relevant evidence shall be assigned by the Administrative Law Judge to such party as is in exclusive control of evidence.

18. *It is further ordered*, That Western Union's motion to dismiss is hereby denied.

Adopted: June 1, 1976.

Released: June 9, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-17171 Filed 6-11-76;8:45 am]

[Docket No. 20820, File No. BPCT-4674;
Docket No. 20821, File No. BPCT-4826]

MIDWEST ST. LOUIS, INC. AND NEW LIFE EVANGELISTIC CENTER, INC.

Application Construction Permit for a New Television Broadcast Station

By the Commission:

1. The Commission has before it the applications of Midwest St. Louis, Inc., St. Louis, Missouri, and New Life Evangelistic Center, Inc., St. Louis, Missouri,

[6] Clauses (2) through (6) of Section 605 are intended to be exceptions to the rest of the first sentence, thus listing the persons to whom communications can be divulged. *United States* v. *Finn*, *supra*, p. 942.

[7] See *United Stataes* v. *Covello*, 410 F. 2d 536 (2d Cir. 1968), *cert. den.*, 396 U.S. 879 (1969); *U.S.* v. *Cerone*, 452 F. 2d 274, 289 (7th Cir. 1971), *cert. den.*, 92 S. Ct. 1169; *U.S.* v. *Barnard*, 490 F. 2d 907, 913-914 (9th Cir. 1973), cert. den., 416 US 959; *U.S.* v. *Kohne*, 347 F. Supp. 1178, 1183 (D.C. Pa. 1972).

[8] Section 605 was derived from Section 27 of the 1927 Radio Act by applying identical language to wire as well as radio communications. Like telegraph operators, radiogram operators have access to the content of the communication as well as the parties involved. Thus, the idea of Section 27 in prohibiting the divulgence of such information was carried on by Section 605 as it applied to wire communication.

for construction permits for a new commercial television broadcast station to operate on channel 24, St. Louis, Missouri. These applications are mutually exclusive, in that, operating on the same channel in the same community, they would cause mutually destructive interference. Therefore, under the Ashbacker doctrine,[1] they must be designated for comparative hearing in a consolidated proceeding to determine which proposal, if granted, would better serve the public interest, convenience and necessity.

2. We would first note that Midwest St. Louis, Inc. ("Midwest") currently has pending before the Commission an application (File No. BSTV-13 for authority to conduct subscription television (STV) operations over the facilities of the proposed station. Since STV authorizations are granted only to licensees or permittees of television stations,[2] it will not be possible to act on Midwest's STV application unless Midwest prevails in the hearing and receives the construction permit for channel 24. Furthermore, inasmuch as licensees with STV authorizations are still required to provide "at least the minimum hours of non-subscription programming required by section 73.651,"[3] examination of the STV application is not necessary to the basic comparison of the competing applications. (However, the STV programming proposal may be compared under the standard comparative issue. See paragraph 11, below.) Accordingly, we will defer action on the STV application pending the outcome of this hearing.[4]

THE NEW LIFE EVANGELISTIC CENTER, INC. APPLICATION

3. To construct and operate the proposed station for one year, New Life Evangelistic Center, Inc. ("New Life") will require an estimated[5] $487,003. To finance the proposed station, New Life relies upon a combination of existing capital, loans from banks, deferred credit from equipment manufacturers, program contracts and profits from existing operations. New Life has shown the availability of $100,632 from funds on hand (excess of current and liquid assets over current liabilities); $106,540 from program contacts; $135,132 from loans from banks (net of interest); and $2,000 from loans from individuals. These availabe funds total $344,304, thereby failing to satisfy the Commission's requirement that applicants demonstrate the availability of funds to construct and operate the station for one year without the necessity of assuming profits from the operation of the station.[6]

4. In considering what funds appear to be available to New Life, the Commission has reached the following judgments: Two of the five submitted agreements to purchase advertising are not in contract form, but are, in fact, letters expressing an intent to purchase advertising time, lacking specificity regarding manner and time of performance. The remaining three agreements are in contractual form but likewise lack specificity as to the time of performance or the duration of the agreement. Thus, we have not credited New Life with the availability of some $33,500 in advertising revenues.[7] "Profits from existing Operations" appears to refer to New Life's ongoing fund-raising activities. Since New Life is primarily a religious organization and appears to subsist primarily on charitable donations, "profits" from operations are too speculative to be considered a reliable source of funds for construction and operation of the station. Thus, an additional $125,000 claimed by New Life has not been considered available. Also, "pledges" shown by New Life totalling $56,230 appear to have been assigned to the North St. Louis Trust Co., as collateral for the abovementioned $141,500 bank loan and do not appear available for construction or operations.[8] Finally, New Life has shown an agreement with another bank for a 1-to-1 line of credit: for each $1,000 certificate of deposit purchased by a New Life subscriber and pledged as collateral, the bank is prepared to lend New Life $1,000. New Life has submitted statements from two individuals pledging to purchase such certificates, but there has not been a showing that they have actually done so, or have the financial capacity to do so. Accordingly, those funds have not been considered available to the applicant.

5. It is also necessary at this point to consider New Life's request that its list of members of the public who have pledged funds for the construction and operation of the station be held confidential and not available for public inspection. New Life expresses the fear that "[a] significant temptation and risk exists that certain members of the St. Louis community will circularize New Life's donors * * * if the names and addresses are made public." New Life also indicates that it will make a copy of the list available to Midwest, if Midwest agrees to keep the list confidential.

6. We have decided to treat New Life's request as one made pursuant to section 0.459 of the rules, that information submitted to the Commission not be made routinely available for public inspection. (While submitted without reference to section 0.459, New Life's request substantially complies with the requirements of paragraphs (a) and (b) of that section.) As we understand it, these pledges have been assigned to North St. Louis Trust Co., as collateral for its loan to New Life. Thus, the pledges could not be considered part of the funds available to New Life for construction and operation, but only as evidence of the collateral provided for its loan. As set forth in its letter, North St. Louis Trust Co. has verified each pledge, "the collateral has been agreed to be pledged, financial statements have been reviewed, credit reports on each person reviewed and all currently satisfy our credit requirements." Under the circumstances, we do not see that the pledges are necessary to substantiate the availability of the loan. In keeping with the recognition that confidentiality should be the exception rather than the rule, see, e.g., Drachsler, The Freedom of Information Act and the Right of Non-Disclosure, 28 Administrative Law Review, 1, 7 (1976), rather than grant New Life's request for confidential treatment, we will simply return the documents concerning the pledges under separate cover.

7. Finally, New Life has requested a waiver of section 73.685(a) of the rules (minimum field intensity over the entire principal community to be served). According to New Life, "approximately eight residences fall outside of the proposed * * * principal community contour but within the City of Saint Louis." In support of its waiver request, New Life notes, among other things, that its proposed transmitter site is available on exceptionally favorable terms; that the site is in line with other television transmission antennas in St. Louis, thereby minimizing receiver antenna orientation problems; and that aeronautical safety considerations preclude greater antenna height above ground. In reviewing New Life's application, it has been difficult to determine, in part because of an eccentric municipal boundary, whether, in fact, a waiver of the rule is required. Thus, in view of the insignificant nature of the deviation, New Life has clearly demonstrated good cause for a waiver of the rules, should its application be granted, and the Administrative Law Judge is hereby authorized to grant New Life's waiver request.

MIDWEST ST. LOUIS, INC.'S APPLICATION

8. *Studio Transmitter Site Availability.* Midwest has proposed to locate its antenna on the transmission tower of KETC-TV, channel 9, St. Louis. It has submitted an agreement between itself and the St. Louis Educational Television Commission, licensee of KETC-TV, which permits Midwest to "utilize

[1] Ashbacker Radio Corp. *v.* FCC, 326 U.S. 327, 66 S. Ct. 148, 90 L. Ed. 108.

[2] 47 C.F.R. § 73.642(a).

[3] 47 C.F.R. § 73.643(c).

[4] Midwest's STV application is also mutually exclusive with the tendered application of Evans Broadcasting Corp., licensee of KDNL-TV, channel 30, St. Louis, for subscription television authority, and, should Midwest prevail in this proceeding, it will then be necessary to undertake comparative evaluation of the STV proposals.

[5] From information contained in the application, the estimate may be itemized as follows: Down payment on transmitting equipment, $132,520; 11 monthly payments on transmitting equipment, $136,752; down payment on studio equipment, $3,751; 13 monthly payments on studio equipment, $24,380; remodeling buildings, $20,000; other items (legal, engineering and installation expense and FCC grant fee), $49,600; and working capital, $120,000.

[6] Ultravision Broadcasting Co., 1 FCC 2d 544,5 RR 2d 343 (1965).

[7] Because of the vagueness of these agreements, we find it unnecessary to decide whether they otherwise constitute an adequate demonstration of advertising revenue. Cf., Erwin O'Connor Broadcasting Co., 25 RR 2d 782,787 (1972).

[8] As with the advertising agreements, supra, note 6 and associated text, the assignment of the pledges appears to avoid the necessity for deciding whether they constitute a sufficiently assured source of funds, i.e., do the pledgors have the financial capacity to fulfill the pledges.

[KETC–TV's] * * * transmission Tower location for the purpose of * * * filing" its construction permit application. The agreement further commits Midwest and KETC–TV to enter into negotiations for location of a transmitter building and lease of antenna space should the Commission grant Midwest's application. However, the negotiation of a contract is subject to a number of conditions, including, among others, an engineering study of possible electrical interference; a structural analysis of the tower, and compliance of the transmitter building with requirements of the St. Louis County Planning Commission. Under the circumstances, we believe that the availability of Midwest's proposed transmitter location is subject to so many contingencies that it cannot be said that there is a reasonable assurance that the site will be available. See Milam and Lansman, 4 RR 2d 469 (Rev. Bd. 1965). Accordingly, an appropriate issue will be specified.

9. *Main Studio Location.* A further issue will apparently be required in connection with Midwest's proposal to locate its main studio at the transmitter location, outside the principal community to be served. Section 73.613(b) permits authorization of such locations, providing good cause is shown, and the public interest would not be disserved. In support, Midwest has asserted that the selection was made "for reasons of economy," and that the distance between the site and downtown St. Louis can normally be traversed "in about 30 minutes." We believe this showing is insufficient to satisfy the requirement of section 73.613(b). Assuming, for the purpose of discussion only, that "economy" itself constitutes good cause, the statement made by Midwest is conclusory. Moreover, in the absence of a demonstration of facilities available to serve the public (and also in view of the uncertainty concerning the availability of the site (see paragraph 5, above), it is not possible to conclude, merely from the statement of "normal" driving time, that the public interest would be served by authorization of a main studio at the proposed location.

10. *Financial Qualifications.* To construct and operate the proposed station for one year, Midwest will require an estimated* $2,299,000. Midwest has also estimated its costs for the proposed subscription television operation at $1,513,-200. Its total cash requirement, $3,812,-200, is to be met with a letter of credit from its parent corporation, Midwest Radio-Television, Inc.[10] Midwest Radio-Television, Inc., has demonstrated sufficient current assets in excess of liabilities to fulfill this commitment. However, if Midwest's proposed transmitter site is not available, see paragraph 8, above, it could be forced to incur significant expenses not included in its proposal. Therefore, should it develop that the proposed transmitter site is not available, this Order contains a limited issue to assess the impact of such a development on Midwest's estimated financial requirements and its financial qualifications.

11. With the exception of the matters discussed above, the Commission finds the applicants legally, technically, and otherwise qualified to own, operate and construct a commercial television broadcast station. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below. Because New Life appears to propose predominantly religious programming and Midwest proposes a subscription television service, evdience regarding programming may be received under the standard comparative issue.

Accordingly, *It is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Midwest St. Louis, Inc., and New Life Evangelistic Center, Inc., are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the followig issues:

(1) To determine, with respect to the application of New Life Evangelistic Center, Inc.:

(a) The funds available for the construction and operation of the proposed station.

(b) Whether, in the light of the evidence adduced pursuant to the above issue, New Life Evangelistic Center, Inc. is financially qualified to own and operate the proposed station.

(2) To determine, with respect to the application of Midwest St. Louis, Inc.:

(a) Whether the proposed transmitter location is available to the applicant.

(b) Whether, in light of the evidence adduced pursuant to the above issue (a), additional funds will be required to construct and operate the proposed station.

(c) Whether, in light of the evidence adduced pursuant to issues (a) and (b), Midwest St. Louis is financially qualified to own and operate the proposed station.

(d) Whether good cause exists for authorizing, pursuant to section 73.613(b) of the rules, the location of Midwest St. Louis, Inc.'s main studio outside the principal community to be served, and whether location of the main studio as proposed would be consistent with the operation of the proposed station in the public interest.

(3) To determine, on a comparative basis, which of the above-captioned applications, if granted, would better serve the public interest.

(4) To determine, in the light of the evidence on issues (1), (2) and (3) above, which, if either, of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594(a) of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

Adopted: May 25, 1976.

Released: June 8, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–17173 Filed 6–11–76;8:45 am]

TV BROADCAST APPLICATIONS

Ready and Available for Processing

By the Chief, Broadcast Bureau.

Notice is hereby given, pursuant to section 1.572(c) of the Commission's rules, that on July 30, 1976, the TV broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 29, 1976 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 July 29, 1976.

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 Communciations Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: June 7, 1976.

Released: June 9, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

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*Based on information contained in the application, this estimate can be itemized as follows: Equipment, including installation, $1,612,000; Studio and transmitter site rental, $48,000; other items (legal and engineering expense and FCC grant fee), $50,000; pre-operating period salaries, $14,000; and first year operating expenses, $575,000.

[10] Midwest Radio-Television, Inc., is licensee of WCCO AM–FM and TV, Minneapolis, Minnesota.

TELEVISION BROADCAST APPLICATIONS

BPCT-4904	New, Rockford, Illinois Lloyd Hearing Aid Corp. Channel 39 ERP, Vis.: 741 kW HAAT: 170 feet
BPCT-4905	New, Sheridan, Wyoming Duhamel Broadcasting Enterprises Channel 12 ERP, Vis.: 316 kW HAAT: 1220 feet
BPCT-4906	New, Fort Worth, Texas Channel 21, Inc. Channel 21 ERP, Vis.: 1803 kW HAAT: 1670 feet
BPCT-4910	New, Dickinson, North Dakota Myer Broadcasting Company Channel 7 ERP, Vis.: 235 kW HAAT: 870 feet
BPCT-4911	New, Topeka, Kansas Amaturo Group, Inc. Channel 43 ERP, Vis.: 1150 kW HAAT: 1120 feet
BPCT-4912	New, Longview, Texas Channel 16, Inc. Channel 51 ERP, Vis.: 631 kW HAAT: 750 feet
BPCT-4925	New, Columbus, Ohio Commercial Radio Institute Channel 28, ERP, Vis.: 1916 kW HAAT: 990 feet
BPCT-4926	New, Phoenix, Arizona The Legend of Cibola TV Co. Channel 33 ERP, Vis.: 589 kW HAAT: 1800 feet
BMPCT-7630	WTVY-TV, Dothan, Alabama WTVY, Inc. Channel 4 ERP, Vis.: 100 kW HAAT: 1875 feet

[FR Doc.76-17174 Filed 6-11-76;8:45 am]

[Docket No. 9944, File No. BP-14,016;
Docket No. 20819, File No. BP-14,036]

WEST SIDE RADIO, INC., ET AL.

Applications for Construction Permits

By the Commission:

1. The Commission has before it the above-captioned applications of West Side Radio, Inc. (West Side) Tracy, California, and Olympic broadcasters, Inc., T/A Olympia Broadcasters, Inc. (Olympic) Carmichael, California, which are mutually exclusive since mutually destructive interference would result if both were granted.

2. These applications have been before the Commission for many years. West Side's application was filed originally on August 21, 1950; Olympic's, on March 25, 1960. The reason for the unusually long delay in designating these applications is that they were filed prior to the adoption of the Clear Channel Report and Order (Docket 6741), 31 FCC 565, 21 RR 1801 (1961). As a result, action had to be withheld pending development of criteria and procedures for applications on channels adjacent to class I-A stations. Section 1.569 of the rules was adopted by the Commission in 1961. That section entitled "Applications for Frequencies Adjacent to Class I-A Channels," enumerates certain requirements which must be met before applications for stations within 30 kHz of class I-A channels can be acted upon. The applicants in this proceeding have finally resolved their difficulties with the relevant subsection 1.569.[1] Further, both applicants have amended their respective applications with regard to their legal, financial and technical qualifications. Hence, these applications can now be designated for hearing.

3. In the engineering material submitted with its application West Side has calculated the area and population to be served by its proposed facility based upon maximum expected operating values (MEOV's) rather than upon the theoretical values. Although MEOV's must be used for computing interference and overlap theoretical values must be used in determining service contours. As a result the area and population which West Side proposes to serve cannot be determined. Showings with respect to the areas and populations issue should be made with this in mind.

4. Inasmuch as West Side's application was accepted for filing prior to July 13, 1964, section 73.28(d) of the rules applies. Section 73.28(d)(3) states that, upon a showing that a need exists, a class II, III, or IV station may be assigned to a channel available for such class, even though interference will be received within its normally protected contours provided that, inter alia, the interference received does not affect more than ten percent of the population in the proposed station's normally protected primary service area. Since West Side's proposed service contours are based upon MEOV's rather than upon theoretical values, it cannot be positively determined whether West Side's proposed daytime operation complies with the provisions of section 73.28(d)(3). Commission engineering studies of West Side's proposal indicate that the signal of co-channel station KMPC, Los Angeles, interferes with West Side's proposed daytime service area. The only question is whether the interference involves less than or greater than ten percent of the population in the normally protected (0.5 mV/m) service area. Accordingly, an issue concerning the amount of daytime interference to be received by the West Side proposal will be added. If it is determined that the West Side proposal would receive interference from station KMPC involving more than ten percent of that population, then it will have to be determined whether the service to be provided by West Side justifies a waiver of section 73.28(d)(3). Olympic, on the other hand, has submitted data to establish that its proposed operation would result in a population loss of approximately six percent during daytime hours. Accordingly, a 73,28(d) issue is not warranted with respect to Olympic's application. The nighttime portions of both proposals comply with the ten percent rule since each would be the first station in its respective community.

5. Upon review of the applications, it appears that both proposed nighttime operations will protect all co-channel and adjacent channel domestic and foreign stations, existing and proposed, except for each other's with which each is mutually exclusive, and co-channel class I-B station KIRO, Seattle Washington. Using the relevant skywave field factor and critical angle curves,[2] it appears that West Side's proposed 0.025 mV/m—10 percent contour would overlap the 0.5 mV/m—50 percent contour of station KIRO, in contravention of section 73.182(a)(1)(ii) of the rules.[3] Therefore, an issue will be added to determine whether West Side's proposed operation will cause objectionable interference to station KIRO, Seattle. With regard to Olympic's proposal, the proposed 0.025 mV/m—10 percent contour overlaps KIRO's 0.5 mV/m—50 percent contour in the Pacific Ocean. This is not objectionable. However, Olympic's proposed 0.025 mV/m—10 percent contour loops around and returns to land in an area where KIRO's 50 percent signal

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[1] Until February 16, 1973, neither applicant was able to comply with section 1.569(b)(2)(iv) which requires that applicants for stations on certain frequencies (including 710 kHz), as a condition to processing, provide data to indicate that no interference or prohibited overlap would be caused to presently specified class II-A assignments assuming, inter alia, that such facilities be located at the nearest point on the boundary of the nearest state specified by the Clear Channel Decision. Since section 73.22 of the rules provides for a class II-A assignment for Nevada or Idaho on 720 kilohertz, these applicants would have had to show that their respective proposals would not cause interference or overlap to a class II-A station located at the nearest point on the California-Nevada border to their respective sites. However, that class II-A station has now been assigned to Las Vegas, Nevada, and neither of the proposed stations would cause interference to, or involve overlap with that facility. Additionally, both applicants have been granted waivers of section 1.569(b)(2)(i) which requires that applicants for stations on clear channels locate their transmitter sites inside the area encompassed by a 500-mile extension of the 0.5 mV/m—50 percent nighttime contour of class I-A stations on unduplicated channels. Although the proposed transmitter sites for both applicants are located outside of the area encompassed by the 500-mile extension of the 0.5 mV/m—50 percent nighttime skywave contour of class I-A station WLW, Cincinnati, Ohio (700 kHz, 50 kW, U), waivers were granted based upon a determination that the mountainous terrain of the California-Nevada border area would enable assignment of a class II-A station on 700 kHz which could serve the required unserved area, without involving first adjacent channel overlap with either proposal.

[2] See the note to section 73.185 of the rules which states that figures 1 and 6 of section 73.190 of the rules rather than figures 1a and 6a will be used in applying provisions of section 73.185 for applications filed before September 29, 1965, for new or changed facilities on certain clear channels, including 710 kilohertz.

[3] For example, at 330° true from West Side's proposed site, West Side's proposed 0.025 mV/m—10 percent contour extends over 350 miles, far beyond KIRO's 0.5 mV/m—50 percent contour.

is greater than 0.5 mV/m. Accordingly, an interference issue will be included to determine whether the 20 to 1 protection ratio of section 73.182 is being violated.

6. It appears that Olympic's proposed 5 mV/m contour penetrates the nearby city of Sacramento, California (9 miles from Carmichael). The population of Sacramento, according to the 1970 census is 254,413, whereas Carmichael's population is 37,625. Thus, under the Commission's Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190, 6 RR 2d 1901 (1965), a presumption arises that Olympic realistically intends to serve Sacramento, the larger community. However, Olympic submitted with its application, material in an attempt to rebut the aforementioned presumption.

7. Included in its rebuttal material was an affidavit by its consulting engineer stating that the proposed station's power of 250 watts is a minimum power permitted by the Commission's rules, and that the directional array proposed by Olympic is dictated by the applicant's obligation to protect other broadcast stations from interference. In addition, Olympic has alleged that Carmichael has problems and needs which are separate and distinct from those in Sacramento, and that the broadcast stations serving Sacramento have never been responsive to the particular problems and needs of Carmichael. Further, Olympic asserts that its proposed programming is designed to be responsive to the problems and needs of Carmichael, and the nearby communities of Rancho Cordova and Folsum, all of which have no local transmission service. Finally, Olympic alleges that the communities of Carmichael and Rancho Cordova will be able to generate sufficient advertising revenues to support the proposed station.

8. We have reviewed the data submitted by Olympic and find that it has effectively rebutted the presumption that it is realistically proposing to serve Sacramento rather than its specified community. The quantum of proof required to rebut the presumption will vary depending upon the engineering characteristics of a given proposal. Progressive Broadcasting Co., 34 RR 2d 991 (1975). In particular, the applicants' proposed power, antenna directionalization, and coverage are factors to be considered in determining the nature of the showing required, Policy Statement, supra. Although Olympic's 5.0 mV/m contour will penetrate Sacramento, the Commission believes that this penetration will be caused by factors other than Olympic's desire to serve the larger community. First, it is noted that Olympic proposes to operate with a power of 250 watts, the minimum power permitted by the Commission's rules. Also, its proposed transmitter site is located east of the center of Carmichael, away from Sacramento which is nine miles to the west. Further, it appears that the shape of the proposed directional pattern which result in 5.0 mV/m penetration of Sacramento, is dictated by the necessity to protect co-channel class I–B station KIRO, Seattle, Washington. Thus, since the applicant will use no more power than is necessary to meet the city coverage requirements for Carmichael, and since the resulting penetration of Sacramento is occasioned by technical requirements beyond its control, we will consider Olympic as proposing a local transmission service for Carmichael. See Howard L. Burriss, 27 FCC 2d 290, 20 RR 2d 1087 (1971), Pettit Broadcasting Co., 27 FCC 2d 985, 21 RR 2d 317 (1971), and cases cited therein.

9. Although the technical aspects of Olympic's showing are sufficient in themselves to support our finding that the applicant has effectively rebutted the 307(b)—suburban presumption, we note that Olympic has also submitted data indicating that Carmichael has distinct problems and needs apart from those of Sacramento, that it proposes to program to meet those needs, and that as a separate community of considerable size, possesses the economic potential to supply sufficient revenues to support a local transmission service of its own.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[1] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service, daytime and nighttime, from the respective proposals, and the availability of other primary aural (1 mV/m or greater in the case of FM) service to such areas and populations.

2. To determine whether the interference received from station KMPC, Los Angeles, California, would affect more than ten percent of the population within the normally protected primary service area of the proposed operation of West Side Radio, Inc., in contravention of section 73.28(d)(3) of the Commission's rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

3. To determine whether the proposal of West Side Radio, Inc. would cause objectionable interference to station KIRO, Seattle, Washington, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary services to such areas and populations.

4. To determine whether the proposal of Olympic Broadcasters, Inc., T/A Olympia Broadcasters, Inc. would cause objectionable interference to station KIRO, Seattle, Washington, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine, in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

12. *It is further ordered*, That KIRO, Inc., licensee of station KIRO, Seattle, Washington, is made a party to this proceeding.

13. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually, or if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of

[1] There are some discrepancies which would have to be resolved in the event of a grant of either application. While they are minor and do not require specification of issues in this hearing, it is appropriate to note them here.

With regard to Olympic's application:

MEOV's have been specified at all azimuths on the horizontal plane. Accordingly, it is necessary to specify MEOV's at all azimuths at each vertical angle.

With regard to West Side's application:

(i) The field ratios should be included on the polar plot of the horizontal pattern.

(ii) West Side has indicated that a theoretical pattern with MEOV's is proposed. However, some vertical sections of the proposed pattern are labeled "standard pattern." While it is permissible to use either theoretical or standard patterns (since the application was filed prior to 1971), West Side must be consistent in using entirely theoretical patterns or entirely standard patterns.

(iii) MEOV's must be specified at each azimuth in the vertical if there are MEOV's specified for that azimuth on the horizontal plane.

(iv) The labeling of the azimuths of the lower stacked section on each page containing two stacked sections is not correct.

(v) There are several misplots of the pattern; for example:

(a) At 301 degrees true on the horizontal polar plot, the theoretical pattern is plotted as over 80 mV/m while it should be less than 71 mV/m.

(b) At 165 degrees true, the MEOV on the horizontal polar plot is not equal to the MEOV on the 0 degree stacked section.

(c) The MEOV's on the 317 degree true vertical section are not equal to those on the various stacked sections at 317 degrees true.

The discrepancies in (v), above, are simply examples of misplots; the entire pattern must be examined to ensure that the theoretical pattern is plotted properly and that the MEOV's are consistent.

such notice as required by section 1.594 (g) of the rules.

Adopted: May 29, 1976.

Released: June 8, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-17172 Filed 6-11-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-698]

ARKANSAS-MISSOURI POWER CO.

Filing of Letter Agreement

JUNE 7, 1976.

Take notice that on May 21, 1976, Arkansas-Missouri Power Company (Ark-Mo) tendered for filing a Letter of Agreement dated May 13, 1976 between the Arkansas Electric Cooperative (Arkco) and Ark-Mo. Ark-Mo states that the Agreement provides for the sale by Ark-Mo of short-term firm power for the period between June 1, 1976 and May 31, 1976, and that revenues therefrom should be about $1,471,500 for the 12-month period. Ark-Mo requests an effective date of June 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 14, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17139 Filed 6-11-76;8:45 am]

[Docket No. ER76-496]

BANGOR HYDRO-ELECTRIC CO.

Compliance Filing

JUNE 7, 1976.

Take notice that on May 21, 1976, Bangor Hydro-Electric Company (Bangor) tendered for filing a rate schedule which is stated to be applicable to service to Swans Island Electric Cooperative (Swans Island). By order issued May 7, 1976, in this docket, the Commission, inter alia, ordered Bangor to tender for filing an appropriate rate schedule for service to Swans Island.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17142 Filed 6-11-76;8:45 am]

[Docket No. E-9417]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Filing of Additional Information

JUNE 8, 1976.

Take notice that on May 28, 1976, Consolidated Edison Company of New York, Inc. (Con Ed) tendered for filing additional information requested by Commission letter of July 10, 1975, with respect to its filing in the above-captioned docket. Con-Ed states that by letter dated April 25, 1975, it submitted for filing an agreement for the exchange of an entitlement in the Pumped Storage Hydro-Electric Project (Project) Northfield, Massachusetts which is owned by Connecticut Light and Power Company, Hartford Electric Light Company and Western Massachusetts Electric Company (NU Companies) for an equivalent amount of gas turbine or fossil steam capacity owned by Con-Ed (Exchange Agreement).

By letter dated July 10, 1975, the Commission requested further information regarding (i) the economic dispatch of Northfield pumped storage capacity and (ii) an explanation of the impact of the exchange transaction on the fuel and purchased power costs of the NU Companies, and the treatment of such fuel and purchased power costs in the operation of the NU Companies' fuel adjustment clause. Con-Ed states that the requested information is being submitted herewith.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17150 Filed 6-11-76;8:45 am]

[Project No. 2761]

EL DORADO COUNTY WATER AGENCY

Application for Preliminary Permit

JUNE 8, 1976.

Public notice is hereby given that an application for a preliminary permit was filed on September 22, 1975, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by the El Dorado County Water Agency (Correspondence to: W. P. Walker, Chairman, El Dorado County Water Agency, 2850 Cold Springs Road, Placerville, California 95667: with copies to: Joseph V. Flynn, 3122 Serano Court, Camino, California 95709; and Robert L. McCarty Esq., McCarty & Noone, 1225 Connecticut Avenue, N.W., Washington, D.C. 20036) for the proposed South Fork American River Project No. 2761, to be located on the South Fork of the American River and its tributaries. The proposed project would be located in El Dorado and Toiyabe National Forests and the Folsom District, Bureau of Land Management, in El Dorado and Alpine Counties, California.

According to the application, the proposed project would provide for the conservation of water for domestic, irrigation, manufacturing, municipal, and industrial uses, with power to be produced through the releases of water made for these uses. The project would have an installed capacity of approximately 300,000 kW.

The proposed project would consist of four developments.

The Plum Creek Development would consist of the Forni Diversion Dam, the Forni Tunnel and Pipeline, the Sherman Canyon Diversion Dam, the Silver Fork Pipeline and Tunnel, the Alder Creek Tunnel, the Alder Creek Dam and Reservoir with a storage capacity of approximately 129,000 acre-feet, Plum Creek Tunnel, Plum Creek Power Plant with an installed capacity of 80,000 kW, and Plum Creek Tailrace Tunnel.

The El Dorado Development would consist of the El Dorado Pipeline replacing the existing ditch, flume, and tunnel section of Project No. 184, currently licensed to Pacific Gas and Electric Company; the El Dorado Forebay, currently licensed as part of Project No. 184; the El Dorado Pipeline and Tunnel replacing facilities currently licensed as parts of Project No. 184; the El Dorado Penstock; and the El Dorado Power Plant, with an installed capacity of 800,000 kW to be located slightly downstream from the existing El Dorado powerhouse of Project No. 184.

The Coloma Development would consist of the Coloma Dam, Coloma Afterbay Dam, and powerhouse at each of the two dams with a total installed capacity of 45,000 kW.

The Salmon Falls Development would consist of the Salmon Falls Dam and Reservoir with a capacity of approximately 112,000 acre-feet, the Salmon Falls Afterbay Dam, and powerhouses at each of the two dams with a total installed capacity of 95,000 kW.

The power developed by the proposed project would be sold to a public utility or utilities for use and distribution.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should on or before August 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 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 a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17148 Filed 6-11-76;8:45 am]

[Docket No. ER76-701]

KENTUCKY UTILITIES CO.

Filing of Revised Fuel Clause

JUNE 7, 1976.

Take notice that on May 24, 1976, Kentucky Utilities Company (Kentucky) tendered for filing a revised fuel clause applicable to service rendered to the City of Nicholasville, Kentucky. Kentucky requests that the proposed revised fuel clause be permitted to become effective as of October 24, 1974, the effective date of the fuel clause presently being utilized.

Kentucky states that the instant filing is made in order to comply with Section 35.14 of the Commission Regulations as same have been amended by Order No. 517.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 15, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17141 Filed 6-11-76;8:45 am]

[Docket No. RP75-104]

LAWRENCEBURG CORP. GAS TRANSMISSION

Deferring Procedural Dates

JUNE 7, 1976.

On May 21, 1976, Staff Counsel filed a motion to defer the procedural dates fixed by the order issued June 27, 1975, as most recently modified by notice issued April 28, 1976, in the above-designated proceeding, pending Commission action on the settlement proposal filed on May 19, 1976.

Notice is hereby given that the procedural dates in the above matter are deferred pending further action by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17134 Filed 6-11-76;8:45 am]

[Docket No. ER76-539]

MISSOURI POWER & LIGHT CO.

Filing of Proposed Settlement

JUNE 4, 1976.

Take notice that on May 27, 1976, Missouri Power & Light Company (MPL) submitted a proposed settlement of all issues in this docket. MPL states that the proposed settlement would increase its rates for wholesale municipal customers by $80,647, resulting in $993,106 in total annual revenues from such customers. MPL further states that the Cities of Perry and Owensville, Missouri, will not be affected by the rate increase until such time as MPL is no longer contractually precluded from increasing the cities' rates.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, on or before June 17, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17131 Filed 6-11-76;8:45 am]

[Docket No. G-7645]

MOBIL OIL CORP.

Petition for Declaratory Order

JUNE 8, 1976.

Take notice that on May 24, 1976, Mobil Oil Corporation (Petitioner), 150 East 42nd Street, New York, New York, 10017, filed pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)), a petition for an order declaring whether Mobil can and should continue a sale to the City of Guymon, Oklahoma, from leases subsequently dedicated to interstate service under contract with Cities Service Gas Company.

Petitioner states that it makes a jurisdictional sale of gas to Cities Service Gas Company under a 1946 contract for the life of reserves in the Guymon-Hugoton Field, Texas County, Oklahoma. Petitioner also makes a non-jurisdictional sale from the same field to the City of Guymon, Oklahoma which will expire August 31, 1976. The contract with Cities Service is subject to gas reserved to the city of Guymon. Mobil has encouraged Guymon to obtain its future supply from a source other than Mobil either by contract for purchase or by a Section 7(a) application. In the interim Mobil wishes to extend its contract with Guymon for a period not to exceed September 1, 1977, pending Commission approval of a Section 7(a) application by Guymon unless Guymon otherwise obtains an adequate supply of gas. In the event Cities Service contracts to supply Guymon or be required to supply Guymon under a Section 7(a) order, Mobil will commit the reserved volume to Cities Service. Therefore, Petitioner states the total volume available to Cities Service will remain the same. Mobil requests an order by the Commission stating that Mobil will not be held in violation of its FPC certificate and rate schedule (FPC Gas Rate Schedule No. 283) under the Natural Gas Act for renegotiating its contract with Guymon for the one year period while the latter's 7(a) application is pending. Petitioner alleges that recent Commission orders and policy pronouncements tend to confuse the legal status of this and similar situations. Interpretation of these certificate and contract obligations is necessary for future planning. In conclusion, Mobil requests an order permitting it to continue to supply Guymon on an interim basis.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 23, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-17157 Filed 6-11-76;8:45 am]

[Docket No. ER76-702]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

JUNE 7, 1976.

Take notice that Niagara Mohawk Power Corporation, on May 24, 1976, tendered for filing as a rate schedule, a transmission agreement between Niagara Mohawk Power Corporation and Central Hudson Gas and Electric Corporation, dated September 19, 1975.

The service to be rendered by Niagara Mohawk Power Corporation (Niagara) provides for the transmission of capacity and energy between (a) Niagara's interface with the Rochester Gas and Electric Corporation transmission system and (b) Niagara's transmission connection at its Leeds Substation with the Central Hudson Gas and Electric Corporation (Central Hudson) or such other eastern terminus as may be mutually agreed upon from time to time.

Transmission capacity to be made available to Central Hudson will be that amount required to transmit Central Hudson's share of power and energy from the Sterling Nuclear Power Plant. Central Hudson's share of this plant is 17 percent of maximum plant rating.

Copies of this filing were served upon the following:

Central Hudson Gas and Electric Corporation, 284 South Avenue, Poughkeepsie, NY 12602.
Orange and Rockland Utilities, Inc., 75 West Route 59, Spring Valley, NY 10977.
Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, NY 14649.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17135 Filed 6-11-76;8:45 am]

[Docket No. ER76-704]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

JUNE 7, 1976.

Take notice that Niagara Mohawk Power Corporation, on May 24, 1976, tendered for filing as a rate schedule, a transmission agreement between Niagara Mohawk Power Corporation and Orange and Rockland Utilities, Inc., dated September 19, 1975.

The service to be rendered by Niagara Mohawk Power Corporation (Niagara) provides for the transmission of capacity and energy between (a) Niagara's interface with the Rochester Gas and Electric Corporation transmission system and (b) Niagara's transmission connection at its Leeds Substation, with Orange and Rockland Utilities, Inc. (Rockland) or such other eastern terminus as may be mutually agreed upon from time to time.

Transmission capacity to be made available to Rockland will be that amount required to transmit Rockland's share of power and energy from the Sterling Nuclear Power Plant. Rockland's share of this plant is 33 percent of maximum plant rating.

Copies of this filing were served upon the following:

Central Hudson Gas and Electric Corporation, 284 South Avenue, Poughkeepsie, NY 12602.
Orange and Rockland Utilities, Inc., 75 West Route 59, Spring Valley, NY 10977.
Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, NY 14649.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17136 Filed 6-11-76;8:45 am]

[Docket No. ER76-705]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

JUNE 7, 1976.

Take notice that Niagara Mohawk Power Corporation, on May 24, 1976, tendered for filing as a rate schedule, a transmission agreement between Niagara Mohawk Power Corporation and Central Hudson Gas and Electric Corporation, dated September 19, 1975.

The service to be rendered by Niagara Mohawk Power Corporation (Niagara) provides for the transmission of capacity and energy between (a) Niagara's East Volney Station and (b) Niagara's transmission connection at its Leeds Substation with Central Hudson Gas and Electric Corporation (Central Hudson) or such other eastern terminus as may be mutually agreed upon from time to time.

Transmission capacity to be made available to Central Hudson will be that amount required to transmit Central Hudson's share of power and energy from the Nine Mile Point 2 Nuclear Power Plant. Central Hudson's share of this plant is 9 percent of maximum plant rating.

Copies of this filing were served upon the following:

Central Hudson Gas and Electric Corporation, 284 South Avenue, Poughkeepsie, NY 12602.
Long Island Lighting Company, 175 East Old Country Road, Hicksville, NY 11801.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-17140 Filed 6-11-76;8:45 am]

[Docket No. ER76-703]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

JUNE 8, 1976.

Take notice that Niagara Mohawk Power Corporation, on May 24, 1976, tendered for filing as a rate schedule, a transmission agreement between Niagara Mohawk Power Corporation and Long Island Lighting Company, dated September 19, 1975.

The service to be rendered by Niagara Mohawk Power Corporation (Niagara) provides for the transmission of capacity and energy between (a) Niagara's East Volney Station and (b) Niagara's transmission connection at the Pleasant Valley Substation with Long Island Lighting Company (LILCO) or such other eastern terminus as may mutually be agreed upon from time to time.

The transmission capacity to be made available to LILCO will be that amount required to transmit LILCO's share of power and energy from the Nine Mile 2 Nuclear Power Plant. LILCO's share of this plant is 18 percent of maximum plant rating.

Copies of this filing were served upon the following:

Central Hudson Gas & Electric Corporation, 284 South Avenue, Poughkeepsie, NY 12602.
Long Island Lighting Company, 175 East Old Country Road, Hicksville, NY 11801.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with paragraph 1.8

and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17149 Filed 6-11-76;8:45 am]

NORTHERN ILLINOIS GAS CO.
Application

[Docket No. G-10632]

JUNE 8, 1976.

Take notice that on May 24, 1976,[1] Northern Illinois Gas Company (NI-Gas), P.O. Box 190, Aurora, Illinois 60507, filed in Docket No. G-10632 an application[2] pursuant to Section 1(c) of the Natural Gas Act for a declaration of NI-Gas' continuing exemption from the provisions of the Natural Gas Act notwithstanding its participation in a scheme for the rescheduling of deliveries of natural gas for which Northern Natural Gas Company (Northern) seeks authorization in Docket No. CP76-355,[3] all as more fully set forth in the application on file with the Commission and open to public inspection.

NI-Gas notes that in Docket No. CP 76-355 Northern has filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing deliveries of natural gas under an arrangement in which NI-Gas would reduce its takes of gas from Northern from October 1, 1976, through March 31, 1977, and October 1, 1977, through March 31, 1978, by an aggregate amount equal to 12,000,000 Mcf in each period and in which Northern would deliver or cause to be delivered to NI-Gas from April 1, 1977, through September 30, 1977, and April 1, 1978, through September 1, 1978, an amount equal to the total volume of 1,000 Btu per cubic foot gas by which deliveries to NI-Gas were reduced in each preceding period. NI-Gas states that it is advised that Northern needs to increase the volumes rescheduled with NI-Gas[4] in order to minimize disruption of service to Northern's customers in the winter periods. It is stated further that because of its storage capacity NI-Gas projects that it would be able to accept further reductions of deliveries from Northern during the winter periods if equivalent volumes of gas would be delivered over the summer periods for injection in its storage fields. Since the summer deliveries would replace volumes of gas normally delivered to NI-Gas by Northern in the winter periods, there would be no net increase in annual deliveries by Northern to NI-Gas, the application states.

NI-Gas states that all of the natural gas delivered to NI-Gas pursuant to the rescheduling arrangement would be received within the State of Illinois and would be ultimately consumed within the State of Illinois. It is stated further that there is involved only a rescheduling of deliveries and not an exchange of natural gas in interstate commerce. Accordingly, NI-Gas requests that the Commission declare that NI-Gas would continue to be exempt from the provisions of the Natural Gas Act notwithstanding its participation in the scheme for the rescheduling of deliveries.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17143 Filed 6-11-76;8:45 am]

[1] The application was tendered for filing May 24, 1976; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 1, 1976. Thus, filing was not completed until the later date.

[2] The pleading is styled "Petition of Northern Illinois Gas Company to Intervene [in Docket No. CP76-355] and Application for Declaration of Continuing Exemption under Section 1(c) of the Natural Gas Act [in Docket No. G-10632]".

[3] Notice published May 13, 1976 (41 FR 19771).

[4] The proposal by Northern is said to be a continuation, with modifications providing for deliveries of increased volumes, of that arrangement authorized by order of September 30, 1975, in Docket No. CP75-336.

[Docket No. ER76-83]

OHIO POWER CO.
Extension of Procedural Dates

JUNE 7, 1976.

On May 3, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued November 14, 1975, as most recently modified by notice issued March 25, 1976, in the above-designated proceeding. The motion states that the parties to this proceeding have been notified and none objects to the proposed dates.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, June 29, 1976.
Service of Intervenor Testimony, July 13, 1976.
Service of Company Rebuttal, July 27, 1976.
Hearing, August 10, 1976 (10:00 e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17137 Filed 6-11-76;8:45 am]

[Docket No. ER76-375]

OTTER TAIL POWER CO.
Filing

JUNE 7, 1976.

Take notice that on May 17, 1976, Otter Tail Power Company (Otter Tail) tendered for filing a response to the Commission's letter of January 16, 1976, in which the Commission notified Otter Tail that its filing of December 19, 1975, was deficient. The instant filing is intended to cure the deficiencies noted in the Commission's letter of January 16, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 11, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17138 Filed 6-11-76;8:45 am]

[Docket Nos. RP76-53 and RP76-60]

SOUTH TEXAS NATURAL GAS GATHERING CO.
Conference

JUNE 7, 1976.

Take notice that on June 23, 1976, at 10:00 A.M., an informal conference will be convened of all interested persons with a view towards settling this proceeding. The conference will be held in Room 6200 at the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of all issues arising in this proceeding and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17132 Filed 6-11-76;8:45 am]

[Docket No. RP76-17]

TEXAS GAS TRANSMISSION CORP.
Informal Conference

JUNE 7, 1976.

Take notice that on Thursday, June 17, 1976, Staff is convening an informal con-

ference for the purpose of discussing the issues in the above-referenced docket with a view toward settling this proceeding. The conference will start at 10:00 a.m., EDT in Room 3401, North Building, Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17133 Filed 6-11-76;8:45 am]

[Docket Nos. RP71-7; RP76-104; PGA76-4; DCA76-2]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment

JUNE 8, 1976.

Take notice that on May 21, 1976, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, third Revised Volume No. 1, the following revised tariff sheets:

Seventeenth Revised Sheet No. 3-A
Superseding Substitute Sixteenth Revised Sheet No. 3-A
First Alternate Seventeenth Revised Sheet No. 3-A
Superseding Alternate Sixteenth Revised Sheet No. 3-A
Second Alternate Seventeenth Revised Sheet No. 3-A
Superseding Substitute Sixteenth Revised Sheet No. 3-A
Third Alternate Seventeenth Revised Sheet No. 3-A
Superseding Alternate Sixteenth Revised Sheet No. 3-A

These revised tariff sheets are proposed to become effective as of July 1, 1976.

Alabama-Tennessee states that the purposes of such revised tariff sheets are to adjust Alabama-Tennessee's rates pursuant to the PGA provisions of Section 20 of the General Terms and Conditions of its tariff to reflect increased rates to become effective on July 1, 1976, to be charged by its sole supplier, Tennessee Gas Pipeline Company and bring up to date the Adjustment under Section 22 of the General Terms and Conditions resulting in a reduction from 1.53¢ to 1.15¢ per Mcf.

The revised tariff sheets provide for the following rates:

[In cents]

Rate schedule	17th revised sheet 3-A	1st alternate 17th revised sheet 3-A	2d alternate 17th revised sheet 3-A	3d alternate 17th revised sheet 3-A
G-1:				
Demand	$1.63	$2.32	$1.63	$2.32
Commodity	82.30	80.14	81.79	79.63
SG-1: Commodity	94.21	97.09	93.70	96.58
I-1: Commodity	87.67	82.14	87.15	81.63

Alabama-Tennessee states that copies of the filings have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 June 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17187 Filed 6-11-76;8:45 am]

[Docket No. RI76-129]

BYRON OIL INDUSTRIES, INC.

Petition for Special Relief

JUNE 8, 1976.

Take notice that on May 26, 1976, Byron Oil Industries, Inc. (Petitioner), 15991 Trowbridge Road, Chesterfield, Missouri 63017, filed a petition for speticipate as a party in any hearing therein, cial relief in Docket No. RI76-129, pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure, and Section 2.56a(g) of the Commission's General Policy and Interpretations.

Petitioner states that it is engaged in an active drilling program in Adams and Weld Counties, Colorado, but that Petitioner is effectively precluded from pursuing its devleopment program unless special relief is granted. Petitioner requests approval of an increase from 75.768 cents per Mcf for residue gas to 308.00 cents per Mcf for the sale of natural gas available for delivery and sale to Northern Natural Gas Company and which is being sold and delivered to Panhandle Eastern Pipeline Company pursuant to Commission authorization in Docket No. CP76-247.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 25, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 party wishing to become a party to a proceeding, or to parmust file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17198 Filed 6-11-76;8:45 am]

[Docket No. RI75-132]

CABOT CORP. (SW)

Proposed Settlement Conference

JUNE 8, 1976.

Take notice that a settlement conference will be held in the above-referenced docket at 10 A.M. (EST) on July 14, 1976, at the Federal Power Commission, 825 North Capitol Street, N.E., Room 8402, Washington, D.C. 20426. All interested parties are invited to attend this meeting.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17199 Filed 6-11-76;8:45 am]

[Docket No. CP76-378]

COLORADO INTERSTATE GAS CO.

Application

JUNE 7, 1976.

Take notice that on May 24, 1976, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-378 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sale for resale and delivery of natural gas under revised service agreements with Citizens Utilities Company (Citizens) and the City of Trinidad, Colorado (Trinidad), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes (1) to increase the minimum pressure for deliveries to Citizens from the White Rock and Huerfano sales meter stations from 260 psig and 225 psig, respectively, to 325 psig, (2) to render service to Citizens until November 1, 1986, in lieu of to November 1, 1976, and (3) to increase the Rate Schedule PS-1 peaking service annual capacity obligation to Trinidad from 8,450 Mcf to 16,900 Mcf of gas. Applicant states that the proposed changes in service would not require any additional facilities or operational changes by Applicant, nor would they affect Applicant's total peak day or annual transmission system sales or delivery capacity.

The application states that Applicant's existing service agreement with Citizens under Rate Schedule P-1 provides for minimum delivery pressures at the White Rock and Huerfano sales meter stations of 260 psig and 225 psig, respectively, and that Citizens has informed Applicant that if the delivery pressure were to drop to the contract minimums as these points Citizens would not be able to maintain its system pressure when its volumetric obligations would be at a maximum. Further, it is said, Citizens, in anticipation of increased contract minimums, replaced 7.7 miles of line with 8-inch pipe

during the summer of 1975; whereas, if the present contract minimums were to be retained, Citizens would be forced to use 10-inch pipe in order to meet its maximum delivery obligations. Applicant emphasizes that, in the ordinary course of its system operations, it maintains pipeline pressures in excess of 325 psig at both delivery points. Applicant also proposes to continue service to Citizens, beyond the expiration of the present service agreement on November 1, 1976, until November 1, 1986, and states that this would bring the Citizens agreement generally into line with Applicant's other resale service agreements.

The application states that Trinidad currently purchases peaking service gas from Applicant under Rate Schedule PS–1 and during the winter season, November 1 through March 31, may purchase up to 1,690 Mcf per day of such gas, with delivered limited to a maximum capacity volume of 8,450 Mcf or 5 days at maximum load. It is stated further that Trinidad will require a peaking service capacity volume of at least 12,213 Mcf for fiscal year 1977 and that because of projected customer growth this demand is expected to increase in future years. Accordingly, Applicant proposes to increase the peaking service capacity volume to 16,900 Mcf or 10 days at maximum load. It is stated that the increase of 8,450 in annual peaking service capacity volume would not increase Trinidad's total annual contract quantity of 1,150,000 Mcf and that additional annual gas purchased under Rate Schedule PS–1 would result in less gas' being available under Rate Schedule G–1.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17183 Filed 6-11-76;8:45 am]

[Docket No. CP76-380]

COLUMBIA GULF TRANSMISSION CO.

Application

JUNE 7, 1976.

Take notice that on May 24, 1976, Columbia Gulf Transmission Company (Applicant) P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP76–380 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of compression facilities on an existing platform in Block 250, Eugene Island Area, offshore Louisiana, owned by Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to install and operate a 3,500 horsepower gas-fired, turbine-driven compressor package. It is estimated that the facilities would cost $2,087,613, and Applicant states that they will be financed with current working funds.

The application states that the platform in Block 250 and certain other facilities (collectively referred to as the C–N–T pipeline) were installed under authority of a temporary certificate issued in Docket No. CP74–204 on January 10, 1975. The capacity of the C–N–T pipeline is said to be 2,250,000 Mcf at 14.73 psia of gas per day which is shared equally by Applicant, Tennessee, and Natural. Applicant states that in addition to its 75,000 Mcf per day capacity entitlement, it requires capacity to handle an additional 94,000 Mcf of gas per day. It is noted that although Tennessee and Natural are using their capacity entitlement in the C–N–T pipeline, they do not want additional capacity at this time. Accordingly, Applicant proposes to install and operate the compression facilities to handle the additional gas. The application states that the addition of the compression facilities would allow the pressure at the Block 250 platform to be maintained so that additional gas from Blocks 313 and 314 in the Eugene Island Area can enter the pipeline facilities and be transported onshore through the Blue Water Project, which is jointly owned by Applicant and Tennessee.

The application notes that Applicant's capacity in the C–N–T pipeline is proposed in the application in Docket No. CP74–204 to be used to attach Blue Water Project reserves of Exxon Company, U.S.A., in Block 314 in which Columbia Gas Transmission Corporation (Columbia Transmission) has purchase rights. Deliveries of gas from Block 314 to Applicant for Columbia Transmission during March 1976 are said to have averaged 74,376 Mcf of gas per day. Applicant states that it has constructed a pipeline to connect the C–N–T pipeline to the "A" production platform operated by Texaco Inc. in Block 313 through which gas production from Texaco's interest in the Block 313 reserves are delivered for the account of Columbia Transmission. Deliveries from Block 313 have averaged 33,998 Mcf of gas during March 1976 and are anticipated to reach 41,000 Mcf in the latter part of 1976, Applicant states.

The application states that Exxon is presently installing a second platform in Block 314 and that the wells to be drilled from this platform would be completed in reservoirs underlying Blocks 314 and 332 in the Eugene Island Area. The gas to be produced from the reservoirs underlying Block 332 is said to be dedicated to Columbia Transmission, Natural, Northern Natural Gas Company (Northern), and Trunkline Gas Company (Trunkline). It is stated that Applicant is negotiating with Northern and Trunkline to transport gas onshore for them through the C–N–T pipeline and the Blue Water Project. The application indicates that dry gas reserves from this area are estimated to be 286,206,000 Mcf.

Applicant requests that the applicable provisions, if any, of Section 2.65 of the Commission's General Policy and Interpretations (18 CFR 2.65) be waived in order that Applicant may effectuate the policy of the Commission set forth in Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) that jurisdictional pipelines should take all steps necessary for the protection of as reliable and adequate service as present supplies will permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this

application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17182 Filed 6-11-76;8:45 am]

[Docket No. ES 76-58]

EL PASO ELECTRIC CO.

Application

JUNE 7, 1976.

Take notice that on May 21, 1976, El Paso Electric Company (Applicant), filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to engage in negotiations with underwriters regarding the proposed issuance and sale of between 1,000,000 and 1,500,000 shares of common stock via negotiated offering. The sale of common stock is desirable in order to finance the Applicant's construction requirements and is necessary, in the judgment of the Company, to maintain a sound capital structure. Applicant estimates that the proposed issuance would raise approximately between $11,000,000 and $16,500,000.

Applicant is incorporated under the laws of the State of Texas, with its principal business office at El Paso, Texas and is engaged in the generation, transmission, distribution and sale of electrical energy in the States of Texas and New Mexico.

Applicant proffers that in view of market conditions now prevailing with respect to utility common stock and because of the relatively large size of this financing, it is presently believed that the sale of the common stock could best be accomplished by a negotiated underwriting.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1976 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[RF Doc.76-17186 Filed 6-11-76;8:45 am]

[Docket No. RI76-126]

ENERGY DEVELOPMENT CORP.

Petition for Special Relief

JUNE 8, 1976.

Take notice that on May 24, 1976, Energy Development Corporation (Petitioner), P.O. Box 8502, Roanoke, Virginia 24014, filed a petition for special relief in Docket No. RI76-126, pursuant to Order No. 481. Petitioner seeks a price of $3.78 per Mcf for the sale of gas from the Sandy River District, Iaeger E. C. Quadrangle, McDowell County, West Virginia, to Consolidated Gas Supply Corporation. Petitioner states that it is unable to commence deliveries on a viable economic basis unless the relief is granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17200 Filed 6-11-76;8:45 am]

[Docket No. RI76-127]

BILL J. GRAHAM

Petition for Special Relief

JUNE 8, 1976.

Take notice that on May 13, 1976, Bill J. Graham (Petitioner), 201 West Building, P.O. Box 5321, Midland, Texas 79701, filed in Docket No. RI76-127 a petition for special relief pursuant to Order No. 481 and Section 2.76 of the Commission's General Policy and Interpretations. Petitioner seeks a rate of $1.07 per Mcf for the sale of natural gas to El Paso Natural Gas Company from certain properties located in Pecos County, Texas. Petitioner asserts that without a substantial price increase it will be unable to perform necessary remedial work, and that if such remedial work is not undertaken, abandonment of the properties is imminent.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17201 Filed 6-11-76;8:45 am]

[Docket No. CP66-111]

GREAT LAKES GAS TRANSMISSION CO.

Application To Amend Permit

JUNE 7, 1976.

Take notice that on May 21, 1976, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP66-111 an application pursuant to Executive Order No. 10485 to amend its permit to construct, operate, maintain, and connect a parallel second pipeline crossing of the St. Mary's River at the international boundary between the United States and Canada, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Applicant states that in view of the increased requirements for natural gas in Sault Ste. Marie, Ontario, and the degree of dependence upon natural gas for fuel in the area, it has been determined that a second pipeline crossing of the St. Mary's River is necessary and prudent in order to protect the public served in the event of an outage of the existing single river crossing upon which the market is now totally dependent for its natural gas supply. It is stated that the additional crossing does not involve the transportation of any additional volumes of gas at this time over and above those which can be transported by means of the existing pipeline crossing. The length of the U.S. portion is estimated to be 1,100 feet.

The application indicates that the estimated cost of the U.S. portion of the crossing is $366,000 which cost will be financed by Applicant from internally generated funds.

Applicant asserts that the subject proposal does not in any way change the importation or exportation previously authorized but is to augment the physical facilities to insure continued service to the Sault Ste. Marie market.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before June 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17181 Filed 6-11-76;8:45 am]

[Docket No. CP76-376]

GREAT LAKES GAS TRANSMISSION CO.

Application

JUNE 8, 1976.

Take notice that on May 21, 1976, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP76-376 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in order that increased volumes of natural gas may be delivered to Michigan Consolidated Gas Company (Michigan Consolidated) at Sault Ste. Marie, Michigan, and to TransCanada Pipelines Limited (TransCanada) at Sault Ste. Marie, Ontario, and that the security of the latter service may be improved, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Applicant proposes to enlarge its facilities serving Sault Ste. Marie, Michigan, and Sault Ste. Marie, Ontario, in order to transport the volumes required by Michigan Consolidated and TransCanada to supply those markets and additionally proposes to install a second crossing of the St. Marv's River in order to protect the public served against an outage of the existing single river crossing upon which the market is now totally dependent for its natural gas supply. Applicant proposes to install a total of approximately 14.85 miles of 12-inch loop pipeline to parallel its lateral line presently serving Sault Ste. Marie. It is stated that this loop would be constructed from Valve No. 3 on the existing right-of-way and would run approximately 14.64 miles to the St. Mary's River where a second 12-inch crossing of the river will be made. It is said that the river crossing would be approximately 0.59 mile in length; 0.21 mile or 1,100 feet on the American side and 0.38 mile or 2,009 feet on the Canadian side.

Applicant estimates the total cost of the pipeline looping will be $2,546,900 which includes the cost of the U.S. portion of the second river crossing of approximately $366,000. The balance of the estimated $1,086,600 cost of the river crossing or $720,600 would be paid by TransCanada for construction on the Canadian side, it is stated. The application indicates that Applicant would finance its costs from funds generated internally, together with borrowings from banks under short-term lines of credit, if required, and that it is contemplated that any bank borrowing would be retired with funds generated internally.

It is asserted that TransCanada has requested Applicant to increase deliveries at Sault Ste. Marie, Ontario by 3,400 Mcf per day effective November 1, 1976, and that Michigan Consolidated has requested that its deliveries at Sault Ste. Marie, Michigan, be increased from 9,000 Mcf to 12,000 Mcf per day. Applicant states that a corresponding reduction in volumes would be made at other delivery points at which it is delivering gas to these companies and that no new volumes of natural gas beyond those previously authorized to be imported and exported and no new sales are involved in the instant application.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17192 Filed 6-11-76;8:45 am]

[Docket No. ER76-708]

INTERSTATE POWER CO.

Filing of Letter Agreement

JUNE 8, 1976.

Take notice that on April 5, 1976, Interstate Power Company (Interstate) tendered for filing a copy of a letter agreement certifying the completion of interconnection facilities between Interstate and the Public Utilities Commission of Springfield, Minnesota and the initiation of service as of February 17, 1976. Interstate states that the Electric Service Agreement between Interstate and the Public Utilities Commission of Springfield, Minnesota, designated Interstate Power Company FPC No. 114, was accepted for filing to become effective on the date of completion of interconnection facilities pursuant to the Commission's letter of July 18, 1974, and Section 1.1 of the Agreement.

According to Interstate, a monthly facilities charge of $1,183.00 to begin with the March, 1976 billing month has been agreed upon by Interstate and the Public Utilities Commission of Springfied pursuant to Section 2.2 of the Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17196 Filed 6-11-76;8:45 am]

[Docket No. RP75-104]

LAWRENCEBURG GAS TRANSMISSION CORP.

Motion for Approval of Stipulation and Agreement

JUNE 8, 1976.

Take notice that on May 19, 1976 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) filed a proposed Stipulation and Agreement to settle all matters in controversy in the above captioned docket along with a motion for its approval.

Docket No. RP75-104 was initiated on May 29, 1975 when Lawrenceburg filed revised tariff sheets reflecting an increase in rates and a change in rate design from two service rates, one firm and one excess, to a single firm service rate. By Commission order issued June 27, 1975 the proposed rates were accepted for filing and suspended for one day to become effective July 1, 1975, subject to refund. The revised service agreements were rejected since no certificate approval authorizing such revised service had been obtained, and the curtailment plan based on those tariff sheets was similarly rejected.

On July 14, 1975 Lawrenceburg filed revised tariff sheets reflecting the two service rates, which filing was accepted by letter order dated August 11, 1975. On June 23, 1975 Lawrenceburg filed in Docket No. CP75-370 for a certificate of public convenience and necessity for the change to a single firm rate. The requested certificate was granted by order issued October 31, 1975. On November 17, 1975 Lawrenceburg filed revised tariff sheets in the instant Docket No. RP75-104 reflecting a change to a single firm rate, which filing was accepted by order issued December 17, 1975 and suspended for one day until November 1, 1975, when it went into effect subject to refund.

Direct testimony has been filed by Lawrenceburg and the Commission Staff. No rebuttal testimony has been filed because the parties have been involved in settlement negotiations. There are no intervenors in the proceeding.

The settlement negotiations have resulted in the execution of the Stipulation and Agreement offered for the Commission's approval. Under the terms of the agreement, there will be a "locked-in period" extending from July 1, 1975 through October 31, 1975 reflecting the period in which the two rate schedules were applied. No refunds will be made for this period since Lawrenceburg failed to realize its rate of return, even after adjusting actual costs to stipulated settlement costs, because of the effect of required continued use of the two-part rate and the deepening curtailment on the system which resulted in unanticipatedly advantageous rates to Lawrenceburg Gas Company, one of its two jurisdictional customers.

Refunds applicable to revenues collected during the continuing period, on and after November 1, 1975, will be based on the difference between the filed rates and the settlement rates plus interest at 9% per annum.

The allocation of all costs of service except the cost of purchased gas will be on an "unmodified Seaboard" basis for the "locked-in period" and up to the date that the Commission order approving the Stipulation and Agreement becomes final and non-appealable. After that date, such costs will be allocated by the United method approved by the Commission in Opinion No. 671 dated October 31, 1973 in Docket No. RP72-75.

The bases and calculations in support of the rate changes underlying the Settlement Agreement were submitted by Lawrenceburg in Appendices A-D.

Lawrenceburg states that copies of the filing were served upon all parties on the official service list.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 22, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17188 Filed 6-11-76;8:45 am]

[Docket No. RP75-96]

MICHIGAN WISCONSIN PIPE LINE CO.

Extension of Time

JUNE 7, 1976.

On June 2, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 31, 1975, as most recently modified by notice issued May 7, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor Testimony, June 29, 1976.
Service of Company Rebuttal, July 13, 1976.
Hearing, July 27, 1976 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17185 Filed 6-11-76;8:45 am]

[Docket No. RP76-106]

NATURAL GAS PIPELINE CO. OF AMERICA

Proposed Changes in Rates and Charges

JUNE 8, 1976.

Take notice that on May 28, 1976, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes to the following tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 2:

THIRD REVISED VOLUME NO. 1

Thirtieth Revised Sheet No. 5
Fifth Revised Sheet No. 5A
First Revised Sheet No. 8
Third Revised Sheet No. 9
First Revised Sheet No. 10
First Revised Sheet No. 11
Sixth Revised Sheet No. 119
Fifth Revised Sheet No. 120-A

SECOND REVISED VOLUME NO. 2

Ninth Revised Sheet No. 220
Third Revised Sheet No. 270
First Revised Sheet No. 407
First Revised Sheet No. 433

The proposed tariff sheet changes would produce increased jurisdictional revenues of $35.9 million based on sales and transportation volumes for the test year, twelve months ended February 29, 1976, as adjusted.

Natural states that the jurisdictional rates as filed were designed to enable Natural to recover its increased jurisdictional cost of service for the test period which is based on the twelve months ended February 29, 1976, adjusted to include the annualized effect of changes which are known and measurable with reasonable accuracy and which will become effective by November 30, 1976. Natural states that the principal increased costs result from a proposed increase in overall rate of return to 10.57%, which would permit a rate of return to equity of 15.50%, a change in depreciation rate to 5.75%, additional return requirements for production advances committed for expenditure prior to November 30, 1976, which advances were contracted prior to Commission Order Terminating Advance Payment Program issued December 31, 1975, additional plant facilities and increased offshore transportation costs.

Copies of this filing have been served on the customers of Natural and interested public bodies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street N.E., Washington D.C. 20426, in accordance with 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 June 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17190 Filed 6-11-76;8:45 am]

[Docket No. CP76-385]

NORTHERN NATURAL GAS CO.

Application

JUNE 8, 1976.

Take notice that on May 27, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-385 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant, operating as and through its Peoples Natural Gas Division (Peoples), to construct and operate facilities to increase the compression horsepower at its Dalhart compressor station in Dallam County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the gas supply for its Bivins, Texas-to-Clayton, New Mexico, pipeline is purchased by Applicant from Colorado Interstate Gas Company (CIG) and that Peoples provides natural gas service to approximately 2,167 customers from the Bivins-Clayton pipeline system which are, for the most part, rural customers who require natural gas as fuel for their irrigation pump engines during the irrigation season. Applicant notes that on January 20, 1976, the Commission issued a temporary certificate to CIG in Docket No. CP75-347 authorizing the sale of an additional 7,000 Mcf per day in contract demand gas volumes to Peoples at Bivins, resulting in a total contract demand of 42,000 Mcf of gas per day, and states that to transport and deliver effectively the increased volumes along the Bivins-Clayton pipeline, especially during peak periods, which occur during the irrigation season, requires an increase in available horsepower at the Dalhart compressor station.

The application states that the most economical means of providing the increased horsepower at the Dalhart compressor station is to turbocharge the existing 600 hp. compressor unit, which would result in an increase of approximately 200 hp. The estimated cost of the proposed construction is $28,563, which would be financed with cash on hand.

Any person desiring to be heard or to make any protest with reference to said

application should on or before July 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.-10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17193 Filed 6-11-76;8:45 am]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Order Granting Late Intervention

JUNE 8, 1976.

On August 25, 1975, as completed on October 29, 1975, Sierra Pacific Power Company (Sierra) tendered for filing a revised tariff sheet reflecting a proposed rate increase. Notice of Sierra's filing was issued on November 5, 1975, with protests or petitions to intervene due on or before November 17, 1975. An untimely petition to intervene was filed by the Secretary of the Navy on May 6, 1976. Having reviewed the above petition to intervene, we believe that the Secretary of the Navy has sufficient interest in these proceedings to warrant intervention and that good cause exists for permitting the late filing.

The Commission finds: The participation of the Secretary of the Navy in these proceedings may be in the public interest, and good cause exists for permitting the late filing.

The Commission orders: (A) The Secretary of the Navy is hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedule heretofore established for the orderly and expeditious determination of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17194 Filed 6-11-76;8:45 am]

[Docket No. RP73-49]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Tariff

JUNE 8, 1976.

Take notice that on May 28, 1976, South Georgia Natural Gas Company (South Georgia) tendered for filing Alternate Twentieth Revised Sheet No. 3A to Original Volume No. 1 of its FPC Gas Tariff.

South Georgia states that the above sheet represents a rate change under its PGA Clause for the purpose of tracking a rate increase filing made by Southern Natural Gas Company on May 28, 1976. The instant filing will increase South Georgia's jurisdictional rates by $826,632. An effective date of July 1, 1976 is proposed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17191 Filed 6-11-76;8:45 am]

[Docket No. ER76-710]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

New Delivery Point

JUNE 8, 1976.

Take notice that on May 27, 1976 Public Service Company of Indiana, Inc. (PSI) tendered for filing an agreement dated May 1, 1976 between Jackson County Rural Electric Membership Corporation and PSI. This agreement is the second supplement to a contract between the same parties which is designated as PSI's Electric Tariff Original Volume No. 2.

The supplement provides for its amending of Exhibit A to the contract by the addition of reference to a new delivery point designated as the Heltonville delivery point. PSI states it will notify the Commission of the date on which service commences from this point.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17195 Filed 6-11-76;8:45 am]

[Docket Nos. RP73-114; RP74-24; and RP74-73; PGA76-3; DCA76-2; R&D76-2]

TENNESSEE GAS PIPELINE CO.

Proposed Rate Change Under Tariff Rate Adjustment Provisions

JUNE 7, 1976.

Take notice that on May 14, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed changes to Ninth Revised Volume No. 1 of its FPC Gas Tariff to be effective on July 1, 1976, consisting of the following revised tariff sheets:

Twelfth Revised Sheet Nos. 12A and 12B and Alternate Twelfth Revised Sheet Nos. 12A and 12B

Tennessee states that the purpose of Twelfth Revised Sheet Nos. 12A and 12B is to adjust Tennessee's rates pursuant to Articles XXIII, XXIV, and XXV of the General Terms and Conditions of its FPC Gar Tariff, consisting of a PGA rate adjustment, including producer rate increase which will become effective July 1, 1976, pursuant to Opinion Nos. 749 and 749-A, a rate adjustment to reflect curtailment demand charge credits and an R&D rate adjustment.

Tennessee also states that Twelfth Revised Sheet Nos. 12A and 12B reflect rates which are based in part on small producer purchases at rates above the levels established by Opinion No. 742. In recognition of the Commission's past practice by suspending such rates, Tennessee states that it is also filing Alternate Twelfth Revised Sheet Nos. 12A and 12B which reflect rates exclusive of increases due to small producer purchases above the levels set by Opinion

No. 742. Alternate Twelfth Revised Sheet Nos. 12A and 12B are to be effective on July 1, 1976, in the event the Commission suspends Twelfth Revised Sheet Nos. 12A and 12B.

Tennessee states that copies of the filing have been mailed to all its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17184 Filed 6-11-76;8:45 am]

[Docket No. CP74-150]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition to Amend

JUNE 7, 1976.

Take notice that on May 24, 1976, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-150 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the Natural Gas Act, by which petition Petitioner seeks authorization to continue the transportation of natural gas in interstate commerce for Public Service Electric and Gas Company (Public Service) under an amended transportation agreement, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

By order issued in the instant docket on June 13, 1974 (51 FPC 1902), Petitioner is authorized to transport on an interruptible basis for Public Service, an existing customer of Petitioner under Rate Schedule CD-3, such quantity of natural gas that Public Service makes available for transportation, not to exceed the volume curtailed by Petitioner from Public Service's Rate Schedule CD-3 contract demand, pursuant to a transportation agreement on file with the Commission as Petitioner's Rate Schedule X-71. The transportation service takes place between a point on Petitioner's offshore Texas lateral pipeline, where gas is delivered to Petitioner by Public Service's subsidiary, Energy Development Corporation (EDC), from the Colorado Delta Field, Brazos Area, offshore Matagorda County, Texas, and Petitioner's existing points of delivery to Public Service in New Jersey. Petitioner charges Public Service 22 cents per Mcf at 14.7 psia for each Mcf of gas transported and purchases a quantity of gas from EDC equal to 10 percent of the scheduled daily delivery to Public Service for Petitioner's own use as make-up for compressor fuel and line loss.

Petitioner states that it has amended the transportation agreement with Public Service and proposes to continue the transportation service under the amended agreement which is said to (1) lower the quantities of gas sold to Petitioner for compressor fuel and line loss make-up from 10 percent to 4.4 percent, (2) make provision for transition to a heat value unit of measurement, and (3) provide for change in the transportation rate upon appropriate filing with the Commission. These changes are said to conform to the terms of more recent long-haul transportation agreements entered into by Petitioner and approved by the Commission, of which Petitioner cites as examples its Rate Schedules X-81 through X-86. With respect to the gas for line loss and compressor fuel make-up, Petitioner states that its system-wide company use factor, based upon present pipeline throughput, is approximately 4 percent; and for ease of administration in transporting gas for others, Petitioner reserves compressor fuel and line loss volumes on a rate zone basis, with deliveries in Zone 3 as in the instant case requiring a 4.4 percent reservation. Petitioner reserves the right to change the percentage of reserved gas based upon a determination by Petitioner that a change is warranted by operating conditions.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17180 Filed 6-11-76;8:45 am]

[Docket No. RP75-74; PGA 76-3]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

JUNE 8, 1976.

Take notice that Transwestern Pipeline Company (Transwestern) on May 28, 1976, tendered for filing as part of its FPC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Third Revised Sheet No. 5
Third Revised Sheet No. 6
Alternate Third Revised Sheet No. 5
Alternate Third Revised Sheet No. 6

These sheets are issued pursuant to the Commission's Opinion Nos. 749 and 749-A to track Transwestern's increased cost of purchased gas at July 1, 1976 due to producer increases allowed as a result of such Commission Opinions 749 and 749-A, inclusive of a Special Surcharge Adjustment based on the estimated deferral of such producer increases up to the proposed effective dates.

Transwestern has proposed an effective date of August 1, 1976 for Third Revised Sheet Nos. 5 and 6, in order to assist its customer, Pacific Lighting Service Company, in meeting state regulatory requirements. As an alternative, Transwestern has proposed an effective date of July 1, 1976 for Alternate Third Revised Sheet Nos. 5 and 6.

Copies of the filing were served upon the company's jurisdictional customers and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 June 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17189 Filed 6-11-76;8:45 am]

[Docket Nos. G-16389, G-16382, RP61-18, RP63-1, and RP65-1]

UNITED GAS PIPE LINE CO.

Filing of Refund Plan

JUNE 8, 1976.

Take notice that on May 14, 1976, Southern Natural Gas Company (Southern) filed with the Commission a plan for the flow through of refunds disbursed by United Gas Pipe Line Company in the captioned dockets. Southern states that its plan is designed to comport with the provisions of settlement agreements in Docket Nos. G-13258, G-18512, G-20509, RP60-15, and RP64-31. Southern further states that it has not recovered a revenue deficiency shown in a prior order and that it is, accordingly, retaining $44,121.60 as an offset to its claimed revenue deficiency.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 June 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-17197 Filed 6-11-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 68]

ASSIGNMENT OF HEARINGS

JUNE 8, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 116200 (Sub-No. 2), United Parcel Service, Inc., now being assigned for continued hearing on June 15, 1976, at the New York Hilton Hotel, 1335 Avenue of the Americas, New York, N.Y.

MC 87113 Sub-No. 14, Wheaton Van Lines, application dismissed.

MC 14786 (Sub-No. 16), Greyhound Van Lines, Inc., application dismissed.

MC 41098 (Sub-No. 39), Global Van Lines, Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-17249 Filed 6-11-76;8:45 am]

[Notice No. 67]

ASSIGNMENT OF HEARINGS

JUNE 9, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION[1]

MC 135874 (Sub-51), LTL Perishables, Inc. now being assigned July 28, 1976 (3 days), at Omaha, Nebraska, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.17250 Filed 6-11-76;8:45 am]

[Notice No. 270]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 11, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before July 1, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76217. By the order of June 7, 1976 the Motor Carrier Board approved the transfer to Reese Associates, Inc., Greensburg, Pa., of a portion of the operating rights in Certificate No. MC 21996 issued August 24, 1964, to Reliable Transfer, Inc., Uniontown, Pa., authorizing the transportation of various commodities from Uniontown, Connellsville, and Greensburg, Pa., to specified areas in Pennsylvania and West Virginia. William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219, attorney for applicants.

No. MC-FC-76464. By order of June 7, 1976, the Motor Carrier Board approved the transfer to Barnett Truck Line, Inc., Kinston, North Carolina, of Certificate No. MC 116336, No. MC 116336 (Sub-No. 2), No. MC 116336 (Sub-No. 3), and No. MC 116336 (Sub-No. 5), issued June 28, 1960, September 10, 1963, March 16, 1964, and March 1, 1967, respectively, authorizing the transportation of fertilizer, animal and poultry feed, fertilizer materials, animal and poultry drugs, tonics, medicines, insecticides, and disinfectants and cleaning compounds, from Norfolk and Portsmouth, Va., to specified points in North Carolina. Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, N.C. 27601, attorney for applicants.

[1] This notice corrects the docket number.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-17079 Filed 6-11-76;8:45 am]

[Notice No. 71]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 11, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 47583 (Sub-No. 28TA), filed May 28, 1976. Applicant: TOLLIE FREIGHTWAYS, INC., 41 Lyons Ave., Kansas City, Kans. 66118. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vermiculite*, from the plantsite and storage facilities of Diversified Insulation at or near Wellsville, Kans. to points in Arkansas, Colorado, Illinois, Iowa, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas and Wyoming; and (2) *materials, equipment and supplies* used in the manufacturing and distribution of cellulose and vermiculite products, from points in Arkansas, Colorado, Illinois, Iowa, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South

Dakota, Tennessee, Texas, and Wyoming to the plantsite and storage facilities of Diversified Insulation at or near Wellsville, Kans., for 180 days. Supporting shipper: Diversified Insulation, Wellsville, Kans. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 108119 (Sub-No. 49TA), filed May 27, 1976. Applicant: E. L. MURPHY TRUCKING COMPANY, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and accessories necessary for the installation thereof*, from the facilities of Certain-teed Products Corp. located at McPherson, Kans., to points in North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certain-Teed Products, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 108341 (Sub-No. 48TA), filed May 24, 1976. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, 3027 N. Tryon St., Charlotte, N.C. 28208. Applicant's representative: Jack F. Counts (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Plasterco, Va., to Little Rock, Ark., for 180 days. Supporting shipper: United States Gypsum Company, 53 Perimeter Center East, Atlanta, Ga. 30346. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 109772 (Sub-No. 27TA), filed May 27, 1976. Applicant: ROBERTSON TRUCK-A-WAYS, INC., 7101 East Slauson Ave., Los Angeles, Calif. 90022. Applicant's representative: Arthur J. Woodard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used motor vehicles* (except those which have been repossessed, embezzled, stolen or wrecked, and except trailers), in secondary movements, in truckaway service between points in California on the one hand, and, on the other El Paso, Tex., 180 days. Supporting shippers: There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 111170 (Sub-No. 230TA), filed May 26, 1976. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 West Ave., El Dorado, Ark., 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp mill liquids*, in bulk, in tank vehicles, between Bastrop, La., on the one hand, and, on the other, Camden and Pine Bluff, Ark. and Natchez, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Paper Company, P.O. Box 2328, Mobile, Ala. 36601. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111274 (Sub-No. 14TA), filed May 25, 1976. Applicant: ELMER C. SCHMIDGALL AND BENJAMIN G. SCHMIDGALL, doing business as SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Box 356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Formac shake panels*, between the plantsite of Wilson Enterprises, Elk Grove Village, Ill., and Etna Green, Ind., under a continuing contract, or contracts, with Wilson Enterprises, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Wilson Enterprises, 1950 Prat Blvd., Elk Grove Village, Ill. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 112750 (Sub-No. 327TA), filed May 28, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Rd., New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), between Baltimore, Md., and Richmond, Va., on the one hand, and, on the other, points in West Virginia, under a continuing contract, or contracts with Federal Reserve Bank of Richmond, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Reserve Bank of Richmond, 8th and Franklin Streets, Richmond, Va. 23261. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113908 (Sub-No. 377TA), filed May 26, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit juice concentrate*, in bulk, from North East, Pa. and its commercial zone to Memphis, Tenn. and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keystone Foods, Inc., North East, Pa. 14787. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, BOp, 600 Federal Building, 911 Walnut, Kansas City, Mo. 64106.

No. MC 117036 (Sub-No. 21TA), filed May 26, 1976. Applicant: H. M. KELLY, INC., R.D. #1, P.O. Box 87, New Oxford, Pa. 17350. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt paving blocks and slabs, precast concrete pavers and materials and supplies* used in the installations thereof, on vehicles equipped with mechanical boom unloaders, from Leesport (Berks County) and Mt. Pleasant Township (Adams County), Pa. to points in Massachusetts, New York, Michigan, Ohio, Maryland and North Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hastings Pavement Co., 410 Lakeville Road, Lake Success, Long Island, N.Y. 11040. Send protests to: Robert P. Amerine, Dist. Supv., Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 117322 (Sub-No. 12TA), filed May 25, 1976. Applicant: LESTER NOVOTNY, doing business as CHATFIELD TRUCKING, R.R. 2, P.O. Box 55, Chatfield, Minn. 55923. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass and plastic products* from Chatfield, Minn. to points in Indiana, Ohio, Kentucky, Tennessee, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Connecticut, and Rhode Island. Supporting shipper: AFC, Inc., Highway 52 So., Chatfield, Minn. 55923. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118202 (Sub-No. 55TA), filed May 27, 1976. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maga-*

zines and periodicals, from Pewaukee, Wis. to Los Angeles and San Francisco, Calif. and Seattle, Wash. Supporting shipper: Quad Graphics, Inc., DuPlainville Road, Pewaukee, Wis. 53072. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118535 (Sub-No. 85TA), filed May 26, 1976. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N. W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, routes, transporting: *Recycled waste material*, in bulk, in pneumatic tank, from the plantsite and storage facilities of Grumman Ecosystems Corporation located in St. Louis, Mo. to Appleton, Green May, Menasha, Oshkosh, Waupum, and Winnebago, Wis., for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Grumman Ecosystems Corporation, 1111 Stewart Avenue, Bethpage, N.Y. 11714. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission-Bop, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119968 (Sub-No. 10TA), filed May 28, 1976. Applicant: A. J. WEIGAND, INC., Corner of County Road 102 and Twp. Road 419, Bolivar, Ohio 44612. Applicant's representative: Paul F. Berry, 8 East Broad St., Columbus, Ohio 43224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquids*, in bulk, from Baltimore, Md. to the plantsite of Schenley Distillers, Inc., at Schenley, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 124896 (Sub-No. 13TA), filed May 25, 1976. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485 (Thorne and Ralston Sts.), Wilson, N.C. 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities*, exempt from economic regulation, when moving in mixed shipments with bananas, from Charleston, S.C. to Chicago, Milan, and Peoria, Ill.; Ft. Wayne, Indianapolis, Lafayette and Terre Haute, Ind.; Bellefontaine, Cincinnati, Akron, Canton, Cleveland, Columbus, Springfield, and Toledo, Ohio; Detroit, Grand Rapids, Decatur, and Saginaw, Mich.; McKeesport, Philadelphia, and Pittsburgh, Pa.; New York and Lynbrook, N.Y.; Dry Ridge and Louisville, Ky.; Charleston, W. Va.; and Nashville, Tenn. and the commercial zones of the respectively named destination cities. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Banana Co., 1201 Brickell Ave., Miami, Fla. 33101 and Chiquita Brands, Inc., Prudential Center, Boston, Mass. Send protests to: Archie W. Andrews, Dist. Supvr., Bureau of Operation, ICC, P.O. Box 26896, Raleigh, N.C. 27611.

MC 124502 (Sub-No. 1TA), filed May 28, 1976. Applicant: ALLEGANY COUNTY TRANSIT AUTHORITY, 1000 Lafayette Ave., Cumberland, Md. 21502. Applicant's representative: Jeremy Kahn, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express, mail and newspaper* in the same vehicle with passengers, between Cumberland, Md. and Frostburg, Md., serving all intermediate points: From Cumberland via U.S. Highway 48, to its intersection with Maryland Highway 53, thence over Maryland Highway 53 to its intersection with U.S. Highway 220 (also from Cumberland via U.S. Highway 220), thence over U.S. Highway 220 Keyser, W. Va., thence over U.S. Highway 220 to its intersection with Maryland Highway 135, at or near McCoole, Md., thence over Maryland Highway 135 to its intersection with Maryland Highway 36, thence over Maryland Highway 36 to Frostburg, and return over same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, I.C.C., 416 Old Post Bldg., Wheeling, W. Va. 26003.

No. MC 126276 (Sub-No. 150TA, filed May 27, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container closures*, from the plant and warehouse sites of American Can Company, located at Batavia and West Chicago, Ill. to Brundidge, Ala., under a continuing contract with American Can Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Can Company, 915 Harger Road, Oak Brook, Ill. 60521. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 136008 (Sub-No. 74TA), filed May 25, 1976. Applicant: JOE BROWN COMPANY, INC., 2 Third St. N.E., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinker* (in bulk in dump vehicles), from the plant of Martin Marietta Cement Company at Tulsa, Okla. to the plant of Universal Atlas Cement Division of U.S. Steel Corporation at Independence, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Steel Corporation, 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 N.W. 3rd St., Oklahoma City, Okla. 73102.

No. MC 136247 (Sub-No. 11TA), filed May 28, 1976. Applicant: WRIGHT TRUCKING, INC., 409 17th Street, S.W., P.O. Box 346, Jamestown, N. Dak. 58401. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass beverage containers*, from Rosemount, Minn. to Jamestown, N. Dak., restricted to traffic originating at the plantsite and storage facilities of Brockway Glass Company, Inc., and destined to the plantsite and facilities of Coca-Cola Bottling Co., located at Jamestown, N. Dak., under a continuing contract with Coca-Cola Bottling Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coca-Cola Bottling Co., 1016 10th Street S.E., Jamestown, N. Dak. 58401. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 136318 (Sub-No. 40TA), filed May 28, 1976. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, N.C. 27360. Applicant's representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Hickory, N.C. to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to (1) traffic originating at the facilities utilized by Thomasville Furniture Industries, Inc. and; (2) to traffic moving under a continuing contract or contracts with Thomasville Furniture Industries, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thomasville Furniture Industries, Inc., P.O. Box 339, Thomasville, N.C. 27360. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 136605 (Sub-No. 15TA), filed May 26, 1976. Applicant: DAVIS BROS. DIST., INC., 2024 Trade Street, P.O. Box 1027, Missoula, Mont. 59801. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle-board*, from the U.S.-Canada International Boundary line located at or near Sweetgrass, Mont. to points in Nevada, California, and Arizona, on traffic originating at Slave Lake and Mitsue, Alberta, Canada. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: V. W. B. Hamilton, Transportation Coordinator, Weldwood of Canada Limited, 1055 West Hastings Street, Vancouver, B.C., Canada V6E 2E9. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 139922 (Sub-No. 3TA), filed May 26, 1976. Applicant: C. A. BOYD, doing business as C. A. BOYD TRUCKING, Route 7, Box 166, Sylvania, Ga. 30467. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides or skins*, green, salted, from Richmond County, Ga. to points in New Hampshire and Vermont, 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shapiro Packing Co., Inc., P.O. Box 119, Augusta, Ga. 30903. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm. 546, Atlanta, Ga. 30309.

No. MC 139926 (Sub-No. 5TA), filed May 25, 1976. Applicant: MILLER TRUCKING COMPANY, INC., 105 S. 8th Street, P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: C. L. Phillips, 1411 N. Classen, Room 248 Classen Terrace Bldg., Oklahoma City, Okla. 73106. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: (1) *Road paving asphalt* in bulk, from Tulsa, Cyril, Okmulgee and Ponca City, Okla., to points in Missouri; and (2) *road paving asphalt*, from Arkansas City, Kans., to points in Missouri, (1) and (2) are under a continuing contract with Southern Missouri Oil Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: erating authority. Supporting shpiper: Southern Missouri Oil Company, Inc., 529 Main, Cabool, Mo. 65689. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office Bldg., 215 N.W. 3rd Street, Oklahoma City, Okla. 73102.

No. MC 140146 (Sub-No. 3TA), filed May 27, 1976. Applicant: JEFFREY P. JENKS, doing business as JENKS CARTAGE COMPANY, 9644 Old Johnnycake Ridge Rd., Mento, Ohio 44060. Applicant's representative: Talikka, Ulrich, and Laird, One New Market Place, Penthouse Level, Painesville, Ohio 44077. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid membrane forming concrete curing compound and air entraining admixture* in drums and products used in manufacturing same, between the Murphy-Phoenix Co. plant site at Madison, Ohio and points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Missouri, Mississippi, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract or contracts with The Murphy-Phoenix Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Murphy-Phoenix Company, 9505 Cassius Avenue, Cleveland, Ohio 44105. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 141343 (Sub-No. 1TA), filed May 26, 1976. Applicant: WILLIAM H. COOKE, doing business as WILLIAM COOKE TRUCKING, 5512 Thomas Avenue South, Minneapolis, Minn. 55410. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, (a) from the plantsite of Schweigert Meat Company, located in Minneapolis, Minn., to points in Buffalo, Rochester, and Syracuse, N.Y.; Chicago, Ill.; Cincinnati, Ohio and Alachua, Fla; and (b) from Denison, Iowa and Crete, Nebr. to Alachua, Fla. Restriction: Service from Crete and Denison is restricted to the transportation in mixed loads with traffic originating in Minneapolis, Minn., under a continuing contract with Schweigert Meat Company, for 180 days. Supporting shipper: Schweigert Meat Company, 2605 Emerson Avenue North, Minneapolis, Minn. 55411 Send protests to: A N Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141362 (Sub-No. 4TA), filed May 26, 1976. Applicant: GEORGE A. SPARKS, doing business as ESCONDIDO TRUCK & EQUIPMENT, 630 Daisy, Escondido, Calif. 92027 Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed supplement, dry*, in bulk, from points in San Diego County, Calif., to points in Pinal and Pima Counties, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Protein Resources, Inc., 380 So. Twin Oaks Valley Road, San Marcos, Calif. 92069. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 141739 (Sub-No. 3TA), filed May 25, 1976. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 1523 18th NE, Puyallup, Wash. 98371. Applicant's representative: Jack R. Davis, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose Fiber products, insulating materials, fibred (fibromulch) ground cover and borates*, from the facilities of Fibron Corp., located in Portland, Oreg., to points in Arizona, Colorado, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, and points of entry on the U.S.-Canadian boundary in Washington, Idaho and Montana to points in B.C., Alberta, Sask. and Manitoba; and (2) *Borates*, from points in California to Portland, Oreg., under a continuing contract with Fibron Corp., for 180 days. Supporting Shipper: Fibron Corp., 6507 N. Richmond St., P.O. Box 03061, Portland, Oreg. 97203. Send protests to: L. D. Boone, T/S, Interstate Commerce Commission, Room 858, 915 2nd Ave., Seattle, Wash. 98714.

No. MC 141990 (Sub-No. 1TA), filed May 27, 1976. Applicant: G & L TRUCKING AND LEASING CO., Gibson Road, SE, Camden, Ark. 71701. Applicant's representative: Julian D. Streett, 139 Jackson Street, Camden, Ark. 71701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, clay, dirt, gravel, wash gravel and sand* in bulk, from points in Calhoun and Columbia Counties, Ark., to East Carroll, West Carroll, Morehouse, Union, Clairborne, Webster, Bossier, Caddo, De Soto, Red River, Bienville, Lincoln, Ouachita, Richland, and Madison Parishes, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Triangle Gravel Co., Inc., P.O. Box 4430, Monroe, La. 71201. Send protests to: William H. Land, Jr., District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 142000 (Sub-No. 1TA), filed May 27, 1976. Applicant: LOWELL SAMPSON, INC., 400 E. Lundy Lane, Leland, Ill. 60531. Applicant's representative: Albert A. Andrin, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat and bone meal, meat meal, blood meal and meat and bone meal tankage*, from Rochelle, Ill. to points in Iowa, Indiana, Wisconsin and Battle Creek, Grand Rapids and Holland,

Mich.; and (2) *dry rendered tankage, dry blood, meat and bone meat and meat meal,* from points listed in (1) above to Rochelle, Ill., for 180 days. Supporting shipper: Swift Fresh Meats Company, a division of Swift & Company, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 142047 (Sub-No. 1TA), filed May 28, 1976. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, P.O. Box 314, Commack, N.Y. 11725. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Rags and wiping cloths,* from the plantsites and shipping facilities of Mt. Vernon Wiping Cloth, Inc., located in the Bronx, New York, N.Y., to points in New Jersey, Ohio, Maryland, Delaware, Virginia, North Carolina, South Carolina, Georgia, and California, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mt. Vernon Wiping Cloth, Inc., 415 Soundview Ave., Bronx, N.Y. 10473. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142055 (Sub-No. 1TA), filed May 27, 1976. Applicant: THOMAS H. PRESLEY, doing business as PRESLEY'S TRUCKING SERVICE, P.O. Box 46, Shuqualak, Miss. 39361. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick and structural tile,* between the plant and facilities of Delta-Shuqualak Brick & Tile Company, Inc. located at or near Shuqualak, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, and Tennessee, under a continuing contract, or contracts, with Delta Brick & Tile Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delta Brick & Tile Company, Inc., P.O. Box 539, Indianola, Miss. 38751. Send protests to: District Supervisor Alan C. Tarrant, Interstate Commerce Commission, Bureau of Operations, Rm. 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 142100TA, filed May 26, 1976. Applicant: KENNETH R. HAUK, doing business as KEN'S EXPRESS, 1590 Keeven Lane, Florissant, Mo. 63031. Applicant's representative: B. W. La Tourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paint, watches and other valuable jewelry, portable electronic calculators, and citizen band radios,* between points in St. Louis County, Mo., and Fairview Heights, Alton, and Belleville, Ill., under a continuing contract, or contracts, with Venture Stores, a division of the May Department Stores Co., and the E. I. Du Pont de Nemours & Co., for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Venture Stores, a division of May Department Stores Co., 615 Northwest Plaza, St. Ann, Mo. 63074 and E. I. du Pont de Nemours & Co., 11708 Northline Industrial Blvd., Maryland Heights, Mo. 63043. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 142102TA, filed May 27, 1976. Applicant: JOHN ROSS, doing business as JOHN ROSS TRUCKING, 1050 NW. 125th St., Miami, Fla. 33168. Applicant's representative: John P. Bond, 2766 Douglas Rd., Miami, Fla. 33133. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Crated and uncrated new furniture,* from points at or near Miami, Fla., to points in Georgia, North Carolina, South Carolina, and Virginia; and (2) *crated and uncrated furniture components and furniture raw materials,* from Guntown, Miss., New Albany, Miss., and Memphis, Tenn., and points in North Carolina and South Carolina, to points at or near Miami, Fla., under a continuing contract, or contracts with Melville, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Melville, Inc., 3754 NW. 54th St., Miami, Fla. 33142. Send protests to: District Supervisor, Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 142103TA, filed May 28, 1976. Applicant: OCEANAIR TRUCKING & WAREHOUSING, INC., Building 2140, Door 513, Miami International Airport Drive, Miami, Fla. 33148. Applicant's representative: John P. Bond, 2766 Douglas Rd., Miami, Fla. 33133. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, class A and B explosives, household goods, livestock, commodities requiring special handling and special equipment, and commodities requiring refrigeration), between points in Dade County, Fla., all shipments having prior or subsequent movement by water, under a continuing contract, or contracts, with All-Americas Forwarding Co., for 180 days. Supporting shipper: All-Americas Forwarding Co., Bldg. 2140, Miami International Airport Drive, Miami, Fla. 33148. Send protests to: District Supervisor, Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 142104TA filed May 25, 1976. Applicant: A. T. NICHOLS TRUCKING CO., INC., P.O. Box 94, Millers Creek, N.C. 28651. Applicant's representative: Charlotte S. Bennett, P.O. Box 889, Wilkesboro, N.C. 28697. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber,* from North Wilkesboro, N.C., and its commercial zone, to points in Tennessee, Virginia, and West Virginia, under a continuing contract, or contracts with Ray Shepherd Lumber Company, Inc., for 180 days. Supporting shipper: Ray Shepherd Lumber Company, Inc., P.O. Box 1343, North Wilkesboro, N.C. 28659. Send protests to: District Supervisor, Terrell Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 142104 (Sub-No. 1TA), filed May 25, 1976. Applicant: A. T. NICHOLS TRUCKING CO., INC., P.O. Box 94, Millers Creek, N.C. 28651. Applicant's representative: Charlotte S. Bennett, P.O. Box 889, Wilkesboro, N.C. 28697. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Merchandise and commodities* as dealt in by Lowe's Companies, Inc., both retail and wholesale, and *such equipment, materials, and supplies* used in connection therewith, including, but not limited to, general commodities, forest products, building materials, between Lowe's Companies, Inc. stores located in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, under a continuing contract, or contracts, with Lowe's Companies, Inc. for 180 days. Supporting shipper: Lowe's Companies, Inc., P.O. Box 1111, North Wilkesboro, N.C. 28656. Send protests to: District Supervisor, Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 142108TA, filed May 25, 1976. Applicant: AVON CORRUGATED CORP., Campanelli Circle, Canton, Mass. 02021. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bulk crackers, consisting of flour, shortening, malt, and sale in bulk containers,* from the plantsite of Keebler Co., Macon, Ga., to the plantsite of Handy Pax, Canton, Mass., under a continuing contract or contracts with Handy Pax Inc., for 180 days. Supporting shipper: Handy Pax Inc., Companelli Circle, Canton, Mass. 02021. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., Boston, Mass. 02114.

No. MC 142109TA, filed May 25, 1976. Applicant: BRUCE MATTILA TRUCKING, 5601 E. Glenmore Rd., Minnetonka, Minn. 55343. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum waste and scrap,*

from points in Iowa, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, North Dakota, South Dakota, and Wisconsin, to Rosemount, Minn.; and (2) *recycled aluminum*, from Rosemount, Minn., to points in Iowa, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, North Dakota, South Dakota, and Wisconsin, under a continuing contract, or contracts, with Spectro Alloys Corp., Rosemount, Minn., for 180 days. Supporting shipper: Spectro Alloys Corp., Rosemount, Minn. 55068. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142110TA, filed May 26, 1976. Applicant: CHARLES WOODROW LAURAMORE, Rt. 1, Box 188, Glen Saint Mary, Fla. 32040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Fargo, Ga., to Jacksonville, Fla., under a continuing contract or contracts with St. Regis Paper Company, for 180 days. Supporting shipper: St. Regis Paper Company, P.O. Box 18020, Jacksonville, Fla. 32229. Send protests to: District Supervisor, G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 116248 (Sub-No. 8TA), filed May 18, 1976. Applicant: TRI-STATE BUS LINES, INC., 301 North Fourth Street, P.O. Box 947, Paducah, Ky. 42001. Applicant's representative: Charles Carter Baker, Jr., 18th Floor, Third National Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage; express and newspapers* when transported on the same vehicle with passengers, between Paducah, Ky., and Leitchfield, Ky., serving all intermediate points; from Paducah, Ky., over U.S. Highway 62, and/or the Western Kentucky Parkway and/or Interstate 24 to Leitchfield, Ky., and return over the same routes, between St. Charles, Ky., and Earlington, Ky., via U.S. 41 and/or U.S. Alternate 41 serving all intermediate points. This authority shall be tacked and joined at Paducah, Madisonville, Central City, Beaver Dam, and Leitchfield, Ky., with authority in Docket 116248. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Tennessee Lines, Inc., B. J. Green, District Manager, 711 Fifth Avenue South, Nashville, Tenn. 37203. Send protests to: Transportation Specialist, Kenneth R. Inman, Interstate Commerce Commission, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. W 543 (Sub-No. 7TA), filed May 19, 1976. Applicant: SEATRAIN LINES, INC., Port Seatrain, Weehawken, N.J. 07087. Applicant's representative: Richard V. Parks (same address as applicant). Authority sought to operate as a *common carrier by water*, in the transportation of *general commodities*, in marine-type containers/trailers with or without wheels, by non-self-propelled vessels with the use of separate towing vessels, between Weehawken, N.J. (Port of New York), and Boston, Mass., including all intermediate ports via inland waterways, restricted to traffic having a prior or subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support: Applicant has filed two verified statements by its own officers in support of the application. No shipper or public support statements have been tendered. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Room 618, Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-17251 Filed 6-11-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 9, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 29, 1976.

FSA No. 43172—*Freight, All Kinds from Los Angeles, California.* Filed by Pacific Southcoast Freight Bureau, Agent, (No. 269), for and on behalf of Union Pacific Railroad. Rates on freight, all kinds, in carloads and tank-car loads, as described in the application, from Group 19 viz.: Los Angeles, California, on the UPRR, to Group 26 viz.: Portland, Oregon, on the UPRR.

Grounds for relief—Market competition.

Tariff—Supplement 54 to Pacific Southcoast Freight Bureau, Agent, tariff 1-T, I.C.C. No. 1966. Rates are published to become effective on July 6, 1976.

FSA No. 43173—*Joint Water-Rail Container Rates—Seatrain International, S.A.* Filed by Seatrain International, S.A., (No. WEE-17), for itself and interested rail carriers. Rates on general commodities, between ports in the Caribbean, and rail carriers terminal in Freeport, Texas.

Grounds for relief—Water competition.

Tariff—Seatrain International, S.A., tariff GC-1, I.C.C. No. 21, F.M.C. No. 81. Rates are published to become effective on July 8, 1976.

FSA No. 43174—*Volcanic Scoria or Slag to Peoria, Illinois.* Filed by Southwestern Freight Bureau, Agent (No. B-601), for interested rail carriers. Rates on volcanic scoria or slag, not pumice stone, in carloads, as described in the application, from specified points in New Mexico and Texas, to Peoria, Illinois.

Grounds for relief—Market competition.

Tariff—Supplement 140 to Southwestern Freight Bureau, Agent, tariff SW/W-2006-J, I.C.C. No. 5056. Rates are published to become effective on July 10, 1976.

FSA No. 43175—*Rubber to Pinson Valley, Alabama.* Filed by Southwestern Freight Bureau, Agent (No. B-602), for interested rail carriers. Rates on rubber, artificial, neoprene or synthetic, crude, also rubber compounds, NOIBN, loose or in packages, in carloads, as described in the application, from Addis and Port Allen, Louisiana, to Pinson Valley, Alabama.

Grounds for relief—Rate relationship.

Tariff—Supplement 20 to Southwestern Freight Bureau, Agent, tariff 13-F, I.C.C. No. 5209. Rates are published to become effective on July 13, 1976.

FSA No. 43176—*Brick or Tile Raw Materials Between Points in Southern Territory.* Filed by M. B. Hart, Jr., Agent (No. A6346), for interested rail carriers. Rates on brick or tile raw materials, in carloads, as described in the application, between points in southern territory, including Ohio and Mississippi Rivers crossings, Virginia cities and Washington, D.C.

Grounds for relief—Short-line distance formula and grouping.

Tariffs—Supplements 47 and 3 to Southern Freight Association, Agent, tariffs 763-F and 763-G, I.C.C. Nos. S-1241 and S-1313, respectively. Rates are published to become effective on July 9, 1976.

FSA No. 43177—*Soil Compounds to Points in Southwestern and WTL Territories.* Filed by Southwestern Freight Bureau, Agent (No. B-605), for interested rail carriers. Rates on copper carbonate, manganese, zinc sulphate, etc., in carloads, as described in the application, from Erda, Utah, to points in southwestern and western trunk-line territories.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariffs—Supplement 258 to Southwestern Freight Bureau, Agent, tariff 270-F, I.C.C. No. 4832, and supplement 15 to Western Trunk Line Committee, Agent, tariff W-200-E, I.C.C. No. A-4936. Rates are published to become effective on July 13, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.17252 Filed 6-11-76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 7, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

COMM. ON REVIEW OF NATIONAL POLICY TOWARD GAMBLING

Sports Betting and College Athletics, single-time, college athletic directors, football and basketball coaches, George Hall, 395-6140.

COMMUNITY SERVICES ADMINISTRATION

Energy Data Form, CSA-188, quarterly, CSA energy grantees, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census: Survey of Local Government Tax Revenues and Intergovernmental Revenues, RS-5B, annually, South Dakota county auditors, Ellett, C. A., 395-5867.

Reconciliation Questionnaire, Housing Unit Coverage Check, 1976 Census of Travis County, Texas (Part of 1980 Decennial Census), DD-805, single-time, possible missed housing units in Travis County, Sunderhauf, M. B., Maria Gonzalez, 395-6140.

Reconciliation Questionnaire for Household Roster's Check 1976 Census of Travis County, Texas, DD-132, single-time, Responsible member of mail return households, Maria Gonzalez, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, 1976 Survey of Hospital Staff, single-time, national census of 7,500 hospitals, Richard Eisinger, Strasser, A., 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration, National Flood Insurance Program Annual Report, annually, communities participating in the NFIP Community and Veterans Affairs Division, 395-3532.

DEPARTMENT OF LABOR

Employment and Training Administration, Unemployment Insurance Program Quality Outline, single-time, UI claimants and 16 state agencies, Human Resources Division, Strasser, A., 395-3532.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Mineral Industry Manpower and Investment Relationship, 6-PI 10, single-time, mining companies, Cynthia Wiggins, 395-5631.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:
Manufactured Dairy Products, monthly, manufacturers of dairy products, Hulett, D. T., 395-4730.

Food and Nutrition Service:
Application for Participation (Child Care Food Program), FNS-341, annually, institutions administered by Food and Nutrition Service, Burgess, F. Guinn, 395-5870.

DEPARTMENT OF JUSTICE

Department and Other Internship Program—Internship Student Application, LEAA 5500-3, on occasion, students applying for internship positions, Caywood, D. P. 395-3443.

DEPARTMENT OF LABOR

Bureau of Labor Statistics:
Occupational Wage Survey Program, BLS 2751A, other (see SF-83), establishments in specified SICs and SMSAs, Strasser, A., 395-5867.

Employment and Training Administration:
FSB and SUA—Monthly Activity Report, Characteristics of Claimants and Benefit Rights and Experience, MA5-141, MA 5-142, MA5-143, weekly, State Employment Security Agencies, Strasser, A., 395-5867.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:
Long Form Application for Grazing License or Permit, 4115-4, on occasion, grazing license or permit applicants, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census, Survey of Local Government Tax Revenues Iowa Counties, RS-5, annually, Iowa counties, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Project Completion Report, annually, institute of higher education, Marsha Traynham, 395-4529.
Report on ESEA Title I Comparability Requirements—P.L. 8910 as amended, OE-4524, annually, State Educational Agencies, Marsha Traynham, 395-4529.
Quarterly Program Progress Report (ESAA), OE257, quarterly, LEA's and institutions, Marsha Traynham, 395-4529.
Progress Report (FY 1975) Cooperative Education Program, OE-411, annually, institutions of post-secondary education, Marshal Traynham, 395-4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Title I Loan Report (Property Improvement Loan), FH-4, on occasion, banks, savings and loans, credit unions, lenders community and Veterans Affairs Division, 395-3532.

DEPARTMENT OF JUSTICE

Departmental and Other Internship-Institutional Application, LEAA5500-1, on occasion, Educational Institutions participating in program, Marsha Traynham, 395-4529.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:
Desert Land Annual Proof (Testimony of Witness), 2520-3, on occasion, witnesses to desert land entry improvements, Marsha Traynham, 395-4529.

Bureau of Mines:
Natural Gas Processing Plant Report, 6-1305-M, monthly, natural gas processing plants, Cynthia Wiggins, 395-5631.

Bureau of Land Management:
Alaska Townlot Deed Application, 2560-5, on occasion, Alaska townlot deed applicants, Marsha Traynham, 395-4529.

Bureau of Mines:
Gypsum (Production and Sales), 6-1218-A, annually, gypsum producers, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-17301 Filed 6-11-76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 8, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Survey/Questionnaire for Budgeting and Accounting, SSA-3289, single-time, 132 medicare contractors, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs, Application for Enrollment as an Alaska Native, Family Tree Chart, Names and Addresses, single-time, applicants for enrollment under Settlement Act, Caywood, D. P., 395-3443.

REVISIONS

VETERANS ADMINISTRATION

Request for Supplemental Information on Medical and Nonmedical Applications, LTR. 9-615, on occasion, insured veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Grazing License or Permit Short Form Application, 4115-5, annually, grazing license or permit applicants, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board, Aircraft Passenger Questionnaire, NTSB6221.1, on occasion, aircraft passengers, Caywood, D. P., 395–3443.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–17386 Filed 6–11–76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 9, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service Quarterly Showing, quarterly, State Title XIX agencies, Human Resources Division, Caywood, D. P., 395–3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Default Counseling Contractor's Monthly Report, HUD–9906, monthly, HUD-approved counseling agencies, Community and Veterans Affairs Division, C. Louis Kincannon, 395–3532.

REVISIONS

VETERANS ADMINISTRATION

Application for Change of Permanent Plan (nonmedical—life insurance), 29–1550, on occasion, insured veterans, Caywood, D. P., 395–3143.

Certificate of Personal Surety on Guardian's Bond, VA–27–4721, on occasion, personal surety, Caywood, D. P., 395–3443.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Operating Budget—PHA-Aided Mutual-Help Projects, HUD–53046, annually, public housing agencies, Community and Veterans Affairs Division, 395–3532.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration, Project Dawn—IV—Drug Abuse Warning Network, on occasion, physicians-medical personnel, Richard Eisinger, 395–6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–17387 Filed 6–11–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON CORPORATE DISCLOSURE

Notice of Meeting

This is to give notice pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the Advisory Committee on Corporate Disclosure will conduct an open meeting on July 12 and 13 at 500 North Capitol Street, Washington, D.C. 20549, in Room 776 beginning at 10:00 A.M.

The summarized agenda for the meeting is as follows:

1. Status Report on the Committee's Questionnaire Interview Survey.

2. Conclusion of discussion of the goals of the Committee's work.

3. Discussion of the objectives of an ideal corporate disclosure system.

4. Discussion of the legal liability implications of disclosure of forward-looking and other varieties of "soft" information.

5. Discussion of such other matters as may properly be brought before the Committee.

Further information may be obtained by writing Mary E. T. Beach, Staff Director, Advisory Committee on Corporate Disclosure, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 7, 1976.

[FR Doc.76–17206 Filed 6–11–76;8:45 am]

federal register

MONDAY, JUNE 14, 1976

PART II:

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Endangered Status for 159 Taxa of Animals

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Endangered Status for 159 Taxa of Animals

The U.S. Fish and Wildlife Service hereby determines 159 taxa of U.S. and foreign vertebrates and invertebrates which appear on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to be Endangered species, pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884: hereinafter, the Act).

Background

On May 22, 1975, the Fund for Animals, Inc., requested the U.S. Fish and Wildlife Service to list as Endangered species, pursuant to the Act, 216 taxa of plants and animals which appear on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora which are not already on the U.S. List of Endangered Wildlife.

The Convention was drafted at an international conference held in Washington, D.C., from February 12 to March 2, 1973: it is a treaty for the conservation of wild flora and fauna. Membership is open to all nations, whether interested primarily as producers or consumers of wildlife, that wish to reduce the impact of international trade on Endangered species. The Convention consists of two interdependent parts: the text, which establishes basic principles, operating procedures and organizational implementation; and Appendices I, II, and III which list only those species that participating States agree meet the criteria for inclusion in the appendices. Appendix I includes all species threatened with extinction which are or may be affected by trade. No party to the Convention may allow trade in specimens of species included on Appendix I except in accordance with the provisions of the Convention. The provisions for export of Appendix I species require the prior grant and presentation of an export permit; the import of an Appendix I species requires the prior grant and presentation of an import permit and either an export permit or a re-export certificate.

The United States Government signed the Final Act of the Conference on March 3, 1973; the United States Senate gave its Advice and Consent on August 3, 1973. On September 13, 1973, the Convention was ratified by the President of the United States, and shortly thereafter the United States deposited its instrument of ratification with the Convention's Depository Government in the Swiss Confederation. By July 1, 1975, the Convention had been ratified by enough nations (10) to enter into force, and the State Department has now been notified of 23 nations that have ratified it.

Acting upon the May 22, 1975, request from the Fund for Animals, Inc., to place all Appendix I species on the United States list of Endangered Fauna and Flora, the Fish and Wildlife Service published in the FEDERAL REGISTER (40 FR 44329) on September 26, 1975, a proposed rulemaking that would determine all of the 216 taxa on Appendix I that are not already on the U.S. List, as Endangered species under the Act. Certain necessary conditions of the Act had to be met with regard to final determinations of Endangered species, and based upon those considerations, the Fish and Wildlife Service now issues a final rulemaking that determines 159 of the 216 taxa proposed on September 26, 1975, to be Endangered species. No determinations are made in the present rulemaking on 56 of the remaining 57 taxa for the following reasons:

(1) A considerable amount of data was received on the Mexican beaver (*Castor canadensis mexicanus*), and particularly on the Southern sea otter (*Enhydra lutris nereis*). Data for the beaver and otter are still being analyzed to determine what action will be taken.

(2) We have been notified by the International Council for Bird Preservation that the Peregrine falcon (*Falco peregrinus babylonicus*), Himalayan monal (*Tophopporus imepejanus*), Tibetan snowcock (*Tetraogallus tibetanus*), Bengal florican (*Eupodotis bengalensis*), New Zealand parakeet (*Cyanoramphus novaezelandiae*), and the Principe parrot (*Psittacus erithacus princeps*) may be neither Threatened nor Endangered species. We are holding in abeyance a determination on these species pending clarification of their actual status.

(3) The Governors of the States (and Trust Territories) in which two of the pearly mussels (*Lampsilis satura* and *Epioblasma* (=*Dysnomia*) *walkeri*) and the Marianas mallard (*Anas oustakti*) are resident were inadvertently not notified of our proposal as required by the Act. They are now being notified and a final determination on these species will be postponed until the mandatory 90-day periods allowed Governors for comments have expired.

(4) Seventy-four of the species (45 taxa) on Appendix I of the Convention were plants. Regulations governing plants have not as yet been finalized, and consequently we are delaying action on listing of plants pending their publication.

A determination has been made in the present rulemaking on one of the 57 species not determined to be Endangered herein, the so-called Glacier bear. We have concluded, based on evidence provided by the State of Alaska, that the Black bear (*Ursus americanus emmonsii*) is neither an Endangered nor Threatened species. The so-called Glacier bear is an uncommon color variety of *Ursus americanus emmonsii*. Consequently it does not qualify for listing under the Act.

Summary of Comments

A total of 309 letters were received pertaining to the proposed rulemaking published on September 26, 1975. Five of these letters opposed the overall listing; the remainder favored the proposal entirely, or had only minor reservations. Three of the five opposing letters implied that the Fish and Wildlife Service had not based the proposal on a finding that each species proposed was "in danger of extinction throughout all or a significant portion of its range" as required by the Act, nor had it shown satisfactorily that any of the five factors to be considered in determining a species to be Endangered or Threatened had been adequately addressed. The Fish and Wildlife Service's response to these criticisms is contained in the "Description of the Rulemaking" section of the current rulemaking. The two additional opposing letters to the proposal offered no substantive data or interpretations of the Act to support their views.

Several letters pointed out that *Hippotragus niger variani* should bear the vernacular name "Giant sable antelope" rather than "Sable antelope" as it appeared in the proposal. Also, the range of the species should have read "Angola" rather than "Southern Africa." These errors have been corrected in the present rulemaking.

The State of Alaska, Department of Fish and Game, presented substantial data to demonstrate that the Glacier bear should not be determined as an Endangered species. These data have been analyzed and we have concluded that the so-called Glacier bear is neither an Endangered nor Threatened species. It is an uncommon color variety of the black bear, *Ursus americanus emmonsii*, and as such does not qualify for listing under the Act.

The New Mexico Department of Game and Fish, and the Texas Parks and Wildlife Department objected to a determination of the Mexican beaver (*Castor canadensis mexicanus*) as an Endangered species. They provided substantial data to support their opposition, and no action is taken herein pending an appraisal of the status of this species.

Of the 309 letters received concerning the proposal, 291 specifically spoke to the Southern sea otter (*Enhydra lutris nereis*). Petitions signed by many hundreds of persons were received. Only two letters were in opposition to determining this species as Endangered; 289 favored the determination. In support of the listing, several organizations provided voluminous data that are currently being analyzed; one of the opposing letters contained no substantive data. The other opposing letter was from the State of California, which submitted several volumes of information supporting their claim. In view of the quantity and complexity of data received, we are delaying action on this species so that we may more adequately evaluate all the data that was submitted in support of listing the otter as well as that submitted by the State of California in opposition to the determination.

A circus group requested that the Bactrian camel (*Camelus bactrianus*) and

the Asian elephant (*Elephas maximus*), traditional circus animals, be excluded from the final rulemaking, but presented no substantive data to support the request. There are large domesticated populations of both of these species, but the Bactrian camel is extremely endangered, if not extinct, in the wild, and the Asian elephant is very depleted. A proposal to list domesticated Asian elephants and Bactrian camels as "captive self-sustaining populations" may be initiated within the near future.

Several other letters noted errors in spellings and ranges for various species. These have been corrected in the present determination.

As a result of the September 1975 proposal, the Fish and Wildlife Service received only one comment (favorable) on the molluscs. However, all of the mollusks in that proposal, as well as a number of other molluscan and crustacean species, appeared in a Notice of Review published in the FEDERAL REGISTER (39 FR 37078) on October 17, 1974. That Notice of Review received many comments, some pertaining to the species listed in the September proposal. We therefore feel that it is appropriate to discuss comments pertaining to these species even though the comments were not received directly as a result of the proposal but rather from the earlier Notice. Of the comments received on the molluscs, only the Tennessee Valley Authority and the States of Kentucky and Michigan had objections to listing any of the species. These objections, and the Service's response to them are as follows:

The TVA believes that *Dysnomia florentina* is extinct. Isom and Yokely recently reported *Dysnomia florentina* in the Duck River (The American Midland Naturalist, 1965). Isom and Yokely presently are employed or on contract with the TVA. We will consider this mussel as facing extinction until such time as it has been more explicitly demonstrated that it is extinct.

The TVA stated that the subspecific designation *gubernaculum* is of questionable value. Our information, however, is that it is at least a subspecies (Ohio State University Museum of Zoology, Museum of Fluviatile Molluscs and others) and very likely a true species (U.S. National Museum).

The TVA stated that *Dysnomia turgidula* was synonymous with *D. deviata* and *D. curtisi*. The animal formerly classified as *D. deviata* now is known to be the female of *D. Turgidula* according to reports we have from the U.S. National Museum, the Museum of Fluviatile Molluscs and the Ohio State University Museum of Zoology. Records of *D. deviata* were considered in our determination of the status of *D. turgidula*. *D. turgidula* is not synonymous with *D. curtisi*. Even if it were, it would be seriously threatened by channelization and pollution in *curtisi*'s only habitat; the Black River in Missouri.

The TVA synonymizes *Lampsilis orbiculata* and *Lampsilis higginsi*. It considers the total distribution as widespread. Our information from the U.S. National Museum, the Ohio State University Museum of Zoology and the Illinois Natural History Survey is that these are at least separate subspecies.

The TVA stated that *Lampsilis virescens* is probably a form of the widespread *L. anodontoides*. We can find no evidence of this in the recent literature where Isom, Yokely, Stansbery, and others have all considered this as a distinct species.

The TVA considers *Pleurobema plenum* to be a form of *P. cordatum*. It is, however, recognized in the literature as a species by Stansbery, Morrison, Williams, and Athearn, and as a subspecies by Burch, Van der Schalie, and others. The provisions of the Endangered Species Act of 1973 apply to subspecies as well as species.

The TVA synonymizes *Quadrula sparsa* with *Quadrula metanevra*. However, this is at variance with comments we have received from the U.S. National Museum, the Museum of Fluviatile Molluscs, and the Ohio State University Museum of Zoology.

The TVA questioned the taxonomic status of *Toxolasma cylindrella* and suggested that it was probably a form of *Carunculina moesta*. Information from Dr. David H. Stansbery concerning soft part anatomy shows that *Toxolasma cylindrella* is a valid species.

The State of Michigan considers *Dysnomia sulcata perobliqua* in Michigan to be *Dysnomia sulcata delicata* and possibly extinct. We have no objections to the name change and have made the correction in the current listing.

The State of Kentucky stated that *Pleurobema plenum* does not seem to be especially rare and is not endangered at the present time. We concur with Kentucky that *Pleurobema plenum* is the least endangered of the mussels listed herein. Nevertheless, data available to us indicate that this species is more properly classified as Endangered than Threatened and therefore it appears in the present determination.

DESCRIPTION OF THE RULEMAKING

Section 4(a) of the Act states that the Secretary may determine a species to be an Endangered species or a Threatened species because of any of the following five factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

With regard to each of the species determined by this rulemaking to be Endangered species, there has been a decline in numbers due to factors 1, 2, or 4 above, or to a combination of all three. The United States Government recognized this endangerment when it signed the Convention's Final Act, when the Senate gave its Advice and Consent, and when the President ratified the Convention. The species determined herein to be Endangered have entered, or could potentially enter, heavily into hitherto unregulated international commerce. Some of these, such as the Clouded leopard, have been exposed to over-utilization for commercial purposes involving the fur trade; others, such as the Giant Sable antelope, have been over-exploited for food and sport. Given the precarious position of each species, international trade is detrimental to the survival of all, but presently no satisfactory mechanism to control or regulate such trade is effectively in operation. Also, many of these species have suffered habitat losses which added to the other factors, creates cumulative effects very detrimental to their survival.

The Convention has now been ratified by a sufficient number of nations to make it operational. As more nations ratify, it should become a stronger international regulator. Until such time, however, the high commercial importance of each of the species herein determined to be Endangered, and the inadequacy of existing regulatory mechanisms to control international trade continue to be factors of major concern. It is primarily for these reasons that the listing action is imperative, e.g., to provide an interim regulatory mechanism to restrict U.S. trade in these species, and ultimately a supportive measure to further insure the intent of the Convention.

EFFECT OF THE RULEMAKING

For foreign species herein determined to be Endangered species, the principal effect of this rulemaking will be to restrict their importation and exportation into and from the United States. Except under permit, it will be unlawful to import or to export any of these species. Any shipment in transit through the United States is considered an importation and an exportation whether or not it has entered the country for customs purposes. In addition, it will be unlawful, except under permit, to deliver, receive, carry, transport, or ship in interstate commerce in the course of a commercial activity any of these species; and to sell or to offer them for sale in an interstate or foreign commercial activity. A commercial activity is considered to mean the actual or intended transfer of wildlife from one person to another person in the pursuit of gain or profit.

All of the above prohibitions will apply to native species herein determined to be Endangered species and, in addition, it will be unlawful, except under permit or in special circumstances, to take such species within the United States. "Take" is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Upon receipt of a complete application, the Fish and Wildlife Service may issue a permit authorizing any of the above activities for scientific research or for enhancing the propagation or survival of the species determined herein to be Endangered. Persons who may be ef-

fected by this rulemaking are advised to consult sections 17.21 through 17.23 (see FEDERAL REGISTER, Vol. 40, No. 188, pp. 44423–44425, or the Code of Federal Regulations, Title 50, Part 17) for details on prohibited acts and permits relative to Endangered species listed under the Act.

The determination of the United States species listed herein as Endangered species will make them eligible for the protection provided by Section 7 of the Act which reads as follows:

INTERAGENCY COOPERATION

Sec. 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

No critical habitat is presently being determined for United States species. That action, if and when it occurs, will be a separate rulemaking.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884). The amendments will become effective on July 14, 1976.

Dated: June 1, 1976.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

Accordingly, Part 17, Subpart B, Section 17.11 Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is amended as set forth below:

In Section 17.11, add the following:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
MUSSELS							
Birdwing pearly mussel	*Conradilla caelata*	Not available	Powell and Clinch Rivers in Virginia and Tennessee, Duck River in Tennessee.	Entire range	E	14	Not available.
Dromedary pearly mussel	*Dromus dromas*	do	Powell and Clinch Rivers in Virginia and Tennessee.	do	E	14	Do.
Curtis' pearly mussel	*Epioblasma (-Dysnomia) florentina curtisi.*	do	Black River in Missouri	do	E	14	Do.
Yellow-blossom pearly mussel	*Epioblasma (-Dysnomia) florentina florentina.*	do	Duck River in Tennessee	do	E	14	Do.
Sampson's pearly mussel	*Epioblasma (-Dysnomia) sampsoni.*	do	Wabash River in Indiana and Illinois.	do	E	14	Do.
White cat's paw pearly mussel	*Epioblasma (-Dysnomia) sulcata delicata* (including *perobliqua*).	do	Detroit River in Michigan and the St. Joseph River in Ohio, Michigan, and Indiana.	do	E	14	Do.
Green-blossom pearly mussel	*Epioblasma (-Dysnomia) torulosa gubernaculum.*	do	Clinch River in Virginia and Tennessee.	do	E	14	Do.
Tuberculed-blossom pearly mussel	*Epioblasma (-Dysnomia) torulosa torulosa.*	do	Lower Ohio River in Kentucky and Illinois, Nolichucky River in Tennessee, and Kanawha River in West Virginia.	do	E	14	Do.
Turgid-blossom pearly mussel	*Epioblasma (-Dysnomia) turgidula.*	do	Duck River in Tennessee	do	E	14	Do.
Fine-rayed pigtoe pearly mussel	*Fusconaia cuneolus*	do	Clinch River in Virginia and Tennessee, Powell River in Virginia and Tennessee, and Paint Rock River in northern Alabama.	do	E	14	Do.
Shiny pigtoe pearly mussel	*Fusconaia edgariana*	do	Powell River in Virginia and Tennessee, Clinch River in Virginia and Tennessee, Paint Rock River in Alabama, and Holston River in Virginia.	do	E	14	Do.
Higgins' eye pearly mussel	*Lampsilis higginsi*	do	Mississippi River in Minnesota, Wisconsin, and Illinois; Meramec River in Missouri; St. Croix River in Wisconsin and Minnesota.	do	E	14	Do.
Pink mucket pearly mussel	*Lampsilis orbiculata orbiculata*	do	Green River, Ky.; Kanawha River in West Virginia; Tennessee River (Tenn. and Ala.); Muskingum River, Ohio.	do	E	14	Do.
Alabama lamp pearly mussel	*Lampsilis virescens*	do	Paint Rock River system in Alabama.	do	E	14	Do.
White warty-back pearly mussel	*Plethobasis cicatricosus*	do	Tennessee River Tennessee and Alabama.	do	E	14	Do.
Orange-footed pimpleback	*Plethobasis cooperianus*	do	Tennessee River, Tennessee and Alabama, Duck River, Tennessee.	do	E	14	Do.
Rough pigtoe pearly mussel	*Pleurobema plenum*	do	Tennessee River, Tenn.; Green River, Ky.; Clinch River, Va. and Tenn.).	do	E	14	Do.
Fat pocketbook pearly mussel	*Potamilus (-Proptera) capax*	do	White River, Ark., St. Francis River (Ark. and Mo.).	do	E	14	Do.
Cumberland monkeyface pearly mussel.	*Quadrula intermedia*	do	Powell and Clinch Rivers (Va. and Tenn.), Duck River, Tenn.	do	E	14	Do.
Appalachian monkeyface pearly mussel.	*Quadrula sparsa*	do	Powell and Clinch Rivers (Va. and Tenn.).	do	E	14	Do.
Pale lilliput pearly mussel	*Toxolasma (-Carunculina) cylindrella.*	do	Duck River, Tenn., Paint Rock River, Ala.	do	E	14	Do.
Nicklin's pearly mussel	*Unio* (possibly *Megalonaias*) *nickliniana.*	do	Mexico	do	E	14	Do.
Tampico pearly mussel	*Cyrtonaias tampicoensis tecomatensis.*	do	do	do	E	14	Do.
Cumberland bean pearly mussel	*Villosa (-Micromya) trabilis*	do	Cumberland and Rockcastle Rivers, Ky.	do	E	14	Do.
FISH							
Asian bonytongue	*Scleropages formosus*	do	Borneo, Banka, Sumatra, Malaya, Thailand.	do	E	14	Do.
Ikan temolek	*Probarbus jullieni*	do	Menam River (Thailand); Mekong River (Cambodia, Laos, and Vietnam); Pahang River (Malaya).	do	E	14	Do.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
REPTILES							
Chinese alligator	*Alligator sinensis*	do	Lower Yangtze River drainage of China.	do	E	14	Do.
Black caiman	*Melanosuchus niger*	do	Amazon basin	do	E	14	Do.
Apaporis River caiman	*Caiman crocodilus apaporiensis*	do	Apaporis River of Columbia	do	E	14	Do.
Broad-snouted caiman	*Caiman latirostris*	do	Brazil, Uruguay, Argentina, Paraguay.	do	E	14	Do.
Tomistoma	*Tomistoma schlegelii*	do	Borneo, Sarawak, Sumatra, Southern Malay Peninsula.	do	E	14	Do.
African dwarf crocodile	*Osteolaemus tetraspis tetraspis*	do	West Africa	do	E	14	Do.
Congo dwarf crocodile	*Osteolaemu tetraspis osborni*	do	Congo River drainage	do	E	14	Do.
African slender-snouted crocodile	*Crocodylus cataphractus*	do	Western and Central Africa	do	E	14	Do.
Siamese crocodile	*Crocodylus siamensis*	do	Southeast Asia, Malay Peninsula	do	E	14	Do.
Mugger crocodile	*Crocodylus palustris palustris*	do	India, Pakistan, Bangladesh, Iran	do	E	14	Do.
Ceylon mugger crocodile	*Crocodylus palustris kimbula*	do	Ceylon	do	E	14	Do.
Philippine crocodile	*Crocodylus novaeguineae mindorensis.*	do	Philippine Islands	do	E	14	Do.
Spotted pond turtle	*Geoclemmys (-Damonia) hamiltonii.*	do	Northern India, Pakistan	do	E	14	Do.
Three-keeled Asian turtle	*Geomyda (-Nicoria) tricarinata*	do	Central India to Bangladesh and Assam.	do	E	14	Do.
Indian sawback turtle	*Kachuga tecta tecta*	do	Ganges, Brahmaputra, and Indus drainages of India.	do	E	14	Do.
Burmese peacock turtle	*Morenia ocellata*	do	Southern Burma	do	E	14	Do.
Geometric turtle	*Geochelone (-Testudo) geometrica*	do	Cape Province, South Africa	do	E	14	Do.
Angulated tortoise	*Geochelone (-Testudo) yniphora*	do	Madagascar	do	E	14	Do.
Indian flap-shell tortoise	*Lissemys punctata punctata*	do	Ganges and Indus drainages of India, Pakistan, and Bangladesh.	do	E	14	Do.
Cuatro Cienegas soft-shell turtle	*Trionyx ater*	do	Cuatro Cienegas basin, Mexico	do	E	14	Do.
Black soft-shell turtle	*Trionyx nigricans*	do	Pond near Chittatong, East Pakistan.	do	E	14	Do.
Indian soft-shell turtle	*Trionyx gangeticus*	do	Pakistan, India, Bangladesh, and Nepal.	do	E	14	Do.
Peacock soft-shell turtle	*Trionyx hurum*	do	Ganges and Brahmaputra drainages of India and Banglzdesh.	do	E	14	Do.
Komodo Island monitor	*Varanus komodoensis*	do	Komodo, Rintja, Padar, and western Flores Islands of Indonesia.	do	E	14	Do.
Yellow monitor	*Varanus flavescens*	do	West Pakistan through India to Bangladesh.	do	E	14	Do.
Bengal monitor	*Varanus bengalensis*	do	Persia, Afganistan, India, Ceylon, Burma, Thailand, South Vietnam, Malay Peninsula, Java.	do	E	14	Do.
Desert monitor	*Varanus griseus*	do	North Africa to Near-east, Caspian Sea through U.S.S.R. to West Pakistan, Northwest India.	do	E	14	Do.
Indian python	*Python molurus molurus*	do	Ceylon and India	do	E	14	Do.
AMPHIBIANS							
Japanese giant salamander	*Andrias (-Megalobatrachus) davidianus japonicus.*	do	Honshu and Kyushu Islands, Japan	do	E	14	Do.
Chinese giant salamander	*Andrias (-Megalobatrachus) davidianus davidianus.*	do	Western China	do	E	14	Do.
Cameroon toad	*Bufo superciliaris*	do	Equatorial Africa	do	E	14	Do.
Monteverde toad	*Bufo periglenes*	do	Monteverde, Coast Rica	do	E	14	Do.
African viviparous toads	*Nectophrynoides* ssp	do	Tanzania, Guinea, Africa	do	E	14	Do.
Panamanian golden frog	*Atelopus varius zeteki*	do	Panama	do	E	14	Do.
BIRDS							
Solitary tinamou	*Tinamus solitarius*	do	Brazil, Paraguay, Argentina	do	E	14	Do.
Abbott's booby	*Sula abbotti*	do	Christmas Island in Indian Ocean	do	E	14	Do.
Frigate bird	*Fregata andrewsi*	do	East Indian Ocean Islands	do	E	14	Do.
Campbell Island flightless teal	*Anas aucklandica nesiotis*	do	Campbell Island, New Zealand	do	E	14	Do.
Pink-headed duck	*Rhodonessa caryophyllacea*	do	India	do	E	14	Do.
Harpy eagle	*Harpia harpyja*	do	Mexico, Central America, Bolivia, Brazil, Argentina.	do	E	14	Do.
Greenland white-tailed eagle	*Haliaeetus albicilla groenlandicus,*	do	Greenland and adjacent Atlantic Islands.	do	E	14	Do.
Peregrine falcon	*Falco peregrinus peregrinus*	do	Europe, Russia	do	E	14	Do.
Black-fronted piping-guan	*Pipile jacutinga*	do	Argentina	do	E	14	Do.
Mitu	*Mitu mitu mitu*	do	Amazonian Colombia, Brazil, Peru, Bolivia,	do	E	14	Do.
Elliot's pheasant	*Syrmaticus ellioti*	do	Southeastern China	do	E	14	Do.
Montezuma quail	*Cyrtonyx montezumae merriami.*	do	Mexico	do	E	14	Do.
Cuba sandhill crane	*Grus canadensis nesiotes*	do	Cuba, Isle of Pines	do	E	14	Do.
Black-necked crane	*Grus nigricollis*	do	Tibet	do	E	14	Do.
White-naped crane	*Grus vipio*	do	Mongolia	do	E	14	Do.
Lord Howe wood rail	*Tricholimnas sylvestris*	do	Lord Howe Island	do	E	14	Do.
Nordmann's greenshank	*Tringa guttifer*	do	Assam, Pakistan, Sakhalin Island, Siberia, Ussuriland, Japan, Korea, Malaya, Burma.	do	E	14	Do.
Khar turuut tsakhial	*Larus relictus*	do	India, China, Tibet, South America	do	E	14	Do.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
Mindoro zone-tailed pigeon	*Ducula mindorensis*	do	Philippines	do	E	14	Do.
Bahaman or Cuban parrot	*Amazona leucocephala*	do	West Indies (Cuba, Bahamas, Cayman Islands).	do	E	14	Do.
Red-spectacled parrot	*Amazona pretrei pretrei*	do	Brazil, Argentina	do	E	14	Do.
Vinaceous breasted parrot	*Amazona vinacea*	do	Brazil	do	E	14	Do.
Glaucous macaw	*Anodorhynchus glaucus*	do	Paraguay, Uruguay, Brazil	do	E	14	Do.
Indigo macaw	*Anodorhynchus leari*	do	Brazil	do	E	14	Do.
Little blue macaw	*Cyanopsitta spixii*	do	do	do	E	14	Do.
Red-capped parrot	*Pionopsitta pileata*	do	do	do	E	14	Do.
Golden parakeet	*Aratinga guaruba*	do	do	do	E	14	Do.
Hook-billed hermit	*Ramphodon dohrni*	do	do	do	E	14	Do.
Resplendent quetzel	*Pharomachrus mocinno mocinno.*	do	Central America	do	E	14	Do.
Do	*Pharomachrus mocinno costaricensis.*	do	Costa Rica	do	E	14	Do.
Giant scops owl	*Otus gurneyi*	do	Islands of Marinduque and Mindanao, Philippines.	do	E	14	Do.
Helmeted hornbill	*Rhinoplax vigil*	do	Malaya, Sumatra, Borneo	do	E	14	Do.
Banded cotinga	*Cotinga maculata*	do	Brazil	do	E	14	Do.
White-winged cotinga	*Xipholena atro-purpurea*	do	do	do	E	14	Do.
Koch's pitta	*Pitta kochi*	do	Philippines	do	E	14	Do.
Western rufous bristlebird	*Dasyornis broadbenti litoralis*	do	Australia	do	E	14	Do.
White-breasted silvereye	*Zosterops albogularis*	do	Norfolk Island	do	E	14	Do.
Red siskin	*Spinus cucullatus*	do	South America	do	E	14	Do.
MAMMALS							
Howler monkey	*Alouatta palliata (villosa)*	do	Mexico, Ecuador, Colombia	do	E	14	Do.
Golden langur	*Presbytis geei*	do	Assam, Bhutan	do	E	14	Do.
Langur	*Presbytis pileatus*	do	Assam, India, Burma	do	E	14	Do.
Do	*Presbytis entellus*	do	Tibet, India, Nepal, Ceylon, Pakistan, Kashmir, Sikkim, Bangladesh.	do	E	14	Do.
Proboscis monkey	*Nasalis larvatus*	do	Borneo	do	E	14	Do.
Gibbons	*Hylobates* spp	do	China, Burma, India, Assam, Thailand, Sumatra, Java, Borneo.	do	E	14	Do.
Siamang	*Symphalangus syndoctylus*	do	Malay Peninsula, Sumatra	do	E	14	Do.
Giant armadillo	*Priodontes giganteus (-maximus).*	do	Venezuela, Guyana, Argentina	do	E	14	Do.
Scaly anteater	*Manis temminckii*	do	Africa	do	E	14	Do.
Hispid hare	*Caprolagus hispidin*	do	India, Nepal	do	E	14	Do.
Beaver	*Castor fiber birulai*	do	Mongolia	do	E	14	Do.
Australian native mouse	*Zyzomys pedunculatus*	do	Australia	do	E	14	Do.
Do	*Notomys aquilo*	do	do	do	E	14	Do.
Chinchilla	*Chinchilla brevicaudata boliviana.*	do	Bolivian Andes	do	E	14	Do.
Gray wolf	*Canis lupus monstrabilis*	do	Texas, New Mexico, Mexico	do	E	14	Do.
Spotted linsang	*Prionodon paridicolor*	do	Nepal, Assam, Burma, Indochina	do	E	14	Do.
Brown bear	*Ursus arctos pruinosus*	do	Tibet	do	E	14	Do.
Do	*Ursus arctos*	do	Italy	do	E	14	Do.
Long-tailed otter	*Lutra longicaudis*	do	South America	do	E	14	Do.
Marine otter	*Lutra felina*	do	Peru, Chiloe Island, Straits of Magellan.	do	E	14	Do.
Southern river otter	*Lutra provocax*	do	Chile, Argentina	do	E	14	Do.
Flat-headed cat	*Felis planiceps*	do	Malay Peninsula, Borneo, Sumatra	do	E	14	Do.
Black-footed cat	*Felis nigripes*	do	Southern Africa	do	E	14	Do.
Costa Rican puma	*Felis concolor costaricensis*	do	Nicaragua, Costa Rica, Panama	do	E	14	Do.
Temminchk's cat	*Felis temminckii*	do	Tibet, Sumatra	do	E	14	Do.
Leopard cat	*Felis bengalensis bengalensis*	do	Eastern Asia	do	E	14	Do.
Jaguarundi	*Felis yagouaroundi cacomitli*	do	Mexico	do	E	14	Do.
Do	*Felis yagouaroundi fossata*	do	Mexico, Nicaragua	do	E	14	Do.
Do	*Felis yagouaroundi panamensis*	do	Nicaragua, Costa Rica, Panama	do	E	14	Do.
Do	*Felis yagouaroundi tolteca*	do	Mexico	do	E	14	Do.
Marbled cat	*Felis marmorata*	do	Nepal, Malaya, Burma, Sumatra, Borneo.	do	E	14	Do.
Andean cat	*Felis jacobita*	do	Chile, Peru, Bolivia, Argentina	do	E	14	Do.
Bobcat	*Felis (Lynx) rufus escuinapae*	do	Central Mexico	do	E	14	Do.
Clouded leopard	*Neofelis nebulosa*	do	Southeast Asia	do	E	14	Do.
Asian elephant	*Elephas maximus*	do	India, Burma, Thailand, Indochina, Malay Peninsula, Sumatra, Ceylon.	do	E	14	Do.
Przewalski's horse	*Equus przewalskii*	do	Mongolia	do	E	14	Do.
Mountain zebra	*Equus zebra zebra*	do	Southern Africa	do	E	14	Do.
Asian tapir	*Tapirus indicus*	do	Burma, Thailand, Indochina, Sumatra.	do	E	14	Do.
Babirousa	*Babyrousa babyrussa*	do	Celebes, Tiogian Islands, Buru Island, Sula Island.	do	E	14	Do.
Bactrian camel	*Camelus bactrianus*	do	Mongolia, China	do	E	14	Do.
Musk deer	*Moschus moschiferus moschiferus.*	do	South-central Asia	do	E	14	Do.
Hog deer	*Axis (Hyelaphus) porcinus annamiticus.*	do	India, Thailand, Indochina	do	E	14	Do.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Philippine deer	*Axis (Hyelaphus) calaminensis*	do	Calamian Islands in Philippines	do	E	14	Do.
South Andean huemal	*Hippocamelus bisulcus*	do	Chile, Argentina	do	E	14	Do.
North Andean huemal	*Hippocalamelus antisensis*	do	Ecuador, Peru, Bolivia, Chile, Argentina.	do	E	14	Do.
Pampas deer	*Ozotoceras bezoarticus*	do	Brazil, Paraguay, Uraguay, Argentina.	do	E	14	Do.
Pudu	*Pudu pudu*	do	Southern South America	do	E	14	Do.
Mountain anoa	*Bubalus (Anoa) quarlesi*	do	Celebes	do	E	14	Do.
Lechwe	*Kobus lechee*	do	Southwest Africa	do	E	14	Do.
Giant sable antelope	*Hippotragus niger variani*	do	Angola	do	E	14	Do.
Dorcas gazelle	*Damaliscus dorcas dorcas*	do	South Africa	do	E	14	Do.
Saiga antelope	*Saiga tatarica mongolica*	do	Mongolia	do	E	14	Do.
Goral	*Naemorhedus goral*	do	East Asia	do	E	14	Do.
Sumatran serow	*Capricornis sumatraensis*	do	Sumatra	do	E	14	Do.
Chamois	*Rupicapra rupicapra ornata*	do	Italy	do	E	14	Do.
Straight-horned markhor	*Capra falconeri jerdoni*	do	Pakistan-Afghanistan border	do	E	14	Do.
Kabal markhor	*Capra falconeri megaceros*	do	Afghanistan, Pakistan	do	E	14	Do.
Chiltan markhor	*Capra falconeri chiltanensis*	do	Pakistan	do	E	14	Do.
Urial	*Ovis orientalis ophion*	do	Cyprus	do	E	14	Do.
Argali	*Ovis ammon hodgsoni*	do	Tibet	do	E	14	Do.
Shapo	*Ovis vignei*	do	Kashmir	do	E	14	Do.

2. Add the following footnote to the end of the table in § 17.11:
14—41 FR ____; June ____, 1976

[FR Doc.76-17040 Filed 6-11-76;8:45 am]

federal register

MONDAY, JUNE 14, 1976

PART III:

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

MOTOR VEHICLE OCCUPANT CRASH PROTECTION

Notice of Proposed Rulemaking and Public Hearing

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 571]

[23 CFR Part 1204]

[OST Docket No. 44; Notice 76-8]

OCCUPANT CRASH PROTECTION

HIGHWAY SAFETY PROGRAMS STANDARDS

Proposed Rulemaking and Public Hearing

As Secretary of Transportation, I am ultimately responsible for deciding whether to amend Federal Motor Vehicle Safety Standard 208, which provides for occupant crash protection in motor vehicles. My involvement is also required because some of the possible courses of action involve recommending new legislation. I have decided that it is in the public interest to set forth the issues prior to such decision and to hear up to six hours of argument, addressed to these issues, by interested parties in a public session on August 3, 1976. Written comments on these issues, or issues raised at the public session, may also be submitted to me on or before September 17, 1976. I will issue a written decision on or before January 1, 1977. At the outset, I wish to make it clear that no decision has been made in this matter.

This notice will briefly summarize the background and current status of FMVSS 208, will set forth in more detail the specific issues, including pertinent facts and analyses, which must be addressed in attempting to reach a decision in the public interest, and will describe the various alternative regulatory and legislative actions under consideration. This notice, together with the appendices hereto, is being sent to the FEDERAL REGISTER today for publication and will satisfy the other requirements of the Administrative Procedure Act for a notice of proposed rulemaking. The public session on August 3, 1976, and the subsequent period designated for written comments will satisfy the other requirements of the Administrative Protective Act with regard to rulemaking, and, at the time that I publish my written decision, I will, unless facts at the hearing develop which make this an inappropriate procedure, issue a final rule amending FMVSS 208.

In September 1966, Congress passed the National Traffic and Motor Vehicle Safety Act of 1966 (The Safety Act), the purpose of which was "to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents". Pursuant to the Safety Act, the Secretary of Transportation is charged with the responsibility of establishing motor vehicle safety standards to protect the public against "unreasonable risk of accidents occurring as a result of the design, construction or performance of motor vehicles" and also against "unreasonable risk of death or injury to persons in the event accidents do occur". In January 1968, the National Highway Traffic Safety Administration (NHTSA), acting upon authority delegated to it by the Secretary of Transportation,[1] proposed the original version of FMVSS 208. FMVSS 208 provides that manufacturers must ensure that their automobiles are equipped with occupant crash protection systems such as seat belts, air cushions, etc.

The present form of FMVSS 208 was first introduced in 1972 and requires manufacturers to provide occupant protection in vehicles by one of three options: (1) a completely passive restraint system[2] providing protection in frontal, lateral, and roll-over crashes, or (2) a passive restraint system providing protection in frontal crashes combined with lap seat belts providing protection in lateral and roll-over crashes, or (3) lap and shoulder seat belts at the front outboard positions and lap seat belts for all other positions. The vast majority of manufacturers have adopted the lap and shoulder seat belt option.[3] The present version of FMVSS 208 was revised in 1973 to require an ignition interlock system to increase the wearing of seat belts, but Congress, as a result of public dissatisfaction with the ignition interlock system, voided that requirement in 1974 and the rule was amended accordingly that same year. Because of the public expression of dissatisfaction with the interlock system, Congress, in its 1974 legislation, also ordered that there be no requirement in the future of an occupant restraint system other than seat belts, unless such a requirement were first submitted to Congress subject to being disapproved by a concurrent resolution.

Ever since FMVSS 208 was first promulgated in 1968, NHTSA has anticipated that passive restraints might eventually become required equipment. Indeed, from 1971 until 1974 when FMVSS 208 was most recently amended, as described above, the standard explicitly called for the adoption of mandatory passive restraints in the future. The attractiveness of passive restraints is twofold. First it has been thought they would perform more effectively in preventing injuries than would seat belts, and second, because seat belts are not used consistently, passive restraints, which require no action by the occupant, would ensure more widespread crash protection. However, the prospect of mandating passive restraints in automobiles has become increasingly controversial. Questions of effectiveness, cost, and suspected hazards, as well as the philosophical problems of restricting individuals' freedom of choice with regard to how much they pay for safety protection, have been raised by opponents of the air bag. It is in the context of this controversy that I must make a decision as to the future of passive restraints.

In 1974 and 1975 the nation experienced significant reductions in highway deaths and injuries due, in large part, to the eneforcement of the 55 mph speed limit. To achieve further reduction in deaths and injuries will require increased use of occupant restraints. It is a question involving thousands of lives or deaths and tens of thousands of serious injuries per year. Furthermore, the annual cost to our society in terms of lost resources represented by those who are killed or maimed in traffic accidents is perhaps incalculable. However, we live at a time of increasing citizen awareness of and concern about the impact of Federal regulations in our lives. Many are questioning whether increased government regulation is in the nation's best interest. The public, of course, should always make a distinction between safety regulation and economic regulation as we in the Department attempt to do. The success of governmental regulatory policy in any area, however, will ultimately depend upon the support it receives within the body politic. Recent Congressional action to ban ignition interlock systems and to prohibit any Federal requirement that motorcycle operators wear safety helmets reflect the belief of many that there are limits to the Federal government's role in forcing the individual to take action to protect himself or herself. Thus this case presents a problem of balancing the need for motor vehicle safety with a concern for the limitations on the Federal government's role in regulating aspects of our national life.

This decision also involves the difficult task of assessing and comparing the safety benefits and costs of alternative occupant restraint systems. While the legislative history of the Safety Act indicates that safety is the overriding consideration, the cost of a standard must also be examined. Marginal increments in safety benefits which can be achieved only at great cost are not in the public interest. Of course reducing safety benefits and costs to quantitative terms which can be measured is extremely difficult. In addressing the issue of the costs and benefits involved, I will set forth the data upon which I base my analysis.

There have been prior opportunities for public comment on this subject.

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[1] The Secretary's regulations, delegating authority to NHTSA, exist to ensure that routine business can be conducted without the Secretary's personal participation and to ensure administrative finality at the NHTSA level when the Secretary so desires, but do not operate to divest the Secretary of any authority. The fact that, on this occasion, I am personally deciding whether, and if so how, to amend FMVSS 208, does not therefore necessitate a formal revocation of NHTSA's authority in this matter.

[2] A "passive restraint system" is a system that affords crash protection without requiring action on the part of the vehicle's occupant. To date, two passive restraint systems have been developed which appear to be capable of meeting the injury protection criteria of FMVSS 208 in frontal crash conditions—the air cushion restraint system (air bag) and the passive belt (a shoulder belt and knee bolster system in which the shoulder belt deploys automatically).

[3] General Motors has offered a passive restraint system, an air cushion restraint system (air bag), as an option on its luxury cars for the years 1974, 1975, and 1976; however, G.M. has now announced its intention not to offer this option in the future. Volkswagen has recently introduced an optional passive belt system in the 1976 Rabbit.

Most recently, NHTSA held hearings on the matter on May 19–23, 1975. But because the issues involved are so difficult, because the public and Congressional interest in this matter is so substantial, and because another hearing is required in any event prior to a final rule being promulgated, I have decided to conduct personally up to six hours of discussion in a public session on the issues which I perceive as being basic to the decision. This will assure that I have the benefit of the latest views and recommendations of concerned and knowledgeable citizens, manufacturers of automobiles and occupant restraint equipment, experts in crash protection, and public officials, both Federal and State. I invite their comments on and analysis of the following issues and alternatives. I repeat that no decision has been made in this matter.

Finally, the current passenger-car requirements of FMVSS 208 apply to automobiles manufactured on or before August 31, 1976, and expire thereafter. In view of the August 3, 1976, date of the public hearing, the need to provide time after the hearing for written submissions to the public docket, the time necessary to formulate and write a decision, and the period required for Congressional review, if necessary, of that decision, a final resolution of any proposal to amend FMVSS 208 may not be reached until substantially after January 1, 1977. Therefore, in the interim, I have decided to propose an amendment of FMVSS 208 to extend the passenger-car requirements of the present standard for one year so as to apply to automobiles manufactured on or before August 31, 1977.

Issues To Be Addressed

The following issues are considered relevant to the formulation of a final rule for occupant crash protection. It is recommended that all participants at the hearing address their remarks to one or more of the issues set forth below.

I. Appropriate Role of the Federal Government in Prescribing Motor Vehicle Safety Standards

By virtue of the Safety Act, the Federal government has declared its intent "to reduce deaths and injuries resulting from traffic accidents". As Secretary of Transportation I am charged with the duty of effecting this purpose through the promulgation of Federal motor vehicle safety standards specifying the safety characteristics and crashworthiness of vehicles.[4] The goal of motor vehicle safety expressed in the statute is clear and unequivocal. The question arises, however, as to the precise nature of the government's duty in this area and how to achieve the important end of motor vehicle safety while preserving, to the extent possible, both individual freedom of choice and the role of the marketplace in making economic decisions. In the democratic society in which we live, I believe it is my responsibility as a Federal official to consider these important concerns when prescribing safety standards.

Under the terms of the Safety Act, the Federal government's duty in prescribing safety standards is to protect the public "against unreasonable risk of death or injury to persons in the event accidents do occur." I believe that what constitutes an "unreasonable" risk of death or injury is a difficult but critical issue. Some would argue that because occupants of motor vehicles are currently provided with lap and shoulder belts to protect them against injury in traffic accidents, and that because NHTSA estimates show that lap and shoulder belts, when worn, are about as effective as any of the passive restraint systems, passive restraints do not provide protection against any unreasonable risks. In other words, an individual's decision not to wear a safety belt should be assumed to be the act of a reasonable person so that it does not give rise to an unreasonable risk. Others would maintain that most people do not wear their safety belts and are consequently exposed to a substantial risk of death or injury. This becomes an "unreasonable" risk in the context of the ready availability of passive restraints which require no action on the part of the occupant, thus offering the prospect of drastic reductions in casualties. Some contend that the resolution of this issue lies in whether passive restraints are in fact feasible, superior in performance, economical, and reliable; if so, perhaps it does occasion an "unreasonable risk" not to install them in all automobiles. In any event, a resolution of this issue is certainly fundamental to my decision.

In considering a mandate of any particular crash protection system, such as passive restraints, we are talking about government regulations which restrict individuals' freedom to choose the degree of safety protection they want and how much they are willing to pay for it. Individuals should be able to exercise some freedom of choice about how much they are willing to pay for safety protection in private transportation systems. Those who put a premium on freedom of choice contend that it is not the role of the Federal government to protect citizens absolutely from deaths and injuries in automotive accidents. Rather, government should only ensure that adequate protection is provided which individuals can avail themselves of if they so choose. On the other hand, the stated purpose of the Safety Act is unequivocally "to reduce deaths and injuries to persons resulting from traffic accidents." While safety standards must be "reasonable," according to the statute, individual freedom of choice is not one of the statutorily explicit prescribed considerations and, arguably, should not be allowed to interfere arbitrarily with the basic purposes of the Act.

Mandating passive restraints in motor vehicles might create, additionally, a problem of equity. The issuance of a passive restraint standard will result in the manufacture of vehicles equipped with air bags or passive belts rather than lap and shoulder seat belts. These passive restraint-equipped vehicles will cost more, but, in tests to date, have been found to provide no materially greater protection to those individuals who already use lap and shoulder seat belts. Nevertheless, these individuals will have to pay more for their automobiles, without any measurable benefit, to help provide passive restraints to those who choose not to wear seat belts. Thus, those who currently wear seat belts would be forced to subsidize those who do not. How public policy should deal with such a subsidy is an issue upon which I would welcome comment.

Personal convenience is another aspect of individual freedom of choice. The Federal government's experiences with ignition interlock systems demonstrate that, despite reasonable cost and demonstrable safety benefits, personal convenience can be of overwhelming importance. In this regard, passive restraint systems appear to be very attractive; they probably are more convenient than safety belts in that they do not require any action by the automobile occupant to be effective.

Government regulation in the safety area, as elsewhere, tends to limit the role of the marketplace in making economic decisions, and thereby also to inhibit innovation. Certainly, mandating passive restraints does not comport with the ideal of a free enterprise economy. On the other hand, there are limitations to the benefits that the free market can provide. Some people supported the original passage of the Safety Act because they concluded that the traditional marketplace mechanism was not effective in satisfying our society's need for automotive safety. It is difficult to believe, for instance, that there would be seat belts in every car today if their installation had had to rely on the demands of the marketplace. The extent to which Federal regulations governing occupant crash protection should strive to preserve the role of the marketplace is an issue upon which I invite discussion.

Specific Questions Relation to the Federal Role

1. Does the unwillingness of many people to wear safety belts expose them to an "unreasonable" risk of death or injury requiring additional occupant crash protection? Does the government have the duty to protect a citizen from danger when a citizen has chosen not to use available means (e.g., lap and shoulder belts) to protect himself? Does the answer depend on how readily available and feasible the additional protection is, and at what cost?

2. What weight should be given to considerations of personal freedom of choice and convenience in regulations concerning occupant crash protection?

[4] The statute itself states that in prescribing safety standards the Secretary is required to consider, among other things: (1) Relevant available motor vehicle safety data, including the results of research, development testing and evaluation activities; (2) whether any proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle for which it is prescribed; and (3) the extent to which such standards will contribute to carrying out the purposes of the Safety Act.

3. Should individuals who now use their lap and shoulder belts be required to purchase more expensive passive restraint systems in order to contribute to achieving a societal goal of increased motor vehicle safety?

4. Will passive restraints be available in the marketplace at a reasonable cost for those who would choose them without government regulatory action?

5. To what extent should regulations governing occupant crash protection seek to preserve the role of the marketplace in making economic decisions?

II. BENEFITS AND COSTS OF ALTERNATIVE OCCUPANT RESTRAINT SYSTEMS

The legislative history of the Safety Act indicates that an assessment of the "practicability" of safety standards should include consideration of technical feasibility and economic factors. Therefore, I will briefly describe the alternative systems available, summarize and compare their benefits and costs, and discuss the extent to which data is available to support these analyses. A more detailed benefit/cost analysis is provided in Appendix A.

A. Feasibility and Performance of Alternative Occupant Restraint Systems

Occupant restraint systems are of two general types—active and passive. The active systems available today are the familiar lap and shoulder seat belts and lap seat belts. In these, the occupant of a vehicle is protected by the belts from being thrown about and from impacting the hard surfaces of the passenger compartment in the event that an accident occurs. Clearly, to be effective, seat belts must be used. Provided they are used, lap and shoulder seat belts can reduce the likelihood of death in severe automobile accidents by roughly 60% and reduce the severity or avoid the occurrence of injuries by 30% to 60%.

Two passive restraint systems—the air cushion restraint system (air bag) and the passive belt—have been developed which appear to be capable of meeting the injury criteria of FMVSS 208 under frontal crash conditions. The air cushion restraint system consists of an air cushion and a sensor system which activates it. The sensor detects the impact of a crash by measuring the vehicle's deceleration. Provided the deceleration is sufficiently intense—typically corresponding to an impact into a fixed barrier at 12 mph—the sensor sends a signal to a device which deploys the air cushion by rapidly inflating it. Typical times for deployment and inflation range from 35 to 70 milliseconds. In the event of an accident, the passenger, rather than impacting the hard surfaces of the vehicle passenger compartment, is cushioned by the air bag. In this way, the incidence or severity of injury is considerably reduced. The need for protection in lateral and roll-over crash conditions will likely require that air-bag equipped cars also have lap belts, although this is a point of some disagreement. Estimates of the effectiveness of the air bag in reducing the risk of death and severe injury under crash conditions indicate the air bag (with lap belt) and lap and shoulder seat belt to be of roughly equivalent effectiveness—provided the latter is worn.

The so-called "passive belt" system, recently introduced as an option in the Volkswagen Rabbit, consists of a shoulder belt that, upon closing of the door, deploys automatically to protect and restrain the upper torso and a fixed knee bolster to protect and restrain the lower torso. Experience with the passive belt is limited, although engineering judgment would suggest that it is roughly as effective as a lap and shoulder belt. Its advantage over the lap and shoulder belt is that it deploys automatically.

In view of the availability today of both the air bag and passive belts, the technological feasibility of passive restraint systems does not appear to be a serious issue. Nevertheless, the feasibility of manufacturing millions of vehicles per year that will be equipped with passive restraint systems that reliably meet the requirements of the standard for the lifetime of the vehicle is another question and an issue upon which I invite comment.

B. Benefits of Alternative Systems

The direct benefits of occupant restraint systems are usually assessed in terms of the number of fatalities prevented and the number of injuries avoided or reduced in severity. For some systems, such as the lap and shoulder seat belts, field data has been accumulated which can be used to estimate these benefits. The passive restraint systems have not been evaluated in the field as extensively. In these cases, we must rely on engineering judgment and laboratory simulations. Laboratory simulations can, of course, never duplicate the full spectrum of real-world collisions and thus there is greater uncertainty in the accuracy of the estimates of the benefits of the passive systems.

Table 1, which follows, shows the estimated number of fatalities prevented and the number of injuries avoided or reduced in severity annually for various occupant restraint systems. These estimates show that a substantial reduction in fatalities and injuries can be achieved with either passive restraints or lap and shoulder seat belts—provided that belt usage rates are sufficiently high. If a 70% usage rate could be achieved with lap and shoulder belts, the benefits would be nearly the same as with full-front air cushion restraints. A 70% usage rate corresponds to seat belt usage levels achieved through effective enforcement of laws mandating the wearing of seat belts now in effect in Australia, New Zealand and many European countries. Australia was the real pioneer in this area, achieving a stable level of seat belt use of 70% in urban areas. Canada's Ontario Province has recently enacted a similar law, and initial usage appears to be around 60% and rising. Traffic deaths and injuries have dropped significantly as a consequence.

In the United States, on the other hand, NHTSA believes the usage levels will likely be only 15% for lap and shoulder belts plus an additional 5% for the lap belt part of the assembly alone. Using the results achieved with the ignition interlock system as a guide, NHTSA has estimated that 35% lap and shoulder belt plus an additional 5% lap belt usage is the probable upper limit to the usage rate that can be achieved voluntarily. Clearly, the unwillingness of most automobile occupants to "buckle-up" has caused this nation to forego much of the potential benefits of safety belts.

In addition to the direct benefits in terms of the reduced number of deaths and injuries, occupant restraint systems may indirectly benefit automobile owners through reduced automotive insurance rates. For example, some insurance companies offer premium reductions to owners of air bag-equipped automobiles. It has been suggested that a $1.6 billion saving on automobile insurance would be realized annually if air bags were mandated. I look forward to hearing from representatives of the insurance industry as to what they believe the impact of the various alternative restraint systems would be on the cost of automobile insurance to consumers.

Finally, it is important to emphasize that these estimates of benefits apply to the 1975 car population and injury severity distribution. If the average size of cars becomes smaller, the number of fatalities and injuries could increase substantially. If so, the resulting need for effective occupant crash protection systems will be greater. This is a factor which must be considered in my decision.

TABLE 1.—*Benefits of occupant crash protection systems* [1]

System	Fatalities prevented per year	Injuries reduced or avoided per year
Lap and shoulder (15 pct) and lap (5 pct) belts	3,000	159,300
Lap and shoulder (35 pct) and lap (5(pct) belts	6,300	342,600
Lap and shoulder belt (70 pct usage)	11,500	641,400
Lap and shoulder belt (100 pct usage)	16,300	916,400
Lap belt (100 pct usage)	10,900	438,700
Driver-only air cushion [2]	9,200	[6] 168,600
Full-front air cushion [3]	11,200	[6] 171,800
Passive belts [4]	8,290	373,300
Mandatory option: [5]		
5 pct air cushion	3,400	182,700
10 pct air cushion	4,100	182,100
25 pct air cushion	6,400	180,300

[1] These estimates assume the car population and occupant fatality rates to be that of 1975 (approximately 100,000,000 cars and 27,200 people, respectively), 10,000,000 cars to be manufactured annually, and the distribution of injuries by severity to be the same as in 1975. The discussion in app. A gives the basis for these calculations.

[2] Assumes 20 pct lap belt usage by driver and 15 pct lap and shoulder belt plus 5 pct lap belt by other front seat occupants.

[3] Assumes 20 pct lap belt usage by all front seat occupants.

[4] Assumes 60 pct passive belt usage: i.e., 40 pct of people disconnect the system.

[5] This refers to a situation in which the Federal Government requires manufactures to make passive restraints available to the consumer as an option. These estimates assume 20 pct safety belt wearing by all front seat occupants.

[6] One obtains these relatively low injury estimates because the air cushion does not deploy unless the accident severity exceeds that corresponding to a crash into a fixed barrier at 12 mi/h.

C. Cost of Alternative Systems

The direct cash costs of occupant restraint systems are of three kinds. First, there are the start-up costs associated

with research and engineering development and design. Second, there are the individual unit costs which represent the cost of producing the occupant restraint system for an individual motor vehicle, and third, any costs of replacement plus higher fuel costs due to the additional weight of the protection system increase operating costs.

Below, in Table 2, is a listing of the NHTSA estimates of the total cash costs of various restraint systems expressed in terms of the cost per automobile. In some cases, high and low estimates are given to indicate the range of estimates that have been quoted by various sources other than NHTSA.

TABLE 2.—*Cash costs of occupant crash protection systems* [1]

Restraint system	Cost per automobile		
	Low	NHTSA	High
Lap belt		$30	
Lap and shoulder belt	$50	60	$70
Driver-only air cushion		110	200
Full-front air cushion	100	[2] 190	350
Passive belt		90	

[1] These estimates do not include the cost of lap belts for rear seat occupants. These belts would add roughly $20 to the cost of all restraint systems.
[2] This assumes all cars would be equipped with the air cushion. If the air cushion is offered as an option, a very rough estimate of the cost is taken to be twice this price because of the greater unit cost associated with smaller production lots.

These results clearly show that there are significant differences in the estimated costs of different systems. The NHTSA estimate of the cost of full frontal air cushions is more than three times that of the lap and shoulder safety belt. There is a wide variation in the range of cost estimates for some systems. The air cushion is the most controversial in this regard, with cost estimates varying by greater than a factor of three. I intend to use the public hearing to attempt to reconcile these differing cost estimates so that I fully understand the potential economic impact on the consumer of any decision.

Among the indirect costs of a new, more costly occupant restraint system would be a reduction in automobile sales and attendant loss of automotive manufacturing jobs that might result from the higher price of automobiles. Although data is limited, the available information on the sales/cost elasticity of automobiles yields estimates of from −0.27 to −1.5, with −1.0 being typical; a sales/cost elasticity of −1.0 means that an increase of one percent in the cost of an automobile decreases total sales by one percent. However, the savings in automobile insurance, medical costs, etc., might ultimately compensate, in terms of the national economy, for this loss by increasing people's income and thereby stimulating car sales. In addition, increased business and jobs for the suppliers of occupant restraint systems might also compensate for the decrease in automobile sales.

D. Comparison of Benefits and Costs, Benefit/Cost Ratios

In order to compare quantitatively the various alternatives, it is perhaps useful to consider the ratio of cash benefits to cash costs. Of course, to do this requires that the benefits and costs be described in the same terms. Thus, one must address the question of the "value" of a life and the "cost" of injuries. That is, what is the dollar value of a life saved, an injury reduced or eliminated? To many, such notions are abhorrent—a life saved is of unlimited value and cannot be measured. Nonetheless, methods have been developed by economists and actuaries to estimate the dollar value of these benefits. One approach is to use the lost potential income, medical costs, and legal expenses to measure the value of a life or the cost of an injury. Alternatively, one could consider the extent to which individuals will typically risk injury or death—e.g., how much will they spend on automotive safety to reduce the risk of injury and death. Using approaches such as these, economists and actuaries have developed estimates of the dollar costs of deaths and injuries which can be used to quantify in dollar proxy terms the value of the safety benefits of a particular crash protection system. Comparisons of these dollar benefits with cash costs are given in the following table for various occupant protection systems.

Again, the wide range of cost estimates for a given system yields a wide variance in benefit/cost ratios. It must be kept in mind in assessing benefit/cost ratios that such ratios do not spell out all the benefits and costs of a given system, only the cash benefits and costs. Finally, consideration of the total benefits and costs of a proposal are at least as important as their ratio.

TABLE 3.—*Benefit/cost ratios of occupant crash protection systems* [1]

	Benefit/cost ratio		
	Low cost	NHTSA estimated cost	High cost
Lap and shoulder (15 pct) and lap (5 pct) belt	2.4	2.0	1.7
Lap and shoulder (35 pct) and lap (5 pct) belt)	5.0	4.1	3.5
Lap and shoulder belt (70 pct usage)	9.1	7.6	6.5
Lap and shoulder belt (100 pct usage)	12.2	10.1	6.1
Lap belt (100 pct usage)		13.7	
Driver-only air cushion		3.1	1.7
Full-front air cushion	4.2	2.2	1.2
Passive belts		4.0	
Mandatory option:			
5 pct air cushion		1.8	
10 pct air cushion		1.7	
25 pct air cushion		1.5	

[1] The cost/benefit ratios in table 3 reflect the so-called steady state or equilibrium values that would be achieved over a long period of time. Because the benefits of an occupant protection system are realized after the cost is paid, most economists would agree that the benefits should be discounted to reflect the income lost by an early safety investment whose payoff comes later. Also, because only about 10 pct of the fleet would be equipped with any new protection system each year, the benefits of the system would be realized incrementally—at roughly 10 pct a year—while the full annual costs are borne immediately. Because of this transition, it takes several years before a new system would be cost-beneficial. For example, for the full front air cushion, it has been estimated that the cumulative benefits would not exceed the cumulative costs for from 5 to 7 years after this system was required.

E. The Availability of Sufficient Field Data To Evaluate Passive Occupant Restraints

There exists only limited field experience with passive restraint systems. General Motors has offered the air cushion as an option in certain 1974–76 models cars. Although G.M.'s original goal was to sell 100,000 air cushion cars per year, less than 10,000 have been sold to date, and G.M. plans to discontinue the option after 1976. Altogether, including the original test fleets manufactured by Ford and G.M., there are roughly 12,000 air cushion-equipped vehicles on the highway today, and fewer than 100 air cushion field deployments have been investigated.[5] There is even less field data available on the passive belt.

Because of this limited field experience, some have argued that, in view of the potentially significant cost of passive restraints, more field data should be developed before a decision is made on mandating passive restraints. I invite comment on the desirability and practicability of a field test of passive restraints.

SPECIFIC QUESTIONS ABOUT ALTERNATIVE OCCUPANT RESTRAINT SYSTEMS AND THEIR BENEFITS AND COSTS

1. Are the air cushion and passive belt systems technologically feasible?

2. Are the cash estimates presented of the costs and benefits of various occupant crash protection systems reasonably accurate?

3. What would be the effect of a shift to smaller cars?

4. What effect will the decision on FMVSS 208 have on automobile insurance rates?

5. What effect will the decision on FMVSS 208 have on sales employment in the automotive industry?

6. To what extent should benefits, costs, and benefit/cost ratios be weighed in arriving a decision?

7. Are there sufficient data available at present to assess adequately the effectiveness of the various occupant restraint systems?

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[5] According to NHTSA, air bag-equipped cars on the road today have traveled approximately 240,000,000 miles. NHTSA has documented only 89 air bag deployments in that time. In these accidents 4 deaths and an additional 20 injuries at the moderate level or greater occurred. This field experience is probably not sufficient to calculate air bag effectiveness with precision. Of the 4 fatalities resulting from crashes in air bag-equipped cars, one was a 6-week old unrestrained infant who sustained a fatal head injury from being thrown into the dash as a result of emergency braking before the actual crash. In two others, the crash was so severe the occupant compartment was destroyed; in these two crashes no restraint system would have been of any help. The cause of the fourth fatality is uncertain; it appears the driver was slumped across the steering wheel (either passed out or dead) at the time his vehicle impacted a tree; an autopsy was not performed to determine the actual cause of death.

8. Are there other existing feasible active or passive restraint systems that have not been identified?

III. PUBLIC ACCEPTANCE OF OCCUPANT RESTRAINT SYSTEMS

Public acceptance is necessarily of great consequence to the success of Federal efforts to increase automotive safety. While temporary gains can be achieved with unpopular and restrictive safety regulations, experience with the ignition interlock requirement and motorcycle helmet laws shows that safety regulations which significantly curtail personal freedom are frequently overturned. And, unfortunately, the public perception of the safety program usually becomes more negative. A consideration of reasonableness requires, among other things, examination of the public acceptability of a proposal.

A. Voluntary Safety Belt Usage

Generally speaking, the concept of voluntary safety belt usage has met with public acceptance. While some lament the fact that many of their fellow citizens do not use seat belts, objections to affording people a choice have been few. The resulting level of usage has been the source of some debate; safety experts disagree as to the percentage of people who are now "buckling-up". Estimates range from as low as 15% to as high as 45%. NHTSA, using experience with the ignition-interlock as a guide, believes that 40% (35% for the full lap and shoulder belt plus an additional 5% for the lap belt part of the assembly alone) is a reasonable upper limit to voluntary safety belt usage with present safety belt designs. Actual current usage rates are estimated by NHTSA to be near 20% (15% plus 5%); trends suggest a slight growth of usage with time.

B. Mandatory Safety Belt Usage Laws

Past experience with State mandatory usage laws suggests that this approach has very low public acceptability. While citizens of other countries may find such laws an effective and acceptable way to promote automotive safety, citizens of the United States have shown considerable opposition to the enactment of laws which require them to take actions to protect themselves on the highways. Although the 1973 Highway Safety Act promised additional Section 402 funds to States which passed mandatory seat belt usage laws, Congress, concerned primarily with the civil liberties impact of this provision, never provided funds for the implementation of this section and completely eliminated this feature in the recently enacted 1976 Federal Highway Act. NHTSA held a National Safety Belt Conference in November 1973 to help legislators and others work to get safety belt usage laws passed. In 1974, bills were introduced in or passed by at least one house of over 20 State legislatures. Only Puerto Rico, however, in 1974, actually passed a law mandating seat belt usage. Some bills were re-introduced in 1975–76, but in dwindling numbers. Support for such laws appears to be waning.

C. Public Acceptance of Passive Restraints

Many argue that passive restraints, especially the air cushion, would meet with public acceptability because of the personal convenience they afford when contrasted with safety belts. The additional cost would be outweighed by the safety benefits and added convenience. Others point to the potential hazards of air bags to demonstrate the likely unacceptability of passive restraints. They say that when one considers the additional costs of passive restraints and the limited increment in safety benefits compared to lap and shoulder belts (if worn), the unacceptability of passive restraints is assured. Mandating passive restraints would represent a significant and unprecedented increase in the cost of automobile safety. Public indifference to safety, it is argued, implies that additional costs of this magnitude are unacceptable.

The G.M. and Volkswagen experiences with offering optional passive restraints do not give conclusive evidence regarding public acceptability. The economic situation, the move to smaller cars, lack of advertising, and the public's general apathy about spending money for safety all complicate analysis of the G.M. effort to sell the air cushion—although it is clear that G.M. sold substantially fewer of these systems (10,000 total) than they had planned (100,000 annually). The passive belt has been available only recently, and, although about 30,000 have been sold to date, we simply do not know how the general public would react to passive belts. I earnestly invite comment on this question as it will certainly weigh in my decision on occupant crash protection.

D. Air Bag "Hazards"

In the past, critics of the air bag have argued that there are major potential safety hazards associated with their use which could outweigh the benefits they afford in occupant protection. The following have been prominently mentioned.

1. Hearing damage due to acoustic shock from air bag inflation.

2. Eye damage as a result of eyeglass breakage and other trauma due to air bag deployment.

3. Toxicity of chemicals used for air bag deployment.

4. Unreliability of air bag actuation: (a) Inadvertent actuation, (b) failure to actuate when needed.

5. Air bag-inflicted injury to improperly positioned occupants.

6. Improper disposal of air bag actuators.

Both laboratory experience and the limited field experience during the past several years indicate that these factors do not constitute a significant risk. No case of poisoning or hearing or eye damage has been encountered in thousands of laboratory deployments. Experience with the G.M. and other fleets has demonstrated the reliability of bag deployment and has produced no significant air bag injuries to improperly positioned occupants. Field as well as laboratory results confirm, however, that improper positioning certainly lessens the degree of protection afforded by the air bag. This fact reinforces the value of the lap belt, apart from the basic protection it provides. Improper disposal of air bag actuators is, of course, a matter of concern to mnaufacturers because of the potential product liability considerations, but we have no evidence to suggest that they will be unable to deal satisfactorily with the problem.

The reliability of any system, particularly any new system, is always important. There is good reason to believe that the air bag system will work when it is supposed to and will not "go off" when it is not supposed to.[6] This is not to say that, should the air bag system be mandated, there will not be start-up problems. In any event, I want to encourage any further discussion that will shed light on this issue.

SPECIFIC QUESTIONS ABOUT PUBLIC ACCEPTANCE

1. What level of voluntary usage of safety belts is most likely in the future?

2. Should State mandatory safety belt usage laws be proposed?

3. What, if any, Federal laws should be enacted to induce the States to enact such laws?

4. Ar passive restraints—the air cushion and passive belt systems—acceptable to the public from both a convenience and a cost point of view?

5. Do "air bag hazards" constitute a meaningful risk?

6. How should the issue of public acceptance weigh in my decision?

THE ALTERNATIVES

This section delineates the more plausible alternative courses of action along with their pros and cons. Set forth below are the formal rule changes that would be required by each alternative and, in conjunction with the foregoing discussion of the issues involved and the following description of the alternatives, is intended to constitute the formal notice of proposed rulemaking as required by the Administrative Procedure Act. While I have attempted to focus on what appear to be the more plausible alternatives, I also want to encourage those with additional suggestions to submit their proposals to me either orally at the public hearing or in writing. I will also be considering the adoption of various combinations or refinements of the alternatives listed below and therefore specif-

[6] There have been six recorded non-collision (inadvertent) deployments of air bags. Three occurred in service garages; inattention or unfamiliarity with the system by mechanics was the cause in every case. One occurred during a fire and explosion of a propane tank in a vehicle—a highly unusual circumstance. One was caused when sensor wiring was abraided by a pulley to the engine and resulted in the recall of 2,000 air bag-equipped vehicles to correct this manufacturing error. The one remaining incident was traced to the quality of a sensor which was actuated apparently by concentrated electromagnetic radiation.

ically invite comment on such possibilities.

ALTERNATIVE I: CONTINUATION OF EXISTING REQUIREMENT

Under this alternative, the present three-option version of FMVSS 208, described earlier, would be extended for some period into the future, and research directed toward developing effective passive restraint systems would continue. While the length of the extension is open to discussion, the proposed amendment below is written for a three-year extension—to August 31, 1979.

Supporters of this alternative would contend that most consumers appear to favor safety belts over passive restraints and that the Federal government should respect this choice. Moreover, safety belt usage is increasing as more comfortable and convenient systems become available. Thus, the present form of FMVSS 208 is working effectively and should not be changed. Many would argue that the Federal government has met its obligation under the Safety Act and to go further would not be consistent with the appropriate Federal role. Supporters would also point out that this option minimizes additional cost to consumers and does not place reliance on what some believe to be the untested technology of passive restraints. They would conclude that the public is assured under this alternative that there will be reliable, relatively inexpensive crash protection systems (e.g., lap and shoulder safety belts) available.

Those opposing this approach would maintain that, in view of low safety belt usage rates, this alternative will not produce the substantial additional safety benefits that would result from the other alternatives. They would view this as a timid aproach to highway safety that is inconsistent with the spirit of the Safety Act. While research on passive restraints might continue, this decision woud likely signal the end of the availability and further large-scale commercial development of the air cushion restraint system—a passive protection system that many believe offers considerable safety benefits.

ALTERNATIVE II: STATE MANDATORY SAFETY BELT USAGE LAWS

This approach would also retain the present three-option version of FMVSS 208 for some period of time. Concurrently, the Department of Transportation would propose a new Traffic Safety Standard which would cause the States to adopt and enforce safety belt usage laws or otherwise to achieve a usage level much higher than being experienced today. Pursuant to the 1973 Highway Safety Act, however, Congress would have to enact such a Traffic Safety Standard.

Everyone would agree that this approach is the quickest way to realize substantial safety benefits. Practically all automobiles are now equipped with safety belts while passive restraints, if mandated, would be introduced into the fleet at a rate of about only 10% per year, thus requiring many years before their full benefits could be realized. If a usage rate of 70% could be achieved, proponents argue, the resulting safety benefits would be essentially the same as the more expensive passive systems. They point out that mandatory safety belt usage laws have worked in other countries and, with effective enforcement, levels of usage near 70% have been achieved. Not only would usage laws quickly realize much of the potential safety benefits of safety belts that are now being lost, it is claimed, they would do so at no additional cash cost to consumers. Effectively enforced State mandatory safety belt usage laws, enforced by Federal law, are the most cost-beneficial safety proposal the Federal government could bring about. While supporters of this option would rather achieve these high levels of usage through voluntary actions, they believe it is quite unlikely that usage rates in excess of about 40% could be achieved voluntarily. Thus unless safety belt usage is increased by law, they conclude, the nation will not realize the substantial potential safety benefits seat belts could provide.

Opponents of mandatory usage laws would argue that it is not the Federal government's role to induce States to require a citizen to protect himself. They would view the requirement to "buckle-up" as an invasion of individual liberty and an inconvenience that will not be readily accepted by the American people. Recent Congressional actions rescinding regulations mandating the ignition-interlock system and motorcycle helmet laws, they would argue, demonstrate that the American people are opposed to requirements which substantially interfere with personal behavior in the name of safety. Opponents also would point to NHTSA's lack of success in stimulating mandatory usage laws to indicate the futility of this proposal.

ALTERNATIVE III: FEDERAL FIELD TEST OF PASSIVE RESTRAINTS

Under this alternative, the present three-option version of FMVSS 208 would be extended for a period of time while a Federally sponsored field test of passive restraint systems is conducted. The motor vehicle safety data collected in this field test would then be used in formulating a future decision on mandating passive restraints. An adequate field test and evaluation of data could cost from $50 million to $150 million and Congressional approval of a supplemental appropriation to NHTSA would be required.

Among the questions posed by such a field test is how passive restraints would be introduced into the automobile fleet. Should manufacturers be subsidized to introduce passive restraints into one or more of their models? Should the government subsidize individual consumers who elect to have passive restraints installed in their cars? Or should the test be conducted by installing passive restraints in government vehicles? Which approach would ensure that an adequate number of test vehicles will be developed?

Supporters of a Federal field test generally believe that while passive restraints may be mandated eventually, there is insufficient data regarding effectiveness and practicability to justify such a requirement at this time. In view of the substantial cost of mandatory passive restraints and the relatively small cost of a field test, they would argue, the Federal government must ensure that these issues are settled before embarking on such a program. Furthermore, a field test will undoubtedly cause further technological development of passive restraints and also reduce the possibility of serious start-up problems in manufacturing if passive restraints are later mandated. The air cushion would remain an available option to consumers under this alternative and the issue of potential air bag hazards would be even more satisfactorily addressed.

This alternative would likely meet opposition from both those in favor of and those opposed to mandatory passive restraints. The former are sufficiently confident of the data available to conclude that a field test is not needed. And, because of the time needed to prepare for, conduct, and evaluate the field test, the purported potential benefits of passive restraints could be delayed for as much as five years. The latter typically argue that there is sufficient data available to show that passive restraint systems do not provide significantly better protection than the lap and shoulder belts—provided belts are worn—and yet the passive systems are more costly. Others opposed to a field test believe that a $50 million–$150 million expenditure on a field test would be a waste of Federal funds.

ALTERNATIVE IV: MANDATORY PASSIVE RESTRAINTS

Under this alternative, FMVSS 208 would be amended to require passive restraint systems for all automobiles manufactured after a given date. The effective date of the amendment would be determined primarily by the amount of lead time needed by automotive manufacturers to comply with the amended standard. The proposed amendment set forth below would be effective on August 31, 1979, in time for the 1980 model year.

Among the questions entailed in mandating passive restraints is that of which seating positions should be protected. Because of the relatively low occupancy rates for rear seats and the protection afforded rear seat occupants by the back of the front seat, it is generally agreed that rear seat passive restraints would not be justified. Since all cars have drivers and the average front-seat occupancy is 1.4, providing the driver with a passive restraint system would be the most cost-beneficial action. Also, the technology of the air cushion restraint system is such that a driver-side passive restraint system appears to be relatively easy technologically since the air bag would be stored in the steering wheel column assembly without modification of the rest of the car interior. Protecting all front seat occupants (a "full front"

air cushion) would additionally require redesign of the dashboard. With these considerations in mind, the proposed amendment set forth in Appendix B calls for driver-side passive restraints starting August 31, 1979, and full-front passive restraints starting two years later.

This amendment to FMVSS 208 would not become effective until sixty calendar days of continuous session of Congress have passed after its promulgation and only if a concurrent resolution disapproving the amendment is not adopted during that time by both Houses of Congress.

Those favoring this alternative would argue that, in view of the low level of safety belt usage and the limited prospects for increase usage in the future, there is a further "need for motor vehicle safety" as defined by the Safety Act and that a mandate of passive restraints will meet that need. They argue that lives would be saved and injuries will be reduced or avoided at a reasonable cost to consumers. Furthermore, supporters of mandatory passive restraints believe both laboratory simulations and field experience have shown passive restraints to be practicable so that there is no need for additional field data. They would further argue that the additional cost of passive restraints will be mitigated, at least in part, by reduced automobile insurance rates. Finally, they would point out that while comparable benefits could be achieved at lower cost through a higher rate of usage of safety belts, voluntary usage will not reach the requisite levels, and mandatory usage laws are unacceptable to people.

Arguing against this alternative would be those who believe that a mandate of passive restraints would not be in the public interest and would unnecessarily reduce the consumer's freedom of choice. They would claim that experience with passive restraints as an option suggests that consumers prefer the less costly lap and shoulder belts to the air cushion restraint system. Furthermore, they would contend passive restraints, while more costly, would provide no additional safety benefit to those who have been sufficiently interested in personal safety to use their safety belts. The subsidization by seat belt wearers of non-seat belt wearers is claimed to be unfair and contrary to sound public policy. The lack of sufficient field data on the effectiveness, reliability, and feasibility of passive restraints is cited as an additional reason for opposing mandatory passive restraints. Finally, in view of the need for air cushions to be supplemented by lap belts to provide protection in non-frontal crashes, it is argued that air cushions do not constitute a totally passive restraint proposal. The need to buckle a lap belt for complete protection remains, so that personal convenience and actual effectiveness of air cushion passive restraints are overstated.

ALTERNATIVE V: MANDATORY PASSIVE RESTRAINT OPTION

Here FMVSS 208 would be amended to require that automobile manufacturers provide consumers with the option of passive restraints in some or all of their models. The extent to which the option should be available is open to discussion. The proposed amendment set forth in Appendix B requires, that, within each size class,[7] manufacturers must make this option available in at least one model. Under this proposal, most consumers would be able to obtain passive restraints, if they choose, in a reasonable range of models.

This amendment to FMVSS 208 would not become effective until sixty calendar days of continuous session of Congress have passed after its promulgation and only if a concurrent resolution disapproving the amendment is not adopted during that time by both Houses of Congress.

Those in favor of this option would argue that this alternative would realize the advantages of passive restraint systems for those who choose them while preserving the consumer's freedom of choice. As a consequence, the marketplace would also provide incentives for the further development of occupant crash protection systems to meet the safety needs of consumers at the least cost and inconvenience.

Those opposing this option would argue that the safety benefits of passive restraints would not be realized because consumers would choose the less expensive, less protective, active systems. And the optional nature of passive systems would raise their unit cost even higher, thus further discouraging the purchase of passive systems. They would argue that the marketplace has not in the past and will not in the future adequately provide for society's needs in automotive safety. Some automotive manufacturers have pointed out the potentially burdensome cost of providing this option on numerous models of their cars—especially if consumers do not exercise the option in large numbers. The extent to which consumers would select optional passive restraints and the unit costs of passive restraints under this alternative are difficult to anticipate.

HEARING PROCEDURES

The hearing will be conducted in a manner comparable to a Congressional hearing, and will be held on Tuesday, August 3, 1976, at the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C. The hearing schedule will be from 9:30 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:00 p.m. We will seek to assure a fair opportunity for proponents of all positions to present their views.

Participants will be permitted a maximum of ten minutes each. Written copies of presentations will be helpful, but are not required. Additionally, written presentations of any interested person, including those who may not have sufficient time to express their full views at the hearing, may be submitted directly to me on or before September 17, 1976 (send to Secretary of Transportation, Washington, D.C. 20590, and indicate FMVSS 208 Hearing on the envelope). These submissions will be available for public inspection and copying from the docket clerk, both before and after September 17, 1976, in the Office of the Assistant General Counsel for Operations and Legal Counsel, Room 10100, Nassif Building, 400 7th Street, S.W., Washington, D.C., from 9:00 a.m. to 5:30 p.m. local time, Monday through Friday, except Federal holidays.

Requests to testify will be accepted from public officials, representatives of recognized civic, public interest, or industry organizations, and concerned and knowledgeable citizens. Time allotments will be governed by the number of received; if the requests exceed the available time, we will ask prospective witnesses with similar views to combine their presentations. In the event that accommodation cannot be made, witnesses will be chosen by lot.

Any public official, representative of an organization, or other individual desiring to participate at the hearing should write directly to me at the above address on or before July 12, 1976, providing the following information.

1. Name.
2. Business address.
3. Telephone number during normal working hours.
4. Capacity in which presentation will be made (i.e., public official, organization representative, knowledgeable citizen).
5. Principal issue to be addressed (i.e., appropriate Federal role, benefits vs. costs, or public acceptance) and basic position on the issue and the identified alternatives.
6. Time desired, which must be ten minutes or less.
7. Written copy of presentation, if one is to be submitted.

Envelopes should be marked FMVSS 208 Testimony, and may be mailed or hand-delivered to the Executive Secretary, Room 10203, Nassif Building (DOT Headquarters), 400 7th Street, SW., Washington, D.C.

The public and the press are invited to attend the hearing, which will be transcribed electronically. The transcript and all written submissions will become a part of the record in this proceeding.

The holding of this hearing should not necessarily be viewed as a precedent for the way in which I will handle similar matters in the future.

Issued in Washington, D.C., June 9, 1976.

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

FORMAL RULE CHANGES

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that Standard No. 208 (49 CFR 571.208) be amended in accordance with one of five alternatives as follows:

[7] "Size class" refers to the size of the wheelbase conforming to the subcompact, compact, intermediate, standard, and full-size division automobiles.

§ 571.208 [Amended]

ALTERNATIVE I

The dates "August 31, 1976" and "August 15, 1977" would be changed to read "August 31, 1979" wherever they appear in S4.1.2, S5.3, S6.2, and S6.3.

ALTERNATIVE II

The dates "August 31, 1976" and "August 15, 1977" would be changed to read "August 31, 1979" wherever they appear in S4.1.2, S5.3, S6.2, and S6.3.

ALTERNATIVE III

The dates "August 31, 1976" and "August 15, 1977" would be changed to read "August 31, 1979" wherever they appear in S4.1.2, S5.3, S6.2, and S6.3.

ALTERNATIVE IV

1. S4.1.2 would be amended to read:

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1981.* Each passenger car manufactured from September 1, 1973, to August 31, 1979, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3. Each passenger car manufactured from September 1, 1979, to August 31, 1981, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2. or S4.1.2.3, except that it shall meet the requirements of S4.1.3 at the driver's position. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. A new S4.1.3 would be added to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1981.* Each passenger car manufactured on or after September 1, 1981, shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants;

(b) At each rear designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 through S7.3A, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the means that require no action by the vehicle occupant.

3. The dates "August 31, 1976" and "August 15, 1977" would be changed to read "August 31, 1979" wherever they appear in S5.3, S6.2 and S6.3.

ALTERNATIVE V

1. S4.1.2 would be amended in part to read:

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1981.* Each passenger car manufactured from September 1, 1973, to August 31, 1979, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3. Each passenger car manufactured from September 1, 1979 to August 31, 1981, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2., or S4.1.2.3, except that, upon the prospective purchaser's offer of purchase and specification of passive restraint as described by S4.1.3, a passenger car shall meet the passive restraint requirements of S4.1.3 at the driver's position, unless its manufacturer produces a passenger car of a different model with passive restraint protection that has a wheelbase which falls within the same wheelbase range as the requested vehicle, based on the wheelbase ranges specified in (a) through (e). A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

(a) The wheelbase range that is 100 inches or less.

(b) The wheelbase range that is more than 100 inches and less than 110 inches.

(c) The wheelbase range that is 110 inches to 120 inches.

(d) The wheelbase range that is more than 120 inches but less than 123 inches.

(e) The wheelbase range that is 123 inches or more.

2. A new S4.1.3 would be added to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1981.* Each passenger car manufactured on or after September 1, 1981, shall meet the requirements of S.4.1.2.1, S4.1.2.2, or S4.1.2.3 of S4.1.2, except that, upon the prospective purchaser's offer of purchase and specification of passive restraint as described in (a) through (c), a passenger car shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants:

(b) At each rear designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 through S7.3A, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the means that require no action by the vehicle occupant. However, a passenger car need not meet the requirements of (a) through (c) if its manufacturer produces a passenger car of a different model that has the passive protection described in (a) through (c) and that has a wheelbase which falls within the same wheelbase range as the requested vehicle, based on the following wheelbase ranges: 100 inches or less; more than 100 inches and less than 110 inches; 110 inches to 120 inches; more than 120 inches but less than 123 inches; and 123 inches or more.

(3) The dates "August 31, 1976" and "August 15, 1977" would be changed to read "August 31, 1979" wherever they appear in S5.3, S6.2, and S6.3.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 109, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410(b)).)

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with Office of Management and Budget Circular A-107.

PART 1204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

In consideration of the foreging, if Alternative II is to be implemented, in addition to the proposed change to Standard No. 208 (49 CFR 571.208) set forth above with respect to Alternative II, Highway Safety Program Standard No. I/M (23 CFR Part 1204) is hereby proposed as follows:

I. *Scope.* This standard establishes minimum requirements for a State highway safety program for safety belt use.

II. *Purpose.* The purpose of this standard is to establish State safety belt use programs which will significantly reduce highway deaths and injuries and resultant societal costs.

III. *Definition.* For the purpose of this standard, "safety belt" means a lap belt, shoulder belt, or other belt or combinations of belts designed to be installed in any motor vehicle to restrain the operator and any passengers in the vehicle during motor vehicle crashes or other sudden decelerations.

IV. *Requirements.* A. Each State shall develop and maintain a safety belt use program to achieve, within three years after the date of the issuance of this standard, a statewide safety belt use rate of at least 70 percent by occupants of motor vehicles which have been required by Federal regulation to be equipped initially with safety belts and which are operated on the public streets, roads or highways of the State.

B. Annually, beginning one year after the issuance of this standard, each State shall conduct a road-side survey providing a sufficient number of representative observations to estimate reliably the statewide safety belt use rate. The survey plan and methodology shall be decided cooperatively by each State and the National Highway Traffic Safety Administration.

V. *Supplemental components.* Each State shall adopt such of the following measures as appear necessary to attain the safety belt use rate specified in section IV:

A. *Safety belt use law and enforcement program.* A State safety belt use law shall be enacted and enforced that—

1. Requires the use of safety belts by the occupants of motor vehicles which are in operation on the public streets, roads or highways of the State;

2. Exempts any person or class of persons from the law's requirements upon finding that requiring such person or class of persons to use safety belts would be unreasonable; and

3. Provides a fine for a violation equivalent to a fine for a minor moving traffic law offense.

B. *Safety belt use educational program.* An educational program shall be designed and implemented to encourage safety belt use and to inform the citizens of the State about the individual and societal benefits of safety belt use, including:

1. A public information program;

2. An elementary and secondary school program; and

3. In-service training for State and local personnel directly involved in the development and maintenance of the safety belt use program.

C. *Safety belt installation and maintenance law.* A State safety belt installation and maintenance law shall be enacted that requires that (1) no person shall operate any motor vehicle on the streets, roads and highways of the State unless each of its seating positions is equipped with the same number of safety belts with which it was required by Federal law or regulation to be equipped at the time of the vehicle's manufacture and all of the safety belts with which it is required by State law or regulation to be equipped; and (2) no person shall wholly or partially remove or disconnect any safety belt that was required by Federal law or regulation to be installed in a motor vehicle at the time of the vehicle's manufacture, or that is required by State law or regulation to be installed in a vehicle, except temporarily for cleaning, repair, or replacement with equivalent or improved safety belts.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 402.)

APPENDIX A—BENEFIT/COST ANALYSIS

This appendix details the analysis that led to the benefits and cost information presented in section II of the basic issues.

I. SOCIETAL COST BASE LINE

As a base-line condition for the calculations which follow, estimates are made here of (1) the annual number of fatalities and injuries to all passenger car front seat occupants and (2) the associated total societal cost, assuming *no* restraint system usage. The severity of such injuries are expressed in terms of the Abbreviated Injury Severity Scale (AIS Scale):

AIS injury level

AIS injury level	*Description*
1	Minor (e.g., simple sprain).
2	Moderate (e.g., simple fracture).
3	Severe (e.g., severe fracture or dislocated major joints).
4	Serious non-fatal (e.g., amputated limbs, severe skull fracture, and survivable organ injuries).
5	Critical non-fatal (e.g., major spinal cord injury, critical organ injuries).
6	Fatal.

Estimates of the number and distribution of severity of such injuries, derived from recent data, are given below in Table A1.

TABLE A1.—*Severity distribution of highway accident injuries*

AIS injury level	Number per year	Percentage of total
1	2,290,000	84.2
2	332,000	12.2
3	54,400	2.0
4	13,600	0.5
5	2,700	.1
6	27,200	1.0
Total	2,719,900	

The figures for AIS 4 and 5 may appear anomalous with respect to AIS 6 (fatal); these values result because of the definitions of the AIS injury levels.

Using estimates of the societal cost per injury at each level of severity, we can calculate the annual societal cost of injuries. The results are shown below in Table A2.

TABLE A2

SOCIETAL COSTS OF HIGHWAY ACCIDENT INJURIES AND DEATHS [1]

AIS injury level:	*Annual society cost (millions of dollars)*
1	710
2	740
3	310
4	1,140
5	510
6	7,790
Total	11,200

[1] A 7 percent discount rate has been used for long-term societal costs or benefits.

These figures demonstrate the magnitude of the highway safety problem—over $11 billion per year in societal costs due to passenger car occupant injuries and deaths alone. This table also shows the importance of protection at higher severity levels if we are to achieve major safety improvements.

II. BENEFITS

To determine the benefits that result from a particular crash protection system, both the effectiveness of the system in reducing or avoiding injuries (when used) and the rate of usage must be known.

II.1 OCCUPANT CRASH PROTECTION SYSTEM EFFECTIVENESS

Available field data do not provide a definitive basis for estimating the effectiveness of all existing occupant crash protection systems. However, results of engineering tests involving animals, cadavers, and human volunteers, subjected to crashes under a variety of controlled test conditions, do provide a basis for estimating the relative effectiveness of alternative systems. Using the most extensive field test results available (i.e., those for lap and lap-and-shoulder belt systems), taken together with the relative effectiveness estimates from laboratory data, one can construct the table of occupant crash protection system effectiveness estimates shown below in Table A3.

TABLE A3.—*Occupant crash protection system effectiveness estimates*

AIS injury level	Lap belt	Lap and shoulder belt	Air cushion	Air cushion and lap belt	Passive belt and knee bolster	Knee bolster
1	0.15	0.30	0	0.15	0.20	0.10
2	.22	.57	.22	.33	.40	.15
3	.30	.59	.30	.45	.45	.20
4 to 6	.40	.60	.40	.60	.50	.25

These effectiveness numbers mean that, at a given injury severity level, a particular protection system will reduce injuries of that severity (from that which would occur with no protection) by a fraction whose numerical value equals the effectiveness number—e.g., a lap and shoulder belt reduces the number of fatalities (AIS 6) by an estimated 60 percent.

Multiplying these effectiveness numbers by the number of occurrences from Table A1 or the societal cost given in Table A2 gives the total effectiveness at 100% usage. The latter is more appropriate as it more accurately reflects the impact of a system and also will be useful in calculating benefit/cost ratios. These results are shown below in Table A4.

TABLE A4.—*Occupant crash protection system benefits at theoretical 100-pct usage*

[In millions of dollars]

AIS injury level	Lap belt	Lap and shoulder belt	Air cushion	Air cushion and lap belt	Passive belt and knee bolster	Knee bolster
1	110	210	0	110	140	70
2	160	420	160	240	300	110
3	90	190	90	140	140	60
4	460	680	460	680	570	280
5	200	310	200	310	250	130
6	3,120	4,670	3,120	4,670	3,890	1,950
Total	4,140	6,480	4,030	6,150	5,290	2,600

The results in Table A4 show the maximum possible benefits of the various protection systems listed. If the actual usage rate is less than the theoretical limit of 100%, the benefits are reduced commensurately.

II.2 OCCUPANT CRASH PROTECTION USAGE

Estimates of active belt systems benefits will be made using two different projections for rates of voluntary usage. The nominal projection assumes 15% usage of lap and shoulder belt combinations and an additional 5% usage of the lap belt only. The other "optimistic" projection assumes 35% usage of lap and shoulder belt combinations, plus 5% lap belt only. The nominal projection is believed to correspond to usage rates that will be experienced in practice and should represent a lower bound for usage rates in the future.

The optimistic projection is thought to represent the likely upper limit of belt usage in the absence of mandatory seat belt use laws.

In calculating the benefits of air cushion restraint systems, we assume a 98% rate of readiness for air bags and a 20% rate of safety belt wearing. For passive belts, a 60% usage rate is assumed (e.g., a 40% "system defeat rate").

Mandatory seat belt use laws are assumed to result in a use rate of 70% for lap and shoulder belts.

Finally, in calculating the benefits for a situation in which both air cushions and lap-and-shoulder belts were available—such as with a mandatory passive restraint option—we shall assume that air bags are in 5%, 10%, and 25% of the cars with the remainder of the cars having lap-and-shoulder belts. The lap belt usage rate with air bags is taken to be 20% as is the usage rate for lap and shoulder belts.

III.3 COMPARISON OF BENEFITS

Table A5 compares the estimated (steady state) annual savings—in terms of lives saved, injuries reduced or avoided, and societal costs—if all vehicles are equipped with the various protection systems indicated.

TABLE A5.—*Annual benefits of occupant crash protection systems*

System	Fatalities saved	Injuries avoided or reduced	Societal benefits (billions of dollars)
15 pct lap and shoulder, 5 pct lap only	3,000	159,300	1.18
35 pct lap and shoulder, 5 pct lap only	6,300	342,600	2.48
70 pct lap and shoulder	11,500	641,400	4.55
Air cushion and lap belt:			
Full front	11,200	171,800	4.23
Driver only	9,200	168,600	3.44
Passive belt and knee bolster	8,200	373,300	3.62
Mandatory option:			
5 pct air cushion	3,400	182,700	1.36
10 pct air cushion	4,100	182,100	1.60
25 pct air cushion	5,400	180,300	2.06

III. BENEFIT/COST RATIOS

Table A6 presents a set of benefit/cost ratios derived from the benefit data in Table A5 and from estimates of total incremental life cycle costs shown in Table A7.

TABLE A6.—*Benefit/cost ratio of occupant crash protection systems*

System	Benefit/cost [1]		
	Low	NHTSA	High
15 pct lap and shoulder, 5 pct lap only	2.4	2.0	1.7
35 pct lap and shoulder, 5 pct lap only	5.0	4.1	3.5
70 pct lap and shoulder	9.1	7.6	6.5
Air cushion and lap belt:			
Full front	4.2	2.2	1.2
Driver only		3.1	1.7
Passive belt and knee bolster		4.0	
Mandatory option:			
5 pct air cushion		1.8	
10 pct air cushion		1.7	
25 pct air cushion		1.5	

[1] Assumes 10,000,000 new cars per year.

TABLE A7.—*Cost of occupant crash protection systems* [1]

	Cost		
	Low	NHTSA	High
Lap belt		30	
Lap and shoulder belt	50	60	70
Driver-only air cushion		110	200
Full-front air cushion	100	[2] 190	350
Passive belt and knee bolster		90	

[1] This does not include the cost of lap belts for rear seat occupants—typically about $20 per car.

[2] This assumes all cars would be equipped with the air cushion. If air cushions are to be offered as an option, a very rough estimate of the cost is taken to be twice this price.

It is useful in comparing the advantages of various alternatives, to compute the incremental benefits and costs—e.g., the additional benefits and costs relative to the current state of affairs. Forming the ratio of the incremental benefits and costs gives an indication of the relative merits of the different alternatives. These results, using NHTSA's cost estimates, are shown below in Table A8.

TABLE A8

INCREMENTAL BENEFIT/COST RATIO OF OCCUPANT CRASH PROTECTION SYSTEMS

System:	*Incremental benefit cost*
35 pct lap and shoulder	[1]
5 pct. lap only	
70 pct. lap and shoulder	[1]
Air cushion and lap belt:	
Full front	2.4
Driver only	4.5
Passive belt and knee bolster	8.1
Mandatory option:	
5 pct. air cushion	1.1
10 pct. air cushion	1.3
25 pct. air cushion	1.1

[1] This infinite value results as the incremental cost of this option is zero. This, of course, ignores the costs of enforcement and the time people spend "buckling up".

All of the discussion of benefits and cost presented to this point has focused on the steady state, or equilibrium condition—i.e., that situation expected to exist long after a particular system has been put into effect. If one examines the transition period after a new protection system is mandated, one finds that while the full annual costs are realized immediately, the benefits are realized in increments of roughly 10% per year. Thus it takes a period of time for the cumulative benefits to exceed the cumulative costs—even for a system whose steady-state benefit/cost ratio exceeds unity by a sizeable amount. Depending upon the cost figures used, for example, it would take 5 to 7 years before a mandatory passive restraint requirement would break even.

[FR Doc.76-17127 Filed 6-11-76;8:45 am]

federal register

MONDAY, JUNE 14, 1976

PART IV:

OFFICE OF MANAGEMENT AND BUDGET

■

RESCISSIONS AND DEFERRALS

Cumulative Report; June 1976

OFFICE OF MANAGEMENT AND BUDGET

RESCISSIONS AND DEFERRALS

Cumulative Report; June, 1976

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (P.L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of June 1, 1976, of the 44 rescissions and 111 deferrals contained in the first fifteen special messages transmitted to the Congress for fiscal year 1976. These messages were transmitted to the Congress on July 1 and 25, September 10 and 24, October 3 and 20, November 18, December 1, 1975, January 6 and 23, February 6, March 18, April 13 and 26, and May 13, 1976.

RESCISSIONS (TABLE A AND ATTACHMENT A)

No rescissions are presently pending before the Congress. Table A summarizes the disposition of rescissions proposed during fiscal year 1976 and Attachment A details each proposal and its disposition.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of June 1, 1976, $5,491.1 million in 1976 budget authority was being deferred from obligation and another $144.8 million in 1976 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President. Attachment B shows the history and status of each deferral proposed during the first eleven months of fiscal year 1976.

INFORMATION FROM SPECIAL MESSAGES

The fifteen special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Wednesday, July 9, 1975 (Vol. 40, No. 132, Part V)
Wednesday, July 30, 1975 (Vol. 40, No. 147, Part II)
Monday, September 15, 1975 (Vol. 40, No. 179, Part V)
Monday, September 29, 1975 (Vol. 40, No. 189, Part V)
Wednesday, October 8, 1975 (Vol. 40, No. 196, Part VII)
Thursday, October 23, 1975 (Vol. 40, No. 206, Part III)
Thursday, November 20, 1975 (Vol. 40, No. 225, Part VI)
Thursday, December 4, 1975 (Vol. 40, No. 234, Part II)
Friday, January 9, 1976 (Vol. 41, No. 6, Part V)
Wednesday, January 28, 1976 (Vol. 41, No. 19, Part V)
Wednesday, February 11, 1976 (Vol. 41, No. 29, Part VII)
Tuesday, March 23, 1976 (Vol. 41, No. 57, Part V)
Friday, April 16, 1976 (Vol. 41, No. 75, Part VI)
Thursday, April 29, 1976 (Vol. 41, No. 87, Part IV)
Monday, May 17, 1976 (Vol. 41, No. 96, Part VI)

JAMES T. LYNN,
Director.

Table A

STATUS OF 1976 RESCISSION PROPOSALS

	Amount* (in millions of dollars)
Rescissions proposed by the President.....	3,328.7
Accepted by the Congress:	
Helium fund (R76-6) 1/.....	47.5
Access highways to public recreation areas on certain lakes (R76-2) 2/.....	15.0
Public lands development roads and trails (R76-40) 3/.....	4.9
National Park Service, road construction (R76-41) 3/.....	58.5
State Department-Mutual educational and cultural exchange (R76-42) 3/.....	8.0
Consumer Product Safety Commission (R76-27A) 3/.....	2.7
Selective Service System (R76-44) 3/...	1.8
Total accepted by the Congress.....	138.3
Rejected by the Congress.....	3,190.4

*Detail does not add to total due to rounding.

1/ Included in the first 1976 rescission bill (P.L. 94-111).

2/ The Department of Transportation and Related Agencies Appropriations Act (P.L. 94-134) rescinded $25 million under this head and appropriated $10 million under a separate section of Federal-Aid Highway Amendments of 1974 (23 U.S.C. 101).

3/ Included in the second 1976 rescission bill (P.L. 94-249)

Table B

STATUS OF 1976 DEFERRALS

	Amount* (in millions of dollars)
Deferrals proposed by the President.....	8,775.3
Routine Executive releases (-$2,545.8M) and adjustments (-$245.2M) 1/ through June 1, 1976.....	-2,791.0
Overturned by the Congress 2/	
Agriculture:	
Agricultural Research Service	
Construction (D76-68) (overturned December 4, 1975).....	-7.6
Animal and Plant Health Inspection Service	
Construction-Fleming Key animal import center (D76-69) (overturned December 10, 1975).....	-6.3
Agricultural Stabilization and Conservation Service	
Agriculture conservation program (D76-70) (overturned December 19, 1975)..	-90.0
Farmers Home Administration	
Rural water and waste disposal grants (D76-72) (overturned December 19, 1975)..	-50.0
Soil Conservation Service	
Watershed and flood prevention (D76-73) (overturned December 19, 1975).....	-22.5
Watershed and flood prevention (D76-95) (overturned April 12, 1976).....	-18.0
Resource conservation and development (D76-74) (overturned December 19, 1975)..	-5.0
Food and Nutrition Service	
Special supplemental food program (D76-106) (overturned April 12, 1976)....	-61.0
Forest Service	
Youth Conservation Corps (D76-101) (overturned March 9, 1976).....	-23.7
Corps of Engineers-Civil:	
Revolving Fund (D76-96) (overturned April 14, 1976).....	-.7
Health, Education, and Welfare:	
Health Services Administration	
Indian health facilities (D76-39, D76-97) (overturned March 9, 1976).....	-14.9
Interior:	
Bureau of Reclamation	
Construction and rehabilitation (D76-13) (overturned December 4, 1975).....	-1.0
Bureau of Indian Affairs	
Construction (D76-103) (overturned March 9, 1976).....	-10.9

2

	Amount* (in millions of dollars)
Justice:	
Law Enforcement Assistance Administration	
Juvenile justice and delinquency prevention (D76-98) (overturned March 4, 1976)	-15.0
EPA: (all overturned December 19, 1975)	
Research and development	
Air research (D76-79)	-2.0
Water research (D76-80)	-4.6
Abatement and Control	
Air control agency grants (D76-81)	-3.8
Water quality control agency grants (D76-82)	-10.0
Clean lakes grants (D76-83)	-15.0
Other Independent Agencies:	
Community Services Administration	
Emergency energy conservation (D76-49) (overturned November 3, 1975)	-16.5
Total, deferrals overturned by the Congress 2/	-378.4
Currently before the Congress	5,605.9 3/

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* Detail does not add to total due to rounding.

1/ Adjustments include, for example, termination of Agriculture and Health, Education, and Welfare deferrals under the continuing resolution upon approval of associated appropriation acts. An amount equal to $907.8 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "adjustments" entry above because these adjustments are included in calculating the amount shown on the line "Deferrals proposed by the President."

2/ Does not include $10 million in funds reported as deferred by the General Accounting Office and overturned by the Congress on July 10, 1975.

3/ Includes $114.8 million of outlays in two Treasury deferrals--D76-25E and D76-67.

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ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

As of June 1, 1976

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Agriculture							
Agriculture Research Service:							
Construction	R76-15	[225]	12-01-75			225	02-24-76
Agriculture Stabilization and Conservation Service:							
Water Bank Act Program	R76-16	[12,500]	12-01-75			12,500 1/	02-24-76
Forestry Incentives Program	R76-17	[18,750]	12-01-75				
	R76-17A	[18,750]	01-23-76			18,750 2/	02-24-76
Farmers Home Administration:							
Rural Water and Waste Disposal Grants	R76-18	[150,000]	12-01-75			150,000 3/	02-24-76
Rural Development Grants	R76-19	[12,344]	12-01-75				
	R76-19A	[12,344]	01-23-76			12,344 4/	02-24-76
Rural Housing for Domestic farm labor	R76-20	[9,375]	12-01-75			9,375 5/	02-24-76
Mutual and self-help housing	R76-21	[12,287]	12-01-75			12,287 6/	02-24-76
Self-help housing land development fund	R76-22	[1,498]	12-01-75			1,498	02-24-76
Rural housing insurance fund	R76-23	[10,000]	12-01-75			10,000	02-24-76
	R76-29	[500,000]	01-23-76			500,000	03-18-76

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Rural community fire protection grants	R76-24	[4,375]	12-01-75			4,375 7/	02-24-76
Agriculture Marketing Service:							
Payments to States and possessions	R76-25	[2,000]	12-01-75			2,000 8/	02-24-76
Food and Nutrition Service:							
Special milk program	R76-30	[40,000]	01-23-76			40,000	03-18-76
Forest Service:							
Forest Roads and Trails	R76-4	[25,723]	07-25-75			25,723	10-07-75
Department of Commerce							
Economic Development Administration:							
Economic development assistance programs	R76-31	[4,000]	01-23-76			4,000	03-18-76
Department of Defense-Civil							
Corps of Engineers-Civil:							
Construction, general	R76-32	[3,600]	01-23-76			3,600	03-18-76
Department of Health, Education, and Welfare							
Health Services Administration:							
Health Services	R76-33	[127,804]	01-23-76			127,804 9/	03-18-76
Indian health service	R76-34	[5,294]	01-23-76			5,294	03-18-76
Center for Disease Control:							
Preventive health services	R76-35	[7,690]	01-23-76			7,690	03-18-76
Alcohol, Drug Abuse and Mental Health Administration:							
Alcohol, drug abuse and mental health	R76-36	[56,500]	01-23-76			56,500	03-18-76

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Health Resources Administration: Health resources	R76-37	[69,000]	01-23-76			69,000 10/	03-18-76
Office of Education: Elementary and secondary education	R76-9	[220,404]	11-18-75				
	R76-9A	[210,404]	01-23-76			210,404 11/	02-20-76
Indian education	R76-38	[15,000]	01-23-76			15,000	03-18-76
School assistance in federally affected areas	R76-10	[220,968]	11-18-75				
	R76-10A	[243,773]	01-23-76			243,773 12/	02-20-76
Education for the Handicapped	R76-11	[36,375]	11-18-75			36,375 13/	02-20-76
Occupational, vocational, and adult education	R76-12	[14,241]	11-18-75			14,241 14/	02-20-76
Higher education	R76-13	[768,140]	11-18-75			768,140	02-20-76
Library resources	R76-14	[28,975]	11-18-75			28,975 15/	02-20-76
Assistant Secretary for Human Development: Child Development and Head Start	R76-5	[7,000]	07-25-75			7,000	10-24-75
Grants for the developmentally disabled	R76-39	[2,000]	01-23-76			2,000	03-18-76
Department of Housing and Urban Development Housing Production and Mortgage Credit: State Housing Finance and Development Agencies	R76-26	[600,000] 16/	12-01-75			600,000	02-24-76
Community Planning and Development: Rehabilitation loan fund	R76-28	[60,670]	11-06-75				

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of the Interior Bureau of Land Management: Public lands development roads and trails	R76-40	[8,800] 17/	01-23-76	4,900 18/	03-25-76	3,900	03-24-76
National Park Service: Road construction	R76-41	[58,500] 19/	01-23-76	58,500 18/	03-25-76		
Bureau of Mines: Helium Fund	R76-6	[47,500]	07-25-75	47,500	10-13-75 20/		
Department of State Mutual educational and cultural exchange activities	R76-42	[8,000]	01-23-76	8,000 18/	03-25-76		
Department of Transportation Federal Highway Administration: National Scenic and Recreational Highway	R76-1	[90,000]	07-01-75	21/	21/	90,000 21/	04-16-76
Access Highways to Public Recreation Areas on Lakes	R76-2	[25,000]	07-01-75	25,000 22/	11-24-75 22/	22/	11-24-75
Department of the Treasury Office of the Secretary: Construction, Federal Law Enforcement Training Center	R76-3	[8,665]	07-01-75			8,665	09-23-75
Other Independent Agencies Community Services Administration: Economic Opportunity Program: Research and Demonstration	R76-7	[2,500] 23/	07-25-75				
Community and Economic Development	R76-8	[7,500] 23/	07-25-75				
Community services program	R76-43	[2,500] 24/	01-23-76			2,500	03-18-76

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Consumer Product Safety Commission:							
Salaries and expenses	R76-27	[5,225]	12-01-75				
	R76-27A	[6,431]	01-23-76			(6,431) 25/	02-24-76
				2,656 18/26/	03-25-76	3,775 27/	03-25-76
Selective Service System:							
Salaries and expenses	R76-44	[1,775]	01-23-76	1,775 18/	03-25-76		
TOTAL		0		138,331 28/		3,170,383 29/	

1/ $2.5 million of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
2/ $3,750,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
3/ $25 million of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
4/ $2,969,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
5/ $1,875,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
6/ $2,250,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
7/ $875,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
8/ $400,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
9/ $24,645,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
10/ $2,000,000 of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
11/ $161,634,000 of this amount becomes available on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
12/ $194,265,000 of this amount was proposed for rescission without being withheld.
13/ $35 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
14/ $4 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
15/ $10 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
16/ For 1976, $15 million in contract authority and $15 million to liquidate that contract authority.
17/ See deferral D76-12.
18/ P.L. 94-249.
19/ See deferral D76-18.
20/ P.L. 94-111.
21/ See House Report No. 94-496. Deferral of the $90 million was reported to the Congress on September 24, 1975, in D76-55. The funds deferred were released on April 16, 1976, because of Congressional inaction on the related rescission request.
22/ P.L. 94-134, signed November 24, 1975, rescinds the $25 million in R76-2 and makes new appropriations of $10 million.
23/ These funds, provided in P.L. 94-32, lapsed on September 30, 1975. They were reappropriated in P.L. 94-206 which became law on January 28, 1976, and are available for obligation.
24/ Appropriated in P.L. 94-157.
25/ Released as required.
26/ Includes $400,000 of transition quarter funds.
27/ Includes $806,000 of funds appropriated for the transition quarter to be made available July 1, 1976.
28/ Total includes R76-2 at $15 million ($25 million rescinded minus $10 million appropriated).
29/ The amounts proposed for rescission in R76-7 and R76-8 ($10 million) and $10 million from R76-2 must be added to the amount made available to derive the total for rescissions rejected by the Congress ($3190.4 million).

STATUS OF DEFERRALS — ATTACHMENT B — B-1

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Agriculture 1/

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
Agricultural Research Service									
Construction	D76-68		7,570	12-01-75					
				12-05-75		2/	-7,570 3/		0
Animal and Plant Inspection Service									
Construction	D76-69		6,314	12-01-75					
				12-15-75		4/	-6,314 5/		0
Foreign Agricultural Service									
Salaries and Expenses (Special Foreign Currency)	D76-1		2,232	07-01-75					
				05-26-76	[-122] 9/				2,232
Agricultural Stabilization and Conservation Service									
Commodity Credit Corporation Administrative Expenses	D76-71		2,787	12-01-75					
				12-18-75	-2,787				0
Agricultural Conservation Program	D76-28	[31,667]		07-25-75					
				09-10-75				-31,667 6/	
	D76-28A	[31,667]		09-10-75					
				10-03-75				-31,667 6/	
	D76-28B		63,333	10-03-75					
				10-21-75				-63,333 7/	0
	D76-70		90,000	12-01-75					
				12-24-75		-90,000 8/			0
Water Bank Act Program	D76-29	[536]		07-25-75					
				10-03-75				-536 6/	
	D76-29A		1,072	10-03-75					
				10-21-75				-1,072 7/	0
	D76-104		8,072	03-18-76					
				02-24-76	-8,072				0

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
Forestry Incentives Program	D76-30	[3,750]		07-25-75					
				10-03-75				-3,750 6/	
	D76-30A		7,500	10-03-75					
				10-21-75				-7,500 7/	0
Farmers Home Administration									
Rural Water and Waste Disposal	D76-31	[37,500]		07-25-75					
				10-03-75				-37,500 6/	
	D76-31A		75,000	10-03-75					
				10-21-75				-75,000 7/	0
	D76-72		50,000	12-01-75					
				12-24-75		-50,000 10/			0
Rural Housing for Domestic Farm Labor Grants	D76-32	[1,250]		07-25-75					
				10-03-75				-1,250 6/	
	D76-32A		2,500	10-03-75					
				10-21-75				-2,500 7/	0
Mutual and Self-help Housing Grants	D76-33	[2,050]		07-25-75					
				10-03-75				-2,050 6/	
	D76-33A		3,300	10-03-75					
				10-21-75				-3,300 7/	0
Self-help Housing Land Development Fund	D76-34	[1,625]		07-25-75					
				10-03-75				-1,625 6/	
	D76-34A		1,625	10-03-75					
				10-21-75				-1,625 7/	0
Soil Conservation Service									
Watershed and flood prevention operations	D76-73		22,500	12-01-75					
				12-24-75		-22,500 11/			0
	D76-95		18,000	01-23-76					
				04-13-76		-18,000 12/			0
Resource conservation and development	D76-74		4,960	12-01-75					
				12-24-75		-4,960 13/			0

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Agricultural Marketing Service									
Payments to States and Possessions	D76-35	[400]		07-25-75 10-03-75				.-400 6/	
	D76-35A		800	10-03-75 10-21-75				-800 7/	0
Food and Nutrition Service									
Special supplemental food program	D76-105		61,000	03-18-76 04-13-76		-61,000 14/			0
Forest Service									
Youth Conservation Corps	D76-101		23,680	02-06-76 03-10-76			-23,680 15/		0
Forest Roads and Trails	D76-36		280,000	07-25-75 01-22-76	-1,343				278,657
Expenses, Brush Disposal	D76-37		27,113	07-25-75 01-22-76	-2,040				25,073

B-4

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Licensee Programs	D76-38	[95]		07-25-75 02-06-76				-95 6/	
	D76-38A		153	02-06-76					153
TOTAL		110,540	759,511		-14,242	-246,460	-37,564	-265,670	306,115

1/ On July 10, 1975, the Senate passed an impoundment resolution requiring release of Youth Conservation Corps funds reported two days earlier by the General Accounting Office as being deferred ($10 million). Funds were released on July 16, 1975.
2/ Impoundment resolution H. Res. 910 passed the House on December 19, 1975, expressing disapproval of this deferral. The funds were released on December 5, 1975, following Senate passage of S. Res. 313.
3/ Impoundment resolution S. Res. 313 passed the Senate on December 4, 1975, rejecting this deferral.
4/ Impoundment resolution H. Res. 911 passed the House on December 19, 1975, expressing disapproval of this deferral. The funds were released on December 15, 1975.
5/ Impoundment resolution, S. Res. 324, passed the Senate on December 10, 1975, rejecting this deferral.
6/ Subsequently incorporated in a supplementary report.
7/ Enactment of P.L. 94-122 (October 21, 1975) ended deferrals of funds provided by the continuing resolution.
8/ Impoundment resolution H. Res. 912 passed the House on December 19, 1975, rejecting this deferral.
9/ This amount will be available for obligation on July 1, 1976.
10/ Impoundment resolution H. Res. 914 passed the House on December 19, 1975, rejecting this deferral.
11/ Impoundment resolution H. Res. 915 passed the House on December 19, 1975, rejecting this deferral.
12/ Impoundment resolution H. Res. 1032 passed the House on April 12, 1976, rejecting this deferral.
13/ Impoundment resolution H. Res. 916 passed the House on December 19, 1975, rejecting this deferral.
14/ Impoundment resolution H. Res. 1129 passed the House on April 12, 1976, rejecting this deferral.
15/ Impoundment resolution S. Res. 385 passed the Senate on March 9, 1976, rejecting this deferral.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
General Administration									
Special foreign currency	D76-106		1,220	03-18-76					
				03-30-76	-1,220				0
National Oceanic and Atmospheric Administration									
Fisheries Loan Fund	D76-2		7,252	07-01-75					
				11-14-75				-769 1/	
				02-25-76				-1,489 2/	4,994
Promote and Develop Fishery Products	D76-3		1,355	07-01-75				-173 1/	
				12-30-75	-377				
				02-25-76				+516 3/	1,321
Fishermen's Guaranty Fund	D76-75		152	12-01-75					
				02-25-76	-102				50
Office of the Assistant Secretary for Science and Technology									
Scientific and Technical research and services	D76-76		1,187	12-01-75					1,187
Maritime Administration									
Ship construction	D76-107		231,000	03-18-76					231,000
TOTAL			242,166		-1,699			-1,915	238,552

1/ Reflects a revised unobligated balance brought forward from FY 1975.
2/ Reflects a reduction in estimated loan repayments.
3/ Reflects higher estimates of gross receipts from customers duties on imported fishery products.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

B-6

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
Shipbuilding and Conversion, Navy	D76-4		1,793,590	07-01-75					
				09-09-75	-1,793,590				0
	D76-108		2,245,945	03-18-76					2,245,945
Military Construction, All Services	D76-5	[233,630]		07-01-75					
				06-27-75	-1,582				
				07-29-75	-1,752				
				08-25-75	-15,046				
				09-04-75	-5,515				
				10-06-75				245	
				10-15-75	-34,524				
				10-24-75	-16,415				
				11-03-75	-5				
				11-03-75				3,399	
				12-04-75	-32,798				
				12-09-75	-31,256				
				01-06-76				-98,381	0
	D76-86		596,074	01-06-76					
				02-03-76	-4,766				
				02-13-76	-18,609				
				02-17-76	-11,248				
				03-24-76	-53,965				
				03-31-76	-35,653				
				04-05-76	-145,215				
				04-13-76	-48,718				
				04-22-76	-21,410				
				05-14-76	-6,743				249,747
TOTAL		233,630	4,635,609		-2,278,810			-94,737	2,495,692

1/ Subsequently incorporated in D76-86

STATUS OF DEFERRALS B-7

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Corps of Engineers-Civil Revolving fund	D76-96		700	01-23-76 04-15-76			-700 1/		0
Canal Zone Government Capital Outlays	D76-87		155	01-06-76					155
Wildlife Conservation Military Reservations	D76-6		432	07-01-75 09-19-75 09-24-75 04-12-76				-13 2/3/ -31 2/ -1 3/	387
TOTAL			1,287				-700	-45	542

1/ Impoundment resolution S. Res. 408 passed the Senate on April 14, 1976, rejecting this deferral.
2/ Reflects the actual unobligated balance carried forward July 1, which is a lesser amount than previously estimated.
3/ Reflects a decrease in anticipated receipts for the year.

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Health Services Administration									
Health Services	D76-57	[1,082]		10-20-75 01-06-76				-1,082 1/	0
	D76-57A		1,623	01-06-76 01-28-76				-1,623 2/	0
Indian Health Facilities	D76-39		1,000	07-25-75 03-10-76			-1,000 3/		0
	D76-97		13,908	01-23-76 03-10-76			-13,908 3/		0
National Institutes of Health									
National Cancer Institute	D76-58	[7,000]		10-20-75 01-06-76				-7,000 1/	0
	D76-58A		7,000	01-06-76 01-28-76				-7,000 2/	0
National Heart and Lung Institute	D76-59	[2,700]		10-20-75 01-06-76				-2,700 1/	0
	D76-59A		12,700	01-06-76 01-28-76				-12,700 2/	0
National Institutes of Dental Research	D76-60	[518]		10-20-75 01-06-76				-518 1/	0
	D76-60A		518	01-06-76 01-28-76				-518 2/	0

B-9

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
National Institute of Arthritis, Metabolism, and Digestive Diseases	D76-88		2,752	01-06-76 01-28-76				-2,752 2/	0
National Institute of Neurological and Communicative Disorders and Stroke	D76-61	[682]		10-20-75 01-06-76				-682 1/	0
	D76-61A		682	01-06-76 01-28-76				-682 2/	0
National Institutes of General Medical Sciences	D76-62	[2,318]		10-20-75 01-06-76				-2,318 1/	0
	D76-62A		5,812	01-06-76 01-28-76				-5,812 2/	0
National Institute of Child Health and Human Development	D76-63	[1,234]		10-20-75 01-06-76				-1,234 1/	0
	D76-63A		1,234	01-06-76 01-28-76				-1,234 2/	0
Division of Research Resources	D76-89		42,896	01-06-76 01-28-76				-42,896 2/	0
Buildings and Facilities	D76-7		2,164	07-01-75 09-22-75	-2,164				0
Office of the Director	D76-64	[572]		10-20-75 01-06-76				-572 1/	0
	D76-64A		884	01-06-76 01-28-76				-884 2/	0

B-10

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Alcohol, Drug Abuse and Mental Health Administration									
Alcohol, Drug Abuse, and Mental Health	D76-40	[3,409]		07-25-75 10-03-75				-3,409 1/	0
	D76-40A	[2,426]		10-03-75 10-20-75				-2,426 1/	0
	D76-40B	[2,753]		10-20-75 01-06-76				-2,753 1/	0
	D76-40C		4,910	01-06-76 01-28-76				-4,910 2/	0
Health Resources Administration									
Health Resources	D76-41		22,000	07-25-75 07-25-75	-22,000				0
Office of the Assistant Secretary for Health									
Assistant Secretary for Health	D76-65	[753]		11-18-75 01-06-76				-753 1/	0
	D76-65A		773	01-06-76 01-28-76				-773 2/	0
Scientific Activities Overseas (Special Foreign Currency)	D76-8	[3,652]		07-01-75 04-26-76				-3,652 1/	
	D76-8A		14,319	04-26-76 05-18-76	[-2,012] 6/				14,319
Office of Education									
Elementary and Secondary Education	D76-51		8,000	09-10-75 10-10-75	-8,000				0
	D76-52		2,968	09-10-75 02-20-76	-2,968				0
School Assistance in Federally Affected Areas	D76-42		68,350	07-25-75 09-10-75				-68,350 4/	0
Higher Education	D76-9		49,040	07-01-75					49,040

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	B-11 Adjustments	Amount Deferred as of 06-01-76
Higher Education	D76-43		9,500	07-25-75 09-10-75				-9,500 4/	0
Library Resources	D76-44		10,437	07-25-75 09-10-75				-10,437 4/	0
Social and Rehabilitative Service									
Public Assistance Child Welfare Services	D76-45	[1,000]		07-25-75 10-03-75				-1,000 1/	0
	D76-45A	[2,000]		10-03-75 01-06-76				-2,000 1/	0
	D76-45B		3,000	01-06-76 01-28-76				-3,000 2/	0
Social Security Administration									
Limitation on Construction	D76-54	[14,910]		09-24-75 03-18-76				-14,910 1/	0
	D76-54A		15,098	03-18-76 05-21-76	[-2,430]6/				15,098
Special Institutions Howard University	D76-10	[8,174]		07-01-75 11-18-75				-8,174 1/	0
	D76-10A		12,225	11-18-75 05-26-76	[-3,279]7/				12,225

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	B-12 Adjustments	Amount Deferred as of 06-01-76
Assistant Secretary for Human Development									
Research and Training Activities Overseas (Special Foreign Currency)	D76-11	[7,307]		07-01-75 07-25-75				-7,307 1/	0
	D76-11A	[8,307]		07-25-75 07-15-75 11-06-75	-3,665 -390			-4,252 1/	0
	D76-11B		4,252	12-01-75 11-24-75 04-22-76 06-01-76	-558 -445 [-500]6/			-401 5/	2,848
TOTAL		70,797	318,045		-40,190		-14,908	-240,214	93,530

1/ Subsequently incorporated in a supplementary report.
2/ Enactment of P.L. 94-206 (January 28, 1976) ended deferral of these funds provided by the Continuing Resolution.
3/ Impoundment resolution, S. Res. 366, passed the Senate on March 9, 1976, rejecting this deferral.
4/ Enactment of P.L. 94-94 (September 10, 1975) ended deferral of these funds provided by the Continuing Resolution.
5/ Reflects a revised unobligated balance brought forward from FY 1975.
6/ This amount will be available for obligation on July 1, 1976.
7/ This amount will be available for obligation on July 1, 1976. A supplementary report increasing the amount deferred for FY 1976 to $13.5 million will be transmitted later in the month.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

B-13

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
Bureau of Land Management									
Public Lands Development Roads and Trails	D76-12	[25,847]		07-01-75					
				01-20-76	-947			-8,800 1/	
				02-06-76				-16,100 2/	
	D76-12A	[16,100]		02-06-76					
				04-13-76				-16,100 2/	
	D76-12B		20,000	04-13-76					20,000
Oregon and California grant lands	D76-102		3,016	02-06-76					3,016
Bureau of Reclamation									
Construction and Rehabilitation	D76-13	[1,030]		07-01-75					
				07-25-75				-1,030 2/	0
	D76-13A		1,030	07-25-75					
				12-08-75			-1,030 3/		0
Upper Colorado River Storage Project	D76-14		1,150	07-01-75					
				01-19-76	-1,150				0
Bureau of Outdoor Recreation									
Land and Water Conservation Fund	D76-15		30,000	07-01-75					30,000
Fish and Wildlife Service									
Federal Aid in Fish Restoration and Management	D76-16		6,330	07-01-75					
				01-22-76	-1,212				5,118
Federal Aid in Wildlife Restoration	D76-17		21,470	07-01-75					
				01-22-76	-7,270				14,200
National Park Service									
Road Construction	D76-18		238,092	07-01-75					
				12-15-75	-1,000				
				01-20-76	-34,034			-58,500 4/	144,558

B-14

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 06-01-76
Geological Survey									
Payment from Proceeds, Sale of Water	D76-19		29	07-01-75					29
Bureau of Mines									
Mines and Minerals	D76-110		688	05-13-76					688
Drainage of Anthracite Mines	D76-46		3,375	07-25-75					3,375
Bureau of Indian Affairs									
Construction	D76-103		10,881	02-06-76					
				03-10-76			-10,881 5/		0
Road Construction	D76-20	[68,470]		07-01-75					
				02-06-76				-68,470 2/	0
	D76-20A		69,339	02-06-76					69,339
TOTAL		111,447	405,400		-45,613		-11,911	-169,000	290,323

1/ See rescission R76-40.
2/ Subsequently incorporated in a supplementary report.
3/ Impoundment resolution, S. Res. 226, passed by the Senate on December 4, 1975, rejecting this deferral.
4/ See rescission R76-41.
5/ Impoundment resolution, S. Res. 386, passed the Senate on March 9, 1976 rejecting this deferral.

B-15

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Law Enforcement Assistance Administration									
Salaries and expenses	D76-98		15,000	01-23-76					0
				03-11-76		-15,000 1/			
TOTAL			15,000			-15,000			0

1/ Impoundment resolution, H. Res. 1058, passed the House of March 4, 1976, rejecting this deferral.

B-16

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Employment and Training Administration									
Grants to States for Unemployment Insurance and Employment Services	D76-109		15,000	03-18-76					15,000
Advances to the unemployment trust fund and other funds	D76-99		1,800,000	01-23-76					1,800,000
Departmental Management									
Working Capital Fund	D76-77		977	12-01-75					
				12-08-75	-977				0
Pension Benefit Guaranty Corporation									
Pension Guaranty Fund	D76-78		[1,431]*	12-01-75					[1,431]*
TOTAL			1,815,977		-977				1,815,000

* Annexed Budget item. Not included in totals. This deferral will not affect budgetary outlays because PBGC is an off-budget agency. However, it will result in reducing Treasury financing needs by $1,431 thousand for FY 1976.

STATUS OF DEFERRALS

B-17

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Acquisition, operation and maintenance of buildings abroad (special foreign currency)	D76-90		2,275	01-06-76					2,275
International Center, Washington, D.C.	D76-66		2,572	11-18-75 05-27-76	[-1,861] 1/				2,572
Refugee and Migration Affairs Special Assistance to refugees from Cambodia and Vietnam	D76-85	[28,493]		12-01-75 01-23-76				-28,493 2/	0
	D76-85A		28,493	01-23-76 03-31-76	-28,493				0
TOTAL		28,493	33,340		-28,493			-28,493	4,847

1/ This amount will be available for obligation on July 1, 1976.
2/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-18

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Coast Guard Acquisition, Construction and Improvements	D76-21	[707]		07-01-75 01-06-76				-707 1/	0
	D76-91		1,061	01-06-76					1,061
Federal Aviation Administration Construction, National Capitol Airports	D76-92		8,679	01-06-76					8,679
Civil Supersonic Aircraft Development Termination	D76-22	[7,686]		07-01-75 11-24-75 01-06-76				-6,000 2/ -1,686 3/	0
	D76-93		2,179	01-06-76					2,179
Facilities and Equipment (Airport and Airway Trust Fund)	D76-23		75,824	07-01-75					75,824
Federal Highway Administration National Scenic and Recreational Highway	D76-55		90,000	09-24-75 04-16-76	-90,000 4/				0
TOTAL		8,393	177,743		-90,000			-8,393	87,743

1/ Subsequently incorporated in D76-91.
2/ P.L. 94-134, signed November 24, 1975, transferred $6 million from "Civil supersonic aircraft development termination" to FAA "Operations."
3/ Subsequently incorporated in D76-93.
4/ The funds were released because of Congressional inaction on the related rescission request, R76-1.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

B-19

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Office of the Secretary									
State and Local Government Fiscal Assistance Trust Fund	D76-24		93,420	07-01-75					
				07-31-75	-246				
				08-11-75	-18				
				10-01-75	-3,185				
				11-01-75	-41				
				12-01-75	-164				
				01-01-76	-84				
				03-01-76	-5				
				04-01-76	-21				
				05-01-76	-7,433				
				06-01-76	-13				82,250
State and Local Government Fiscal Assistance Trust Fund	D76-25	[38,391] 1/		07-01-75 09-10-75				-38,391 1/2/	
	D76-25A	[57,587] 1/		09-10-75 10-20-75				-57,587 1/2/	
	D76-25B	[75,856] 1/		10-20-75 11-18-75				-75,856 1/2/	
	D76-25C	[75,856] 1/		11-18-75 01-23-76				-75,856 1/2/	
	D76-25D	[95,017] 1/		01-23-76 04-26-76				-95,017 1/2/	
	D76-25E		113,732	1/04-26-76					113,732 1/
	D76-67		11,833	1/11-18-75					
				12-01-75	-9,409 1/				
				01-01-76	-693 1/				
				02-01-76	-203 1/				
				04-01-76	-432 1/				1,096 1/

B-20

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Loans to the District of Columbia for Capital Outlay	D76-53		39,370	09-10-75					39,370
TOTAL			132,790 BA		-11,170 BA				121,620 BA
		342,707 O	125,565 O		-10,737 O			-342,707 O	114,828 O

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

B-21

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Environmental Protection Agency

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Research and Development	D76-79		2,000	12-01-75					
				12-22-75		-2,000 1/			0
	D76-80		4,600	12-01-75					
				12-22-75		-4,600 2/			0
Abatement and Control	D76-47		4,000	07-25-75					
				07-23-75	-4,000				0
	D76-81		3,750	12-01-75					
				12-22-75		-3,750 3/			0
	D76-82		10,000	12-01-75					
				12-22-75		-10,000 4/			0
	D76-83		15,000	12-01-75					
				12-22-75		-15,000 5/			0
TOTAL			39,350		-4,000	-35,350			0

1/ Impoundment resolution H. Res. 920 passed the House on December 19, 1975, rejecting this deferral.
2/ Impoundment resolution H. Res. 921 passed the House on December 19, 1975, rejecting this deferral.
3/ Impoundment resolution H. Res. 922 passed the House on December 19, 1975, rejecting this deferral.
4/ Impoundment resolution H. Res. 923 passed the House on December 19, 1975, rejecting this deferral.
5/ Impoundment resolution H. Res. 924 passed the House on December 19, 1975, rejecting this deferral.

STATUS OF DEFERRALS

B-22

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Rare Silver Dollar Program	D76-48	[1,790]		07-25-75					
				02-06-76				-1,790 1/	
	D76-48A		1,850	02-06-76					1,850
TOTAL		1,790	1,850					-1,790	1,850

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-23

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: National Aeronautics and Space Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Research and Program Management	D76-84		2,900	12-01-75 05-26-76	-2,900				0
TOTAL			2,900		-2,900				0

STATUS OF DEFERRALS

B-24

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 06-01-76
Community Services Administration									
Economic Opportunity Program									
Emergency Energy Conservation Services	D76-49		16,500	07-25-75 10-03-75			-16,500 1/		0
Community and Economic Development	D76-50		14,500	07-25-75 07-24-75	-14,500				0
Foreign Claims Settlement Commission									
Payment of Vietnam Prisoner of War Claims	D76-26		11,081	07-01-75					11,081
American Revolution Bicentennial Administration	D76-27		1,000	07-01-75 04-27-76	-1,000				0
	D76-111		500	05-13-76					500
Interstate Commerce Commission									
Payment for directed rail services	D76-94		13,700	01-06-76					13,700
National Science Foundation									
Salaries and expenses	D76-100		10,000	01-23-76					10,000
National Commission on Productivity and Work Quality	D76-56		1,500	09-24-75 10-01-75 12-09-75	-600 -900				0
TOTAL			68,781		-17,000		-16,500		35,281
TOTAL, ALL DEFERRALS		565,090BA 342,707O	8,649,749BA 125,565O		-2,535,094BA -10,737O	-296,810BA	-81,583BA	-810,257BA -342,707O	5,491,095BA 114,828O

1/ Impoundment resolution S. Res. 267 passed the Senate October 3, 1975, rejecting this deferral.

[FR Doc.76-17385 Filed 6-10-76;3:00 pm]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1976)

Title 18—Conservation of Power and Water Resources (Part 150–End) ---------- $4.10

Title 21—Food and Drugs (Part 500–599) ---------- 3.75

Title 26—Internal Revenue Part 1 (§§ 1.641–1.850) ---------- 4.45

Title 26—Internal Revenue (Parts 2–29) ---------- 4.05

[*A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1*]

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