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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

SECURITY CLEARANCE PROGRAM FOR U.S. CITIZENS EMPLOYED DIRECTLY BY NATO, SEATO, AND CENTO—Presidential Executive order 23197

ECONOMIC STABILIZATION—Pay Board amendments on retroactivity; effective 11-14-71..... 23219

HISTORIC PLACES—National Park Service notice of additions to the National Register..... 23258

FOOD ADDITIVES—

FDA approval of certain retention aids in paper packaging materials; effective 12-7-71..... 23202

FDA notice of petition for antistatic agent in certain packaging materials..... 23262

NEW ANIMAL DRUGS—FDA approval of levamisole hydrochloride as an anthelmintic in the drinking water of swine; effective 12-7-71..... 23203

ANTIBIOTICS—

FDA certification of minocycline hydrochloride; effective 12-7-71 23204

FDA proposal on revisions of the hydroxylamine colorimetric assay; comments within 30 days.. 23236

FLOOD INSURANCE—HUD additions to insurance eligibility and hazard areas lists (2 documents) 23214, 23215

OCCUPATIONAL SAFETY AND HEALTH STANDARDS—Labor Dept. amended standards for exposure to asbestos dust (3 documents); effective 12-7-71 23207, 23217.

PROCUREMENT—Postal Service regulations on property and services..... 23216

(Continued inside)

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4	1939	14	16	1951	44	28	1963	50
5	1940	14	17	1952	41	29	1964	54
6	1941	21	18	1953	30	30	1965	58
7	1942	37	19	1954	37	31	1966	60
8	1943	53	20	1955	41	32	1967	69
9	1944	42	21	1956	42	33	1968	55
10	1945	47	22	1957	41	34	1969	62
11	1946	47	23	1958	41	35	1970	59
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HIGHLIGHTS—Continued

CONSCIENTIOUS OBJECTION —Air Force Dept. regulation on uniform procedures for in-service personnel	23209	SECURITIES REGISTRATION —SEC proposals concerning wider availability of short form S-16; comments by 1-3-72	23256
DANGEROUS CARGOES —Coast Guard regulation on packaging requirements for certain materials; effective 3-6-72	23218	SURVEYS OF MANUFACTURES —Commerce Dept. notice on 1971 annual survey	23258
TOBACCO —USDA proposal on allotments and marketing quotas; comments within 30 days	23221	NEW DRUGS —FDA notice on efficacy of certain adhesive tape removal solvent	23262
HANDICAPPED HOMEWORKERS —Labor Dept. proposals for employment outside work activities centers; comments in 30 days	23235	ENVIRONMENT —	
HAZARDOUS AIR POLLUTANTS —EPA proposals on standards for asbestos, beryllium and mercury; comments within 90 days	23239	AEC notices on nuclear facility construction (9 documents)	23262-23266
BANK HOLDING COMPANIES —FRS postponement of hearing to 1-19-72; extension of comment time to 2-11-72	23256	GSA notice on guidelines for impact statement preparation	23274
		Council on Environmental Quality notice on agency impact statements	23270
		PACIFIC AIR FARES —CAB notice of schedule for receipt of comments	23268
		WOODSY OWL SYMBOL —USDA regulations on use of symbol; effective 12-7-71	23220

Contents

THE PRESIDENT

EXECUTIVE ORDER

Security clearance program for U.S. citizens employed directly by NATO, SEATO, and CENTO. 23197

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rule Making
Tobacco; allotment and marketing quotas
 23221 |

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Animal and Plant Health Service; Consumer and Marketing Service; Forest Service; Packers and Stockyards Administration.

AIR FORCE DEPARTMENT

Rules and Regulations
Disposition of conscientious objectors
 23209 |

ANIMAL AND PLANT HEALTH SERVICE

Rules and Regulations
Brucellosis; modified certified brucellosis areas
 23199 |

ATOMIC ENERGY COMMISSION

Notices
Availability of applicants' environmental reports:
Carolina Power and Light Co. 23262
Consolidated Edison Company of New York, Inc. 23263
Consumers Power Co. 23263
Nebraska Public Power District. 23264
Washington Public Power Supply System
 23266 |

Consolidated Edison Company of New York, Inc.; order confirming order for resumption of hearing
 23266 |

Determinations not to suspend construction activities pending completion of NEPA environmental reviews:
Iowa Electric Light and Power Co. et al. 23263
Metropolitan Edison Co. et al. and Jersey Central Power & Light Co. 23264
Pacific Gas & Electric Co. 23265
Virginia Electric and Power Co. 23265
Public Service Electric and Gas Co.; hearing on application for construction permits
 23266 |

CENSUS BUREAU

Notices
Annual surveys in manufacturing area; determination
 23258 |

CIVIL AERONAUTICS BOARD

Notices
Hearings, etc.:
Air Calcos Ltd. 23268
Airlines Industrial Relations Conference
 23268 |

Continental Air Lines, Inc. 23268
International Air Transport Association
 23268 |

North Central Airlines, Inc. 23269

COAST GUARD

Rules and Regulations
Transportation or storage of explosives or other dangerous articles or substances, and combustible liquids on board vessels; dangerous cargo containers
 23218 |

COMMERCE DEPARTMENT

See Census Bureau; Import Programs Office.

(Continued on next page)

CONSUMER AND MARKETING SERVICE**Rules and Regulations**

Lettuce grown in lower Rio Grande Valley of south Texas; shipments limitations..... 23199

Proposed Rule Making

Milk in Boston regional and certain other marketing areas; hearing on proposed amendments to tentative marketing agreements and orders..... 23222

Milk in Georgia marketing area; decision on proposed amendments to marketing agreement and order..... 23223

Olives grown in California; postponement of hearing regarding marketing agreement and order..... 23222

DEFENSE DEPARTMENT

See also Air Force Department.

Rules and Regulations

New and/or combat serviceable equipment for reserve forces... 23209

ENVIRONMENTAL PROTECTION AGENCY**Proposed Rule Making**

National emission standards for hazardous air pollutants; asbestos, beryllium, mercury..... 23239

ENVIRONMENTAL QUALITY COUNCIL**Notices**

Environmental impact statements; public availability..... 23270

FEDERAL AVIATION ADMINISTRATION**Rules and Regulations**

Airworthiness directive; Swearingin airplanes..... 23200

Alterations:

Control zone..... 23201

Jet route segment..... 23202

Restricted area..... 23202

Transition areas (3 documents)..... 23201

Designation; transition area..... 23202

Proposed Rule Making

Airworthiness directives; Marvel Schebler carburetors..... 23237

Area high routes; designation..... 23238

Control zone and transition area; alteration..... 23238

FEDERAL INSURANCE ADMINISTRATION**Rules and Regulations****Flood insurance program:**

Areas eligible for the sale of insurance..... 23214

Identification of special hazard areas..... 23215

FEDERAL MARITIME COMMISSION**Notices**

Associated Latin American Freight Conferences and Association of West Coast Steamship Companies; wharfage and handling charges; investigation..... 23271

Certificates of financial responsibility (oil pollution); certificates issued..... 23272

Consolidated Cargo Corp. et al.; independent ocean freight forwarder license applicants..... 23272

Equality Plastics, Inc., and Leading Forwarders, Inc.; investigation and hearing..... 23273

FEDERAL RESERVE SYSTEM**Proposed Rule Making**

Bank holding companies; delay of hearing regarding armored car and courier services..... 23256

Notices

Federal Open Market Committee; current economic policy directive; correction..... 23273

Lincoln First Banks, Inc.; proposed acquisition of Lincoln First/Baer Corp.; correction... 23273

FISH AND WILDLIFE SERVICE**Rules and Regulations**

Sport fishing on Iroquois National Wildlife Refuge, N.Y..... 23220

FOOD AND DRUG ADMINISTRATION**Rules and Regulations**

Bread and rolls, or buns; identity standard; confirmation of effective date..... 23202

Food additives; components of paper and paperboard in contact with aqueous and fatty foods..... 23202

Minocycline hydrochloride; antibiotic certification..... 23204

New animal drugs; levamisole hydrochloride..... 23203

Proposed Rule Making

Hydroxylamine colorimetric assay..... 23236

Notices

Montecantini Edison, S.P.A.; filing of petition for food additive..... 23262

Solvent for external use in removal of adhesive tape from the skin; drugs for human use; efficacy study implementation.... 23262

FOREST SERVICE**Rules and Regulations**

Use of "Woodsy Owl" symbol.... 23220

GENERAL SERVICES ADMINISTRATION**Notices**

Environmental statements; procedures for preparation..... 23274

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Notices

National Advisory Committee on Occupational Safety and Health; composition and functions; cross reference..... 23262

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

IMPORT PROGRAMS OFFICE**Notices**

University of Texas at Austin et al.; applications for duty-free entry of scientific articles..... 23259

INDIAN AFFAIRS BUREAU**Proposed Rule Making**

Fort Hall Irrigation Project; basic and other water charges..... 23221

Notices

Area Field Representative, Riverside Area Field Office; delegation of authority relating to lands and minerals..... 23258

INTERIOR DEPARTMENT

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

INTERSTATE COMMERCE COMMISSION**Notices**

Assignment of hearings..... 23278

LABOR DEPARTMENT

See also Labor Standards Bureau; Occupational Safety and Health Administration; Wage and Hour Division.

Rules and Regulations

Safety and Health standards for Federal supply contracts; standard for exposure to asbestos dust..... 23217

Notices

National Advisory Committee on Occupational Safety and Health; composition and functions..... 23277

LABOR STANDARDS BUREAU**Rules and Regulations**

Safety and health regulations for construction; standard for exposure to asbestos dust..... 23207

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules and Regulations

Federal motor vehicle safety standards; recodification; correction ----- 23220

NATIONAL PARK SERVICE

Notices

National Register of Historic Places; additions, deletions, or corrections ----- 23258

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules and Regulations

Occupational safety and health; emergency standard for exposure to asbestos dust ----- 23207

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Davis Ranch Horse Sale, et al.; changes in names of posted stockyards ----- 23261

PAY BOARD

Rules and Regulations

Stabilization of wages and salaries; retroactivity ----- 23219

POSTAL SERVICE

Rules and Regulations

Procurement of property and services other than mail transportation services ----- 23216

Rural service; listing of approved manufacturers and suppliers of mailboxes and contemporary-style boxes ----- 23216

SECURITIES AND EXCHANGE COMMISSION

Proposed Rule Making

Registration of certain securities; use of optional Form S-16 ----- 23256

Notices

Hearings, etc.:

Delmarva Power & Light Co --- 23275
Louisiana Power & Light Co --- 23277
MML Investment Co., Inc. ----- 23276

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

WAGE AND HOUR DIVISION

Proposed Rule Making

Employment of handicapped clients in sheltered workshops; change in conditions ----- 23235

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11633

Security Clearance Program for United States Citizens Employed Directly by the North Atlantic Treaty Organization, the South-East Asia Treaty Organization, and the Central Treaty Organization

The United States now participates in the activities of the North Atlantic Treaty Organization (NATO), the South-East Asia Treaty Organization (SEATO), and the Central Treaty Organization (CENTO). The security regulations of these three treaty organizations provide that each participating nation shall be responsible for the security screening and security clearance of its own citizens before they are authorized access to the Organization's TOP SECRET, SECRET, or CONFIDENTIAL information. There is no existing program, however, under which United States civilians who are hired directly by these organizations can be screened and cleared for access to such Organization's TOP SECRET, SECRET, or CONFIDENTIAL information while so employed. It is, of course, in the interest of the United States that United States citizens who participate in the activities of NATO, SEATO, and CENTO as direct hire employees of the civil or military agencies of those organizations be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. At the same time, it is a fundamental principle of our Government to protect against unreasonable or unwarranted encroachment on the freedom and privacy of individuals.

I have determined that the provisions and procedures prescribed by this Order are necessary to assure the preservation of the integrity of the classified information of NATO, SEATO, and CENTO, and to protect the national interest. I have also determined that these provisions and procedures recognize the rights of individuals affected thereby and provide maximum possible safeguards to protect such rights.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as Commander-in-Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense shall establish a program and, by regulation, shall prescribe such specific requirements, restrictions, and other safeguards as he considers necessary for the administration of procedures whereby "Certificates of Security Clearance" for the United States citizens directly employed by civil or military agencies of NATO,

THE PRESIDENT

SEATO, or CENTO may be provided to these international organizations when they so request. Such program shall also provide for the denial, revocation, or suspension of such "Certificates."

SEC. 2. Subject to the provisions of applicable international agreements, the procedures established by the Secretary of Defense shall, insofar as is practical, be similar to those established by him pursuant to the authority vested in him by Executive Order No. 10865 of February 20, 1960, as amended.

SEC. 3. The substance of the criteria, safeguards, and procedures provided in Sections 2, 3, 4, 5, 6, 7, and 9 of Executive Order No. 10865, as amended, shall be incorporated in the regulations of the Secretary of Defense governing the program established hereunder.

SEC. 4. Any authority vested in the Secretary of Defense by this Order may be delegated to the Deputy Secretary of Defense or an Assistant Secretary of Defense.



THE WHITE HOUSE,
December 3, 1971.

[FR Doc. 71-17933, Filed 12-3-71; 3:28 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Amdt. 1]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY OF SOUTH TEXAS

Limitation of Shipments

Findings. Pursuant to Marketing Agreement No. 144 and Order 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas (Cameron, Hidalgo, Starr, and Willacy Counties), effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the South Texas Lettuce Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

Because of warm weather, lettuce now being harvested in the Lower Rio Grande Valley will not meet the 75 percent U.S. No. 1 grade requirement of the current regulation. However, the lettuce being harvested is clean, with good weight and appearance. Since there is a temporary shortage of lettuce and the demand for that being harvested in Texas is expected to continue relatively strong, the committee has recommended deletion of the current grade requirements.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) compliance with this amendment will not require any special preparations on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended. In § 971.312 (36 F.R. 20031) paragraphs (a) *Grade*, (d) *Minimum quantity*, (e) *Special pur-*

pose shipments, (f) *Inspection*, and (g) *Definitions* are hereby deleted and new paragraphs (d), (e), (f), and (g) are added to read as follows:

§ 971.312 Limitation of shipment.

(a) [Deleted]

* * * * *

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, and pack requirements but must meet container requirements. This exception may not be applied to any portion of a shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* Lettuce not meeting pack or container requirements of paragraphs (b) or (c) of this section may be handled for any purpose listed, if handled as prescribed, in subparagraphs (1) and (2) of this paragraph. Inspection and assessments are not required on such shipments. These special purpose shipments are as follows:

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads or transports it only in a vehicle bearing Mexican registration (license).

(f) *Inspection.* (1) No handler may handle any lettuce for which an inspection certificate is required unless an appropriate inspection certificate has been issued with respect thereto.

(2) No handler may transport, or cause the transportation of, by motor vehicle, any shipment of lettuce for which an inspection certificate is required unless each such shipment is accompanied by a copy of an inspection certificate or by a copy of a shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current pack and/or container requirements of this section. A copy of the inspection certificate, or shipment release form applicable to each truck lot shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, an inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film (Cf AMS 481) and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in

Marketing Agreement No. 144 and this part.

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

Dated December 1, 1971, to become effective December 1, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc.71-17826 Filed 12-6-71;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulation designating Modified Certified Brucellosis Areas is hereby amended to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State;
Connecticut. The entire State;
Delaware. The entire State;
Florida. The entire State;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. The entire State;
Maine. The entire State;
Maryland. The entire State;

Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. Adams, Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Stone, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, and Yazoo Counties;
Missouri. The entire State;
Montana. The entire State;
Nebraska. The entire State;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. The entire State;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota. The entire State;
Tennessee. The entire State;

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Go-Had, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Harde-man, Hardin, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Farmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Titus, Tom Green, Travis, Trinity, Terry, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Ward, Washington, Webb, Wheeler, Wharton,

Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended; secs. 1, 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 21 U.S.C. 11-113, 114a-1, 120, 121, 125; 21 F.R. 16210, as amended, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (12-7-71).

The amendment adds the following additional areas to the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such areas come within the definition of § 78.1(d): Victoria and Wharton Counties in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notices and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of December 1971.

F. J. MULHERN,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc. 71-17825 Filed 12-6-71; 8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-SW-55,
Amdt. 39-1353]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Model SA26 Series Airlanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of the wing for cracks and repair if necessary on Swearingen Models SA26-T and SA26-AT airplanes was published in 36 F.R. 19912.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Only one response with two comments was received. One comment proposed that compliance with the proposed airworthiness directive be required of airplanes with 3,750 or more hours' time in service rather than of airplanes with 2,250 or more hours' time in service. The FAA does not agree. The 3,750 or more hours' time in service requirement before initial inspection does not adequately consider the prior fatigue experience sustained by the Swearingen Model SA26-T and SA26-AT wings before their installation on Swearingen airplanes. The second comment proposed that the center wing spar cap not be replaced when a fitting cracked by fatigue is found. A separate inspection program for the center wing spar cap was recommended. Since no satisfactory inspection program has been presented, and as a result of fatigue analysis and tests conducted by manufacturers and government agencies on aircraft and components with comparable stress levels and structural configuration to that of Swearingen Model SA26 series airplanes, the FAA has determined the necessity for the center wing spar cap replacement when a fitting cracked by fatigue is found. As a result of tests and further evaluations currently being made by the manufacturer, a satisfactory center wing spar cap inspection program may be developed. In this event the necessary amendment to the A.D. to reflect this change will be considered.

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

SWEARINGEN. Applies to Models SA26-T and SA26-AT with 2250 or more hours' time in service.

Compliance required as indicated.

To detect cracking of certain wing center sections and outer wing front spar structural components, accomplish the following:

(a) Within the next 50 hours time in service after the effective date of this A.D., and thereafter at intervals not to exceed 100 hours, visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks. The area to be inspected includes the skin around the ten screws common to the skin and the outboard wing attachment fitting outboard of the wing production break at W.S. 99.

(1) If no wing panel skin cracks are found during the inspections of this paragraph, the inspections specified in paragraph (b) must be performed thereafter at intervals not to exceed 500 hours.

(2) If wing panel skin cracks are found during the inspections of this paragraph, the inspections specified in paragraph (b) must be performed thereafter at intervals not to exceed 250 hours. Repair skin cracks in accordance with standard practices outlined in AC 43.13-1 or in accordance with a method approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(b) Within the next 50 hours time in service after the effective date of this A.D., and thereafter at intervals as specified in paragraph (a) above, remove the left and right front spar lower cover plates (inboard and outboard of W.S. 99) and outer wing front spar lower attachment bolts. Inspect

the left and right front spar lower cap attachment fittings (inboard and outboard of W.S. 99) for cracks by visual and dye penetrant methods.

(1) If no cracks are found, reinstall the attachment bolt and cover plate. Use a new P/N 61475-14-72.9 washer assembly under the nut upon reinstallation of attachment bolt and torque assembly to 5,000 to 5,500 in lbs. of torque. Bolts, nuts, washers, and spar fittings must be washed with methyl ethyl ketone or lacquer thinner, and tightened unlubricated.

Note: This area is pictured in the Swearingen Model SA26-T and SA26-AT Maintenance Manual in Figure 3-68.

(2) If fatigue cracks are found in any wing attachment fitting during the inspection required by this paragraph, replace the following parts prior to further flight:

(i) Both right and left center and outer wing panel lower front spar caps including the wing attachment fitting.

(ii) The skin panels adjacent to the outer wing attachment fittings.

(3) If a stress corrosion crack is found in a wing attachment fitting, replace the affected fitting. A stress corrosion crack is identified by its direction (spanwise) and its location (lower face of the wing attachment fitting).

(c) Replacement of parts required by paragraph (b) (2) will permit the establishment of new initial inspection times for the inspections of paragraphs (a) and (b). The new initial inspection time is 2,250 hours time in service after parts replacement.

(d) Equivalent methods of compliance with this A.D. must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(e) Notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, of the location and length of any cracks found during inspections required by this A.D. and also the total time in service of the component at the time the crack was discovered. (Report approved by the Bureau of the Budget under BOB No. 04-RO174.)

This amendment becomes effective January 10, 1972.

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

Issued in Fort Worth, Tex., on November 24, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-17799 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-SO-158]

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

Alteration of Transition Area

On October 15, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 20049), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Memphis, Tenn. (NAS), transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of com-

ments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Memphis, Tenn. (NAS), transition area is amended as follows:

"* * * 8.5 miles east of the RBN * * * ." is deleted and " * * * 8.5 miles east of the RBN; within a 7-mile radius of Arlington Municipal Airport (latitude 35°16'58" N., longitude 89°40'22" W.); within 3 miles each side of the 161° bearing from Loosahatchie RBN (latitude 35°17'04" N., longitude 89°40'19" W.), extending from the 7-mile-radius area to 8.5 miles south of the RBN * * * ." is substituted therefor.

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

Issued in East Point, Ga., on November 26, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17792 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-CE-100]

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

Alteration of Control Zone

On page 18802 of the FEDERAL REGISTER dated September 22, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the control zone at Columbus (Ohio State University Airport), Ohio.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 18, 1971.

JOHN M. CYROCKI,
Director, Central Region.

In § 71-171 (36 F.R. 2055), the following control zone is amended to read:

COLUMBUS, OHIO (OHIO STATE UNIVERSITY AIRPORT)

Within a 5-mile radius of the Ohio State University Airport (latitude 40°04'40" N., longitude 83°04'30" W.); within 3 miles each side of the 273° and 090° bearings from the airport extending from the 5-mile-radius zone to the 8.5 miles west and east of the airport excluding that portion within the Columbus, Ohio, control zone. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

[FR Doc.71-17793 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-CE-107]

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

Alteration of Transition Area

On page 10802 of the FEDERAL REGISTER dated September 22, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Tiffin, Ohio.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 18, 1971.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

TIFFIN, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Seneca County Airport (latitude 41°05'38" N., longitude 83°12'45" W.); within 3 miles each side of the 053° bearing from the Seneca County Airport extending from the 7-mile-radius area to 8.5 miles northeast of the airport.

[FR Doc.71-17794 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-CE-103]

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

Alteration of Transition Area

On page 19125 of the FEDERAL REGISTER dated September 29, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Huntingburg, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 18, 1971.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:
HUNTINGBURG, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Huntingburg Airport (latitude 38°15'00" N., longitude 86°57'00" W.); and within 3 miles either side of an 072° bearing from the Huntingburg Airport extending from the 6-mile radius to 8 miles ENE of the airport.

[FR Doc.71-17795 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-CE-99]

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

Designation of Transition Area

On pages 18801 and 18802 of the FEDERAL REGISTER dated September 22, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Crystal Lake, Ill.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 18, 1971.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

CRYSTAL LAKE, ILL.

That airspace extending upward from 700 feet above the surface, within a 4.5-mile radius of the Crystal Lake Airport (latitude 42°12'12" N., longitude 88°19'27" W.); excluding the portion within the Chicago, Ill., transition area.

[FR Doc.71-17796 Filed 12-6-71;8:46 am]

[Airspace Docket No. 71-SW-62]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of these amendments is to extend the time of designation of the White Sands Proving Grounds, N. Mex., R-5107F and the White Sands Proving Grounds, N. Mex., R-5107G as joint-use airspace restricted areas.

The restricted areas were changed from sole-use to joint-use restricted

areas for a test period of 6 months. The test period expires on February 19, 1972. The Department of the Air Force has concurred in the extension of the time of designation to May 23, 1972.

Since these amendments will relieve a burden on the public by extending joint-use of the areas for an additional period of time, notice and public procedure hereon are unnecessary and may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (12-7-71), as hereinafter set forth.

Section 73.51 (36 F.R. 2349, 11905) is amended as follows:

a. In R-5107F, White Sands Proving Grounds, N. Mex., the Time of designation is altered by deleting "February 19, 1972" and substituting "May 23, 1972" therefor.

b. In R-5107G, White Sands Proving Grounds, N. Mex., the Time of designation is altered by deleting "February 19, 1972" and substituting "May 23, 1972" therefor.

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

Issued in Washington, D.C., on November 29, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 71-17790 Filed 12-6-71;8:45 am]

[Airspace Docket No. 71-RM-13]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

On August 24, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 16592) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign Jet Route No. 84 segment between Mina, Nev., and Delta, Utah.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 75.100 (36 F.R. 2371) Jet Route No. 84 text is amended by deleting "Current, Nev.,".

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

Issued in Washington, D.C., on November 29, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-17791 Filed 12-6-71;8:46 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 17—BAKERY PRODUCTS

Bread and Rolls, or Buns, Standard of Identity: Confirmation of Effective Date

In the matter of amending the identity standard for bread (21 CFR 17.1) by listing sodium stearoyl-2-lactylate as an optional ingredient:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sections 401, 701, 52 Stat. 1046, 1055-56, as amended by 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed in response to the order on the above-identified amendment published in the FEDERAL REGISTER of August 28, 1971 (36 F.R. 17332). Accordingly, the amendment promulgated by the order became effective October 27, 1971.

Dated: November 26, 1971.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[FR Doc.71-17842 Filed 12-6-71;8:49 am]

PART 121—FOOD ADDITIVES

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

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in petitions (FAP 0B2525 and FAP 0B2526) filed by Calgon Corp., Box 1346, Pittsburgh, Pa. 15230, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride; and partially hydrolyzed diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride, as retention aids in the manufacture of paper and paperboard in contact with aqueous and fatty foods.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a)(5) is amended by alphabetically inserting in the list of substances two new items, as follows:

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

- (a) * * *
- (5) * * *

List of substances

* * *

Diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride, produced by copolymerizing acrylamide, diallyldiethylammonium chloride and diallyldimethylammonium chloride in a weight ratio of 50-2.5-47.5 respectively, so that the finished resin in a 1 percent by weight aqueous solution has a viscosity of 22-25 centipoises at 22° C. as determined by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).

Diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride, partially hydrolyzed. The polymer is produced by copolymerizing acrylamide, diallyldiethylammonium chloride and diallyldimethylammonium chloride in a weight ratio of 50-2.4-47.5 respectively, with 4.4 percent of the amide groups subsequently hydrolyzed to potassium carboxylate groups, so that the finished resin in a 1 percent by weight aqueous solution has a viscosity of 22-25 centipoises at 22° C., as determined by a LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).

* * *

Limitations

* * *

For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.

For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.

* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections will show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be

granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (12-7-71).

Dated: November 26, 1971.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[FR Doc.71-17844 Filed 12-6-71;8:50 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Levamisole Hydrochloride

The Commissioner of Food and Drugs has evaluated a new animal drug application (45-513V) filed by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, proposing the safe and effective use of levamisole hydrochloride as an anthelmintic in the drinking water of swine. The application is approved.

In addition, an editorial change is made to incorporate the code number assigned to the sponsor in § 135.501 (21 CFR 135.501)

Having considered the submitted data and other relevant material, the Commissioner concludes that a tolerance limitation for residues of levamisole hydrochloride in edible tissues of swine treated with the drug is required in order to insure that such tissues are safe for human consumption.

Therefore, pursuant to provisions of 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), Parts 135c and 135g are amended as follows:

1. Section 135c.18 is amended by revising paragraph (c) and by adding a new item 5 to the table in paragraph (f) as follows:

§ 135c.18 Levamisole hydrochloride.

* * * * *

(c) *Sponsor.* See code No. 004 in § 135.501(c) of this chapter.

* * * * *

(f) * * *

RULES AND REGULATIONS

	Amount	Limitations	Indications for use
*** A. Levamisole hydrochloride.	*** 15.15 grams per bottle.	*** For swine, dissolve in water to provide 500 cubic centimeters of concentrate solution, add 10 cubic centimeters (2 teaspoons) of this concentrate solution to each gallon of drinking water; allow one gallon of medicated water for each 100 pounds of body weight of pigs to be treated; before treating withhold water from pigs overnight; no other source of water should be offered; pigs maintained under conditions of constant exposure to worms may require re-treatment within 4 to 5 weeks after the first treatment; do not administer within 72 hours of slaughter for food.	*** Anthelmintic effective against the following nematode infections: Large roundworms (<i>Ascaris suum</i>), nodular worms (<i>Oesophagostomum spp.</i>), and lungworms (<i>Metastrongylus spp.</i>).

2. Section 135g.63 is revised to read as follows:

§ 135g.63 Levamisole hydrochloride.

A tolerance of 0.1 part per million is established for negligible residues of levamisole hydrochloride in the edible tissues of cattle, sheep, and swine.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12-7-71).

(Sec. 512(1), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: November 19, 1971.

C. D. VAN HOUWELING,
Director,

Bureau of Veterinary Medicine.

[FR Doc.71-17774 Filed 12-6-71; 8:45 am]

MINOCYCLINE HYDROCHLORIDE

Miscellaneous Amendments

Pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec.

507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 141, 145, 146, and 147 are amended and a new Part 150g is established as follows to provide for certification of the antibiotic minocycline hydrochloride.

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTI-BIOTIC-CONTAINING DRUGS

1. Part 141 is amended:

a. In § 141.5(b) by alphabetically inserting a new item in the table, as follows:

§ 141.5 Safety test.

* * * * *
(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 141.5)	Test Dose		Route of administration as described in paragraph (e) of this section
		Concentration in units or milligrams of activity per milliliter	Volume in milliliters to be administered to each mouse	
Minocycline hydrochloride	3	2 mg.	.5	Do.

b. In § 141.111 (a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 141.111 Microbiological turbidimetric assay.

(a) * * *

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration	Storage time under refrigeration	Diluent (solution number as listed in § 141.102(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Minocycline	Not dried		0.1N HCl	1 mg.	2 days	4	0.070, 0.084, 0.100, 0.120, 0.143 µg.

(b) * * *

Antibiotic	Test organism	Medium (nutrient broth)	Suggested volume of standardized inoculum to be added to each 100 milliliters of medium (nutrient broth)	Incubation temperature
			Milliliters	Degrees C.
Minocycline	A	3	0.2	37

PART 145—ANTIBIOTIC DRUGS; DEFINITIONS AND INTERPRETATIVE REGULATIONS

2. Part 145 is amended:

a. In § 145.3 by adding a new subparagraph to paragraph (a) and another to paragraph (b), as follows:

§ 145.3 Definitions of master and working standards.

(a) * * *

(46) *Minocycline*. The term "minocycline master standard" means a specific lot of minocycline designated by the Commissioner as the standard of comparison in determining the potency of the minocycline working standard.

(b) * * *

(46) *Minocycline*. The term "minocycline working standard" means a specific lot of a homogeneous preparation of minocycline.

b. In § 145.4(b) by adding a new subparagraph, as follows:

§ 145.4 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

(b) * * *

(49) *Minocycline*. The term "microgram" applied to minocycline means the minocycline activity (potency) contained in 1.1588 micrograms of the minocycline master standard.

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

3. Part 146 is amended in § 146.8(b) (1) by alphabetically inserting a new item in the fee schedule list, as follows:

§ 146.8 Fees.

Test	Chargeable fee per test
Minocycline content	72

PART 147—ANTIBIOTICS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

4. Part 147 is amended by adding a new section, as follows:

§ 147.20 Minocycline hydrochloride powder for microbial susceptibility testing.

(a) *Requirements for certification—*
 (1) *Standards of identity, strength, quality, and purity.* Minocycline hydrochloride powder for microbial susceptibility testing is minocycline hydrochloride with or without one or more suitable buffers and diluents, packaged in vials and intended for use in clinical laboratories for determining in vitro the susceptibility of micro-organisms to minocycline. Each vial contains minocycline hydrochloride equivalent to 20 milligrams of minocycline. The potency of each immediate container is satisfactory if it contains not less than 90 percent and not more than 115 percent of its labeled content. It is sterile. Its moisture content is not more than 5.0 percent. When reconstituted as directed in the labeling, its pH is not less than 2.0 and not more than 4.0. The minocycline hydrochloride used conforms to the standards prescribed by § 150g.1(a)(1) (i), (iii), (iv), (v), (vi), and (vii) of this chapter.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass, and it shall be a tight container as defined by the U.S.P. It shall be so sealed that the contents cannot be used without destroying such seal. It shall be of appropriate size to permit the addition of 20 milliliters of sterile diluent when preparing a stock solution for use in making further dilutions for microbial susceptibility testing.

(3) *Labeling.* In addition to the requirements of § 148.3(a) (3) of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On its outside wrapper or container and on the immediate container:

(a) The statement "For laboratory use only."

(b) The statement "Sterile."

(c) The batch mark.

(d) The number of milligrams of minocycline in each immediate container.

(ii) On the circular or other labeling within or attached to the package, adequate information for use of the drug in the clinical laboratory.

(4) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The minocycline hydrochloride used in making the batch for potency,

moisture, pH, minocycline content, identity, and crystallinity.

(b) The batch for potency, sterility, moisture, and pH.

(ii) Samples required:

(a) The minocycline hydrochloride used in making the batch: 10 packages, each containing approximately 500 milligrams.

(b) The batch:

(1) For all tests except sterility: A minimum of 20 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Dilute an aliquot with 0.1M potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of minocycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (1) of that section.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

PART 150g—MINOCYCLINE HYDROCHLORIDE

5. A new Part 150g is established consisting at this time of two sections, as follows:

Sec.

150g.1 Minocycline hydrochloride.

150g.11 Minocycline hydrochloride capsules.

AUTHORITY: The provisions of this Part 150g issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 150g.1 Minocycline hydrochloride.

(a) *Requirements for certification—*

(1) *Standards of identity, strength, quality, and purity.* Minocycline hydrochloride is the hydrochloride salt of 7-dimethylamino-6-deoxy-6-demethyltetracycline. It is so purified and dried that:

(i) Its potency is not less than 785 micrograms per milligram on an "as is" basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 4.3 percent and not more than 8.0 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams of minocycline per milliliter is not less than 3.5 and not more than 4.5.

(v) It contains not less than 78.5 percent and not more than 88.5 percent minocycline on an "as is" basis.

(vi) It gives a positive identity test for minocycline hydrochloride.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, minocycline content, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1N hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Further dilute the stock solution with 0.1M potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of minocycline per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams of minocycline per milliliter.

(5) *Minocycline content—(i) Apparatus and reagents.* (a) Glass chromatographic column (1.3 centimeters ID x 35 centimeters long).

(b) Diatomaceous earth, acid-washed (Celite 545 or equivalent). Slurry 200 grams of diatomaceous earth with 750 milliliters of 6N hydrochloric acid for 10 to 15 minutes in a glass vessel. Filter and wash the diatomaceous earth with water until the pH is neutral. Slurry the neutral diatomaceous earth in 500 milliliters of methyl alcohol:ethyl acetate mixture (1:1 by volume) for 10 to 15 minutes. Filter and vacuum dry the diatomaceous earth at 60° C.

(c) EDTA solution: 0.1M ethylenediaminetetraacetic acid disodium salt adjusted to pH 6.0 with ammonium hydroxide.

(d) 20 percent polyethylene glycol 400 in glycerine: To 80 milliliters of glycerin, add sufficient polyethylene glycol 400 to make a volume of 100 milliliters.

(e) Reagent A (5 percent polyethylene glycol 400—glycerine mixture in EDTA solution): To 95 milliliters of EDTA solution, add sufficient 20 percent polyethylene glycol 400 in glycerine to make a volume of 100 milliliters, and shake well.

(f) Acid-alcohol reagent: Transfer 2 milliliters of hydrochloric acid to a 100-milliliter volumetric flask, dilute to mark with absolute ethyl alcohol, and mix.

(g) Column support: Place 200 grams of acid-washed diatomaceous earth into a 2-liter wide-mouth bottle with a screw top and add 100 milliliters of Reagent A. Seal the bottle and shake vigorously. Roll for 2 hours on a rolling mill until the diatomaceous earth is uniformly moistened.

(ii) *Column preparation.* Place a small circle of filter paper (Whatman No. 541 or equivalent, about 1.2 centimeters in diameter) as a plug in the bottom of the

column. Firmly pack the column with 8 grams \pm 0.1 gram of column support in three increments. Between increments, tape the column lightly on the bench top. Press each portion evenly and firmly with a glass tamping rod. Each portion should be flat across the entire surface with no feathery edges creeping up the column walls.

(iii) *Sample preparation.* Weigh accurately a portion of sample equivalent to 20 milligrams of minocycline, transfer to a 25-milliliter volumetric flask using 4 milliliters of water, and swirl to dissolve. Dilute to mark with Reagent A and shake well to insure complete solution. Pipet 1.0 milliliter of the sample solution into a 50-milliliter beaker containing 2 grams of acid-washed diatomaceous earth and stir well. Transfer the sample-diatomaceous earth mixture to the column as completely as possible and tamp firmly. To rinse the 50-milliliter sample beaker, add 0.5 gram of column support and transfer to the top of the column and tamp firmly.

(iv) *Column elution.* Place the column in a suitable support and place a 25-milliliter graduate under the column. Add 25 milliliters of 15 percent chloroform in cyclohexane to the column. When the level of this solvent reaches the charge at the top of the column, add 50 milliliters of 30 percent chloroform in cyclohexane. Collect 22 milliliters of the first eluate in the 25-milliliter graduate and discard. Replace the 25-milliliter graduate with a 50-milliliter volumetric flask. Collect the second eluate in this 50-milliliter volumetric flask until the level of the solvent reaches the charge. Replace the 50-milliliter volumetric flask with a 10-milliliter graduate and add 30 milliliters of chloroform to the column. When the volume of the third eluate in the graduate reaches 8 milliliters, replace the 10-milliliter graduate with a 25-milliliter glass-stoppered graduate and

continue collecting the fourth eluate until no more solvent drips from the column.

(v) *Determination of minocycline content.* Transfer the 8 milliliters of third eluate contained in the 10-milliliter graduate to the 50-milliliter volumetric flask containing the second eluate, and mix. Add 2 milliliters of absolute ethyl alcohol followed by 2 milliliters of acid-alcohol reagent, dilute to mark with chloroform and mix. Using a suitable spectrophotometer, 1.0 centimeter cells, and chloroform as the reference solvent, determine the absorbance of this solution at 358 nanometers within 10 minutes after preparation of the solution.

(vi) *Determination of minocycline related compounds content.* To the last 25-milliliter glass-stoppered graduate, add 2 milliliters of acid-alcohol reagent, dilute to 25 milliliters with chloroform, and mix. Using a suitable spectrophotometer, 1.0 centimeter cells, and chloroform as the reference solvent, determine the absorbance of this solution at 358 nanometers within 10 minutes after preparation of the solution.

(vii) *Preparation of standard.* Weigh accurately an amount of minocycline hydrochloride working standard equivalent to 20 milligrams of minocycline, transfer to a 100-milliliter volumetric flask, and dissolve by adding 5 milliliters of methyl alcohol. Dilute to mark with chloroform and mix. Pipet 4 milliliters into a 50-milliliter volumetric flask, add 40 milliliters of 30 percent chloroform in cyclohexane, and swirl to mix. Add 2 milliliters of absolute ethyl alcohol followed by 2 milliliters of acid-alcohol reagent, dilute to mark with chloroform, and mix. Using a suitable spectrophotometer, 1.0 centimeter cells, and chloroform as the reference solvent, determine the absorbance of this solution at 358 nanometers within 10 minutes after preparation of the solution.

(viii) *Calculations for minocycline content.*

$$\text{Percent minocycline "as is"} = \frac{A_s \times W_s \times \text{potency of the standard in micrograms of minocycline per milligram}}{A_s \times W_s \times 10}$$

where:

A_s = Absorbance of the combined second and third eluates of the sample.

A_s = Absorbance of the standard.

W_s = Weight in milligrams of sample.

W_s = Weight in milligrams of the standard.

$$\text{Percent minocycline related compounds} = \frac{A_r \times W_s \times \text{potency of the standard in micrograms of minocycline per milligram}}{A_s \times W_s \times 20}$$

A_r = Absorbance of the fourth eluate of the sample (minocycline related compounds).

(ix) *Column recovery—(a) Procedure.* Weigh accurately about 20 milligrams of sample and proceed as directed in subdivision (vii) of this subparagraph.

(b) *Calculations.*

$$\text{Percent total minocycline of sample} = \frac{A_s \times W_s \times \text{potency of the standard in micrograms of minocycline per milligram}}{A_s \times W_s \times 10}$$

where:

A_s = Absorbance by direct measurement of unchromatographed sample solution.

W_s = Weight of sample for direct absorbance measurement.

$$\text{Percent column recovery} = \frac{\text{percent minocycline of sample} + \text{percent minocycline related compounds of sample} \times 100}{\text{percent total minocyclines of sample}}$$

To be a valid assay, the percent column recovery should be 100 ± 2 percent.

(6) *Identity.* Proceed as directed in § 141.521 of this chapter, using a 0.5 percent potassium bromide disc prepared as described in paragraph (b) (1) of that section.

(7) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 150g.11 Minocycline hydrochloride capsules.

(a) *Requirements for certification—*
 (1) *Standards of identity, strength, quality, and purity.* Minocycline hydrochloride capsules are composed of minocycline hydrochloride and one or more suitable and harmless lubricants and diluents enclosed in a gelatin capsule. Each capsule contains minocycline hydrochloride equivalent to 100 milligrams of minocycline. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of minocycline that it is represented to contain. Its moisture content is not more than 12 percent. The minocycline hydrochloride used conforms to the standards prescribed by § 150g.1(a) (1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:
 (a) The minocycline hydrochloride used in making the batch for potency, safety, moisture, pH, minocycline content, identity, and crystallinity.
 (b) The batch for potency and moisture.

(ii) Samples required:
 (a) The minocycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.
 (b) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar with sufficient 0.1N hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot and further dilute with 0.1M potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of minocycline per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

Data supplied by the manufacturer concerning the subject antibiotic have been evaluated. Since the conditions pre-

requisite to providing for its certification have been complied with and since not delaying in so providing is in the public interest, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12-7-71).

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

Dated: November 21, 1971.

H. E. SIMMONS,
 Director, Bureau of Drugs.

[FR Doc.71-17773 Filed 12-6-71;8:45 am]

Title 29—LABOR

Chapter XIII—Bureau of Labor Standards, Department of Labor

PART 1518—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Standard for Exposure to Asbestos Dust

Pursuant to section 4(b)(2) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1592, 29 U.S.C. 653), § 1518.55 of Title 29, Code of Federal Regulations, is hereby amended in the manner indicated below in order to prescribe a new standard limiting the exposure of workers to asbestos dust. The new standard limiting the exposure of employees to asbestos dust is that adopted under section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 and published in the FEDERAL REGISTER on this date. The standard is hereby determined to be more effective than that presently provided under § 1518.55 to the extent that it prescribes minimum levels of exposure to asbestos dust. Therefore, by operation of section 4(b)(2) of the Act the new standard issued under section 6(c) supersedes the construction safety standard relating to exposure to asbestos dust.

Section 1518.55 is hereby amended by adding a new paragraph (c) thereto. As amended § 1518.55 reads as follows:

§ 1518.55 Gases, vapors, fumes, dusts, and mists.

(c) Paragraphs (a) and (b) of this section do not apply to the exposure of employees to airborne asbestos dust. Whenever any employee is exposed to airborne asbestos dust, the requirements of § 1910.93a of this title shall apply.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (12-7-71).

(Sec. 4(b)(2), 84 Stat. 1592, 29 U.S.C. 653; Secretary's Order No. 12-71, 36 F.R. 8754)

Signed at Washington, D.C., this 2d day of December 1971.

G. C. GUENTHER,
 Assistant Secretary of Labor.

[FR Doc.71-17835 Filed 12-6-71;8:47 am]

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Standard for Exposure to Asbestos Dust

Pursuant to section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596, 29 U.S.C. 655), Part 1910 of Title 29, Code of Federal Regulations (36 F.R. 10466, May 29, 1971) is hereby amended in the manner indicated below in order to provide an emergency standard dealing with the exposure of employees to asbestos dust.

In light of increasing information on the results of exposure of employees to airborne asbestos dust, including recent studies by the National Institute for Occupational Safety and Health and others, and recommendations by the American Conference of Governmental Industrial Hygienists (ACGIH), it is hereby determined that (1) exposure under the present standard for asbestos dust in Table G-3, § 1910.93, of 12 fibers per milliliter greater than 5 microns in length or 2 million particles per cubic foot of air, which is derived from an established Federal standard promulgated under the Walsh-Healey Public Contracts Act on May 20, 1969, constitutes a grave danger to employees exposed to this 8-hour time-weighted average concentration; and that (2) an emergency standard is necessary to protect employees from this excessive exposure. The National Institute for Occupational Safety and Health concurs that the proposed change in the asbestos dust standard recommended by the American Conference of Governmental Industrial Hygienists should be the substantial base for the emergency standard.

Action concerning the standard will be commenced under section 6(b) in the immediate future. Any notice of proposed rulemaking under section 6(b) will give notice of the emergency standard as a proposed rule and also of any appropriate subsidiary proposals which may be required under subparagraphs (5) and (7) of section 6(b) relating to the exposure of employees to toxic substances.

Part 1910 is amended as follows:
 1. Table G-3 following § 1910.93 (36 F.R. 15104, Aug. 13, 1971) is hereby amended by deleting the following:

Asbestos—12 fibers per milliliter greater than 5 microns in length or	2 Mppcf.
Tremolite-----	5 Mppcf.
	20mg./M ³
	% SiO ₂

As amended, Table G-3 reads as follows:

TABLE G-3—MINERAL DUSTS

Substance	Mppcf*	Mg/M ³
Silica:		
Crystalline:		
Quartz (respirable).....	250 [†]	10mg/M ³ =
	%SiO ₂ +5	%SiO ₂ +2 30mg/M ³
Quartz (total dust).....		%SiO ₂ +2
Cristobalite: Use $\frac{1}{2}$ the value calculated from the count or mass formulae for quartz.		
Tridymite: Use $\frac{1}{2}$ the value calculated from the formulae for quartz.		
Amorphous, including natural diatomaceous earth.....	20	80mg/M ³
		%SiO ₂
Silicates (less than 1% crystalline silica):		
Mica.....	20	
Soapstone.....	20	
Talc.....	20	
Portland cement.....	50	
Graphite (natural).....	15	
Coal dust (respirable fraction less than 5% SiO ₂).....		2.4mg/M ³ or 10mg/M ³
For more than 5% SiO ₂		%SiO ₂ +2
Inert or Nuisance Dust:		
Respirable fraction.....	15	5mg/M ³
Total dust.....	50	15mg/M ³

NOTE: Conversion factors—
mppcf \times 35.3=million particles per cubic meter
=particles per c.c.

* Millions of particles per cubic foot of air, based on impinger samples counted by light-field techniques.

[†] The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

[‡] As determined by the membrane filter method at 430 \times phase contrast magnification.

[§] Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

The measurements under this note refer to the use of an AEC instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 Mg/M³ in the table for coal dust is 4.5 Mg/M³.

2. A new § 1910.93a is added to Part 1910. The new § 1910.93a reads as follows:

§ 1910.93a Asbestos dust.

(a) The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 5 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 400-450 \times magnification (4 millimeter objective) phase contrast illumination. Concentrations above 5 fibers per milliliter but, not to exceed 10 fibers per milliliter, may be permitted up to a total of 15 minutes in an hour for up to 5 hours in an 8-hour day.

(b) Engineering methods, such as but not limited to, enclosure, vacuum sweeping, and local exhaust ventilation, shall

be used to meet the exposure limits prescribed in paragraph (a) of this section. Where such engineering methods are not feasible, or do not otherwise reduce the concentrations below those prescribed in paragraph (a) of this section, respiratory protective devices shall be provided and used in accordance with paragraph (c) of this section.

(c) (1) (i) When the limits of exposure to asbestos dust prescribed in paragraph (a) of this section are exceeded and when engineering controls required by paragraph (b) of this section are not feasible or do not otherwise reduce the concentration of asbestos dust below those prescribed in paragraph (a) of this section, the employer shall require the use of respiratory protective devices. The selection of respiratory protective devices shall be limited to those specified in the remaining subparagraphs of this paragraph (c).

(ii) The employer shall require that each employee test his respiratory protective device before each use in order to insure a proper fit according to the manufacturer's instructions. The employer shall further provide for effective training or supervision of employees in the testing of respiratory protective devices for fit before their use.

(2) For an atmosphere containing not more than 25 fibers per milliliter greater than 5 microns in length over an 8-hour average, or more than 50 fibers per milliliter over any period of 15 minutes, a reusable or single-use filter type respirator, operating with negative pressure during the inhalation phase of breathing, approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 14 (Bureau of Mines Schedule 21B), or a valveless respirator providing equivalent protection, shall be used.

(3) For an atmosphere containing not more than 250 fibers per milliliter greater than 5 microns in length over an 8-hour average, or more than 500 fibers per milliliter over any period of 15 minutes, a powered filter positive pressure respirator approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 14 (Bureau of Mines Schedule 21B) shall be used.

(4) For an atmosphere containing more than 250 fibers per milliliter greater than 5 microns in length over an 8-hour average a type C positive pressure supplied-air respirator approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 12 (Bureau of Mines Schedule 19B) shall be used.

(5) The employer shall establish a respirator program in accordance with the requirements of American National Standard Practice for Respiratory Protection Z38.2—1969.

(6) The respirators provided each employee shall be properly inspected, cleaned, repaired and stored.

(d) (1) When an employer has employees who are exposed to asbestos dust exceeding the limits prescribed in paragraph (a) of this section and the exposure results from the operations described in the remaining subparagraphs of this paragraph (d), the employer shall

comply with the requirements of these subparagraphs relating to the operations involved. The requirements of this paragraph are in addition to those prescribed in paragraph (b) of this section.

(2) All hand- or power-operated tools which produce asbestos dust such as, but not limited to, saws, scorers, abrasive wheels, and drills shall be provided with local exhaust ventilation and dust collectors in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems; ANSI Z9.2—1971.

(3) Employees exposed to the spraying of asbestos or the demolition of pipes, structures, or equipment covered or insulated with asbestos shall be provided with respiratory protective devices in accordance with paragraph (c) (4) of this section.

(e) Asbestos cement, mortar, coatings, grout, and plaster shall be mixed in closed bags or other containers.

(f) Asbestos waste and scrap shall be collected and disposed of in sealed bags or other containers.

(g) All cleanup of asbestos dust and blowing shall be performed by vacuum cleaners. No dry sweeping shall be performed.

3. Section 1910.12 is amended by changing paragraph (a) in order to apply the emergency standard prescribed in the new § 1910.93a, which is published in this document, to construction work which is subject to the Act. The amendment is necessary in light of the rule of regulatory construction set forth in § 1910.5(c). As amended, § 1910.12 reads as follows:

§ 1910.12 Construction work.

(a) (1) *Adoption and extension of established safety and health standards for construction.* The standards prescribed by Part 1518 of this title and in effect on April 28, 1971, are adopted as occupational safety or health standards under section 6(a) of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in construction work. Each employer shall protect the employment and places of employment of each of his employees engaged in construction work by complying with the appropriate standards prescribed by this paragraph.

(2) The standards prescribed in § 1518.55(c) of this title shall apply in the case of the exposure of any employee in construction work to airborne asbestos dust.

* * * * *
Effective date. These amendments shall become effective immediately upon publication in the FEDERAL REGISTER (12-7-71).

(Sec. 6(c), 84 Stat. 1596, 29 U.S.C. 655; Secretary's Order No. 12-71, 36 F.R. 8754)

Signed at Washington, D.C., this 2d day of December 1971.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.71-17833 Filed 12-6-71; 8:47 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 44—NEW AND/OR COMBAT SERVICEABLE EQUIPMENT FOR RESERVE FORCES

The Deputy Secretary of Defense approved the following:

- Sec.
- 44.1 Purpose and applicability.
- 44.2 Definitions.
- 44.3 Policies and responsibilities.

AUTHORITY: The provisions of this Part 44 issued under 5 U.S.C. 301.

§ 44.1 Purpose and applicability.

This part implements title 10, U.S. Code 264(b), "Reserve Forces Bill of Rights and Vitalization Act" (Public Law 90-168) December 1, 1967, and establishes Department of Defense policy guidance for use by the Secretaries of the Military Departments in procuring and distributing items of new and/or combat serviceable equipment to the Selected Reserve Forces of the armed forces under their jurisdiction.

§ 44.2 Definitions.

As used in this part.

(a) *Sources of equipment.* Initial procurement items, and excess equipment that has been repaired and will be issued to the Reserve Forces.

(b) *Combat serviceable equipment.* That equipment (not obsolete) that has been serviced/repared—suitable for deployment to combat.

(c) *Hardware units.* Selected Reserve units organized and equipped with new and/or combat serviceable equipment to serve as units when mobilized.

(d) *Selected Reserves.* As defined in DOD Directive 1215.6, "Uniform Training Categories and Pay Groups within the Reserve Components", August 25, 1969.¹

§ 44.3 Policies and responsibilities.

(a) The Secretaries of the Military Departments will provide combat serviceable equipment and logistical support to the Selected Reserves of their Reserve components to satisfy approved training and mobilization readiness requirements, as follows:

(1) Expeditiously procure, issue and maintain equipment of combat standard quality in amounts required for the training and mobilization of each hardware unit in the Selected Reserves of the Reserve components.

(2) Store, identify and maintain additional equipment in the quality and quantity required by Selected Reserve hardware units in the execution of mobilization plans.

(3) Establish the same equipment priorities for Selected Reserve hardware units as for Active units having the same mobilization missions or deployment requirements.

(4) Provide Selected Reserves with representative quantities of combat serviceable equipment of a type which will be issued to deploying hardware units (but which are currently not available to the Selected Reserves).

(5) Program and budget for sufficient logistical support to assure that equipment will meet maintenance standards consistent with mobilization readiness objectives.

(b) When a new hardware units is established and designated in the Selected Reserve, the Secretaries of the Military Departments will:

(1) Accomplish paragraph (a) (1) and (2) of this section.

(2) Insure that a complete Logistical Support Plan is prepared and that the receiving unit is thoroughly briefed on its implementation prior to issuance of equipment. This Plan shall contain maintenance concepts at organizational, intermediate and depot levels; procedures for acquisition and distribution of support and test equipment, spares and repair parts and technical data; development of facilities; procedures for acquisition, distribution and training of maintenance personnel; and use of maintenance management and reporting systems.

(c) To carry out the responsibilities in paragraphs (a) and (b) of this section, the Secretaries of the Military Departments will:

(1) Establish the same equipment priorities for Selected Reserve hardware units as for Active Force units commensurate with their assigned mission and readiness requirements. Within priority categories Active units may be equipped first, but Reserve units of a specific readiness requirements will be equipped before Active units with a lower readiness requirement.

(2) Replace noncombat (obsolete) equipment as a matter of priority, in cases where hardware units will not deploy with equipment on hand, issue representative quantities of equipment with which they will deploy to provide for familiarization training; take follow-on action to fulfill all readiness training requirements and to store and earmark any remaining equipment quantities required for mobilization.

(3) Program and budget sufficient logistical support funds to assure that this equipment will meet maintenance standards that are consistent with the readiness objectives of the Reserve Forces.

(4) Initiate procedures to identify and track Reserve Force equipment and/or procurement funds, as appropriate, through the planning, programing, budgeting, procurement and distribution process. (Inherent in this requirement is the capability of identifying Reserve Force assets separately, and projecting

and budgeting for the logistical support, to include any repair or rebuild required for equipment released to Reserve Forces as newer items are issued to the Active Forces.)

(5) When necessary for mobility training or to insure immediate access because of mobilization response times, issue the supplies and equipment required in support of mobilization plans directly to the unit for storage and maintenance.

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

[FR Doc.71-17821 Filed 12-6-71;8:49 am]

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 888e—DISPOSITION OF CONSCIENTIOUS OBJECTORS

Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

A new Part 888e is added as follows:

- Sec.
- 888e.0 Purpose.
 - Subpart A—General
 - 888e.2 Definitions.
 - 888e.4 Disposition of pending applications.
 - Subpart B—Policy
 - 888e.6 National policy.
 - 888e.8 Department of Defense policy.
 - Subpart C—Criteria
 - 888e.10 General.
 - Subpart D—Procedures
 - 888e.12 Preparation of application.
 - 888e.14 Advice to applicant.
 - 888e.16 Statement (counseling concerning Veterans Administration benefits).
 - 888e.18 Promotion of personnel who apply for conscientious objector status.
 - 888e.20 Required interviews.
 - 888e.22 Appointment of investigating officer.
 - 888e.24 Investigating officer's report.
 - 888e.26 Forwarding of application.
 - 888e.28 Action at decision level.
 - 888e.30 Effect of unauthorized absence of applicant.
 - 888e.32 Status of applicant whose request is under consideration.
 - Subpart E—Actions After Decisions
 - 888e.34 Disposition instructions when 1-O status is approved.
 - 888e.36 Disposition instructions when 1-A-O status is approved.
 - 888e.38 Statement (counseling concerning designation as conscientious objector).
 - 888e.40 Assignment to noncombatant duties.
 - 888e.42 DD Form 214.
 - 888e.44 Character of discharge.
 - 888e.46 Disposition of correspondence.
 - 888e.48 Assignment limitation.
 - 888e.50 Notifying Selective Service regarding member who has not completed 180 days of active duty.

AUTHORITY: The provisions of this Part 888e issued under sec. 8012, 70A Stat. 438; 10 U.S.C. 8012, except as otherwise noted.

Source: AFR 35-24, October 18, 1971.

¹ Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

§ 888e.0 Purpose.

This part establishes uniform Air Force procedures governing an applicant who claims status as a conscientious objector. This part applies to all personnel of the Air Force and of its Reserve components. It is not an authority for discharge and may not be cited as such. It implements Part 75 of this title.

Subpart A—General**§ 888e.2 Definitions.**

The following terms apply for this part:

(a) *Conscientious objection.* A firm, fixed, and sincere objection to participation in war in any form or the bearing of arms by reason of religious training and belief.

(1) *Class 1—O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation of any kind in war in any form.

(2) *Class 1—A—O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation as a combatant in war in any form, but whose convictions are such as to permit military service in a non-combatant status.

Unless otherwise specified, the term "conscientious objector" includes both 1—O and 1—A—O conscientious objectors.

(b) *Religious training and belief.* Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-being. The external power or being need not be of an orthodox deity, but may be a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term "religious training and belief" may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as "religious" in the traditional sense, or may expressly characterize them as not religious. The term "religious training and belief" does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views.

(c) *Noncombatant service or noncombatant duties (1—A—O) (used interchangeably in this part).* (1) Service in any unit of the armed forces which is unarmed at all times.

(2) Service in the medical department of any of the armed forces, wherever performed.

(3) Any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

(4) Service aboard an armed ship or aircraft or in a combat zone will not be

considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

(d) *Noncombatant training.* Any training which is not concerned with the study, use or handling of arms or weapons.

§ 888e.4 Disposition of applications pending.

Applications initiated under AFR 35-24, May 1, 1970, and dated prior to October 18, 1971, will be processed to conclusion under that regulation.

Subpart B—Policy**§ 888e.6 National policy.**

Military service is a patriotic obligation of every citizen who desires to share in the benefits and protections afforded by allegiance to the national aims, objectives, welfare, and security of the Government of the United States. The armed forces were established by Congress as an instrument to insure the attainment of the objectives through the preservation of peace and national stability in a highly competitive and changing world. Nevertheless, Congress has recognized that deep and sincerely held convictions against the use of force may place any citizen in a dilemma between conscience and patriotic obligation, and has therefore provided a means whereby these citizens may be excused from their military obligation by receiving status as a conscientious objector.

§ 888e.8 Department of Defense (DOD) policy.

Consistent with the national policy explained in § 888e.6, Air Force personnel who qualify under this part as bona fide conscientious objectors will be recognized to the extent practicable and equitable. Objection to a particular war will not be recognized as grounds for conscientious objection. This policy will be executed subject to the following:

(a) Administrative discharge prior to the completion of an obligated term of service is discretionary with the Secretary of the Air Force, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the Air Force, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

(1) Except as provided in subparagraph (2) of this paragraph, no member of the Air Force who possessed conscientious objection beliefs before entering military service is eligible for classification as a conscientious objector if:

(i) Such beliefs satisfied the requirements for classification as a conscientious objector pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App 456(j)) and other provisions of law, and he failed to request classification as a

conscientious objector by the Selective Service System (SSS); or

(ii) He requested classification as a conscientious objector before entering military service, and such request was denied on the merits by the SSS, and his request for classification as a conscientious objector is based upon essentially the same grounds or supported by essentially the same evidence, as the request which was denied by the SSS.

(2) Nothing contained in this part renders ineligible for classification as a conscientious objector a member of the Air Force who possessed conscientious objector beliefs before entering military service if:

(i) Such beliefs crystallized after receipt of an induction notice;

(ii) He could not request classification as a conscientious objector by the SSS because of SSS regulations prohibiting the submission of such requests after receipt of induction notice; and

(iii) He makes application for classification as a conscientious objector within 72 hours after his induction.

(b) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible objective standards and measurements on an "across-the-board" basis. Requests for discharge or assignment to noncombatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at HQ USAF (airmen) or the Secretary of the Air Force (officers) in accordance with the facts and circumstances in the particular case and the policy and procedures set forth in this part.

Subpart C—Criteria**§ 888e.10 General.**

The criteria set forth in this section provide policy and guidance in considering applications for separation or for assignment to noncombatant training and service based on conscientious objection.

(a) Consistent with the national policy to recognize the claims of bona fide conscientious objectors in the military service, an application for classification as a conscientious objector may be approved (subject to the limitations of paragraph (a) of § 888e.8) for any individual.

(1) Who is conscientiously opposed to participation in war in any form;

(2) Whose opposition is found on religious training and belief; and

(3) Whose position is sincere and deeply held.

(b) War in any form: The clause "war in any form" should be interpreted in the following manner:

(1) An individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;

(2) A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to

participate in "war" within the meaning of this part.

(c) Religious training and belief:

(1) In order to find that an applicant's moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions. In other words, the belief upon which conscientious objection is based must be the primary controlling force in the applicant's life.

(2) A primary factor to be considered is the sincerity with which the belief is held. Great care must be exercised in seeking to determine whether asserted beliefs are honestly and genuinely held. Sincerity is determined by an impartial evaluation of the applicant's thinking and living in its totality, past and present. Care must be exercised in determining the integrity of belief and the consistency of application. Information presented by the claimant should be sufficient to convince that the claimant's personal history reveals views and actions strong enough to demonstrate that expediency or avoidance of military service is not the basis of his claim.

(i) Therefore, in evaluating applications the conduct of applicants, in particular their outward manifestation of the beliefs asserted, will be carefully examined and given substantial weight.

(ii) Relevant factors that should be considered in determining an applicant's claim of conscientious objection include training in the home and church; general demeanor and pattern of conduct; participation in religious activities; whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated; credibility of the applicant, and credibility of persons supporting the claim.

(iii) Particular care must be exercised not to deny the existence of bona fide beliefs simply because those beliefs are incompatible with one's own.

(a) Church membership or adherence to particular theological tenets are not required to warrant separation or assignment to noncombatant training and service for conscientious objectors.

(b) Mere affiliation with a church or other group which advocates conscientious objection as a tenet of its creed is not necessarily determinative of an applicant's position or belief.

(c) Conversely, affiliation with a church or group which does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs in any given case.

(d) Where an applicant is or has been a member of a church, religious organization, or religious sect, and where his claim of conscientious objection is related to

such membership, inquiry may properly be made as to the fact of membership, and the teaching of the church, religious organization, or religious sect, as well as the applicant's religious activity. However, the fact that the applicant may disagree with, or not subscribe to, some of the tenets of his church does not necessarily discredit his claim. The personal convictions of each individual will be controlling so long as they derive from his moral, ethical, or religious beliefs.

(e) Moreover, an applicant who is otherwise eligible for conscientious objector status may not be denied that status simply because his conscientious objection influences his view concerning the nation's domestic or foreign policies. The task is to decide whether the beliefs professed are sincerely held, and whether they govern the claimant's actions both in word and deed.

(d) The burden of establishing a claim of conscientious objection as a ground for separation or assignment to noncombatant training and service is on the applicant. To this end, he must establish by clear and convincing evidence:

(1) That the nature or basis of his claim comes within the definition of and criteria prescribed in this part for conscientious objection, and

(2) That his belief in connection therewith is honest, sincere and deeply held.

The claimant has the burden of determining and setting forth the exact nature of his request; that is, whether for separation based on conscientious objection (1-O) or for assignment to noncombatant training and service based on conscientious objection (1-A-O).

(e) An applicant claiming 1-O status will not be granted 1-A-O status as a compromise.

(f) Persons who were classified 1-A-O by Selective Service prior to induction will upon induction be transferred to a training center, or station, for recruit training and will be subject to noncombatant service and training. They will be required to sign and date a statement as set forth in § 888e.38. Thereafter, upon completion of recruit training, they will be assigned to noncombatant duty. They may be transferred to the medical corps, or a medical department or unit for further training, provided they meet the requirements therefor. Such persons when assigned to medical units will not be allowed to avoid the important or hazardous duties which are part of the responsibility of all members of the medical organization. Any person who does not meet the requirements for this training, who fails to complete the prescribed course of instruction, or who otherwise cannot be assigned to this duty will be assigned to other noncombatant duties.

NOTE: Because the Air Force does not normally induct members claiming conscientious objector status, this DOD policy is for information only.

(g) Commanders are authorized to return to an applicant, without action, any second or subsequent application that is based upon essentially the same grounds, or supported by essentially the same evidence, as a previous application disap-

proved by the Secretary of the Air Force or HQ USAF.

(h) The provisions of this part will not be used to effect the administrative separation of individuals who do not qualify as conscientious objectors, or in lieu of administrative separation procedures such as those provided for unsuitability or unfitness or as otherwise set forth in other Air Force directives. Individuals determined not qualified for conscientious objector status, the separation of whom would otherwise appear to be in the best interest of the Air Force, should be considered for administrative separation under the provisions of other applicable Air Force directives. Under no circumstances will administrative separation of these individuals be effected pursuant to this part.

(i) Nothing in this part prevents the administrative elimination, pursuant to law and regulations of the Air Force of any officer whose classification as a 1-A-O conscientious objector results in substandard performance of duty or other cause for elimination.

Subpart D—Procedures

§ 888e.12 Required information.

(a) A member of the Air Force who seeks either separation or assignment to noncombatant duties by reason of conscientious objection will submit an application therefor through his unit commander to the CBPO-Special Actions (SA) unit. The applicant will indicate whether he is seeking a discharge or assignment to noncombatant duties and will include that which is set forth in § 75.6 of this title.

(b) Applicants for 1-A-O status will not be processed unless accompanied by a voluntary request for separation in accordance with paragraph 3-8r, AFM 39-10 (Separation Upon Expiration of Term of Service for Convenience of Government, Minority, Dependency, and Hardship) (airmen), or paragraph 16m, AFR 36-12 (Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force) (officers). Such requests by the applicant will be submitted by letter in the format prescribed in § 888e.38. The request will be signed and dated by the applicant and made a part of the application prior to forwarding to the commander exercising special court-martial jurisdiction.

§ 888e.14 Advice to applicant.

Prior to processing the application the unit commander will:

(a) Advise the applicant of the specific provisions of section 3103 of title 38, United States Code, regarding the possible effects of discharge as a conscientious objector who refuses to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, and

(b) Require the applicant to execute the statement as shown in § 888e.16.

NOTE: 38 U.S.C. 3103 provides, in pertinent part, that the discharge of any person on the grounds that he was a conscientious objector who refused to perform military

duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, will bar all rights (except government insurance) of such persons under law administered by the Veterans Administration based upon the period of service from which discharged or dismissed. The only exception is in cases in which it is established, to the satisfaction of the Administrator, that the member was insane.

§ 888e.16 Statement (counseling concerning Veterans Administration benefits).

I have been advised of the provisions of 38 U.S.C. 3103 concerning possible nonentitlement to benefits administered by the Veterans Administration due to discharge from the military service as a conscientious objector under certain conditions. I understand that a discharge as a conscientious objector, who refused to perform military duty or otherwise to comply with lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the Veterans Administration except my legal entitlement (if any) to any war risk, government (converted) or National Service Life Insurance.

(Date)

(Signature of Member)

(Typed name, SSAN, grade, USAF)

The preceding statement of (member's name) was signed by him after he had been counseled by me.

(Date)

(Signature of officer who counseled member)

(Typed name, SSAN, grade, USAF)

§ 888e.18 Promotion of personnel who apply for conscientious objector status.

Upon initiation of action under this part, personnel awaiting promotion to all grades, both officers and airmen, will have promotion withheld in accordance with current procedures. The rationale for withholding promotion is that, by application, the individual places himself in a position where his potential for future service is questionable. Withholding will be in effect until a final determination can be made in individual cases. This policy complements the promotion philosophy that promotions are not awarded for past performance but for anticipated future service.

§ 888e.20 Required interviews.

The applicant will be personally interviewed by a chaplain who will submit a written opinion as to the nature and basis of the applicant's claim, and as to the applicant's sincerity and depth of conviction. The chaplain's report must include the reasons for his conclusions. In addition, the applicant will be interviewed by a psychiatrist (or by a medical officer if a psychiatrist is not reason-

ably available) who will submit a written report of psychiatric evaluation indicating the presence or absence of any psychiatric disorder which would warrant treatment or disposition through medical channels, or such character or personality disorder as to warrant recommendation for appropriate administrative action. This opinion and report will become part of the case file. If the applicant refuses to participate or is uncooperative or unresponsive in the course of the interviews, this fact will be included in the statement and report filed by the chaplain and psychiatrist or medical officer.

§ 888e.22 Appointment of investigating officer.

The commander exercising special court-martial jurisdiction over the applicant will appoint an officer in the grade of major or higher, to investigate the applicant's claim.

Note: Staff judge advocates in the grade of captain or higher may be appointed as investigating officers. The officer so appointed will not be an individual in the chain of command of the applicant. If the applicant is a commissioned officer, the investigating officer must be senior in both temporary and permanent grades to the applicant.

(a) *Review of this part by investigating officer.* Upon appointment, the investigating officer will review this part. During the course of his investigation, the investigating officer will obtain all necessary legal advice from the local staff judge advocate or legal officer.

(b) *Conduct of hearing by investigating officer.* The investigating officer will conduct a hearing on the application. The purpose of the hearing is to afford the applicant an opportunity to present any evidence he desires in support of his application; to enable the investigating officer to ascertain and assemble all relevant facts; to create a comprehensive record; and to facilitate an informed recommendation by the investigating officer and an informed decision on the merits by higher authority. In this regard, any failure or refusal of the applicant to submit to questioning under oath or affirmation before the investigating officer may be considered by the officer making his recommendation and evaluation of the applicant's claim. If the applicant fails to appear at the hearing without good cause, the investigating officer may proceed in his absence and the applicant will be deemed to have waived his appearance.

(1) If the applicant desires, he will be entitled to be represented by counsel, at his own expense, who will be permitted to be present at the hearing, assist the applicant in the presentation of his case, and examine all items in the file.

(2) The hearing will be informal in character and will not be governed by the rules of evidence employed by courts-martial except that all oral testimony presented must be under oath or affirmation. Any relevant evidence may be received. Statements obtained from persons not present at the hearing need not

be made under oath or affirmation. The hearing is not an adversary proceeding.

(3) The applicant may submit any additional evidence that he desires (including sworn or unsworn statements) and present any witnesses in his own behalf, but he will be responsible for securing their attendance. The commander exercising special court-martial jurisdiction will render all reasonable assistance in making available military members of his command requested by the applicant as witnesses. Further, the applicant will be permitted to question any other witnesses who appear and to examine all items in the file.

(4) A verbatim record of the hearing is not required. If the applicant desires such a record and agrees to provide it at his own expense, he may do so. If he elects to provide such a record, he must make a copy thereof available to the investigating officer, at no expense to the Government, at the conclusion of the hearing. In the absence of a verbatim record, the investigating officer will summarize the testimony of witnesses and permit the applicant or his counsel to examine the summaries and note for the record their differences with the investigating officer's summary. Copies of statements and other documents received in evidence will be made a part of the hearing record.

§ 888e.24 Investigating officer's report.

At the conclusion of the investigation, the investigating officer will prepare a written report which will contain the following:

(a) A statement as to whether the applicant appeared, whether he was accompanied by counsel, and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood by him.

(b) Any documents, statements, and other material received during the investigation.

(c) Summaries of the testimony of the witnesses presented (or a verbatim record of the testimony if such record was made).

(d) A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs, including his reasons for such conclusions.

(e) Subject to § 888e.10(e), the investigating officer's recommendations for disposition of the case, including his reasons therefor. The actions recommended will be limited to the following:

(1) Denial of any classification as a conscientious objector;

(2) Classification as 1-A-O conscientious objector; or

(3) Classification as 1-O conscientious objector.

(f) The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case will constitute the

record. The investigating officer's conclusions and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. A copy of the record will be furnished to the applicant at the time it is forwarded to the commander who appointed the investigating officer, and the applicant will be informed that he has the right to submit a rebuttal to the report within 15 days after receipt of his copy of the record.

§ 888e.26 Forwarding of application.

Fifteen days after date the applicant was provided his copy of the record (paragraph (a) of § 888e.24) or upon receipt of his rebuttal, whichever is sooner, CBPO-SA will forward the record case to the local staff judge advocate for legal review. If necessary, the SJA may return the case through CBPO-SA to the investigating officer for further investigation. When the record is complete, the SJA will forward it to the commander who appointed the investigating officer. The commander will forward it with his personal recommendation for disposition, and reasons therefor, through each level in the chain of command. At each level, additional recommendations will be attached. The last level in the chain of command will send at least two copies to USAFMPC/DPMAKE (airmen) or USAFMPC/DPMAKO (officers), Randolph AFB TX 78148, in accord with AFM 39-10 or AFR 36-12.

§ 888e.28 Action at decision level.

A final decision based on the entire record will be made by the Secretary of the Air Force (officers) and HQ USAF (airmen). Any additional information other than the official service record of the applicant considered by the Secretary of the Air Force or HQ USAF which is adverse to the applicant, and which the applicant has not had an opportunity to comment upon or refute, will be made a part of the record and the applicant will be given a 15-day opportunity from date of receipt of the additional information to comment upon or refute the material before a final decision is made. The reasons for an adverse decision will be made a part of the record and will be provided to the individual.

§ 888e.30 Effect of unauthorized absence of applicant.

Processing of applications need not be abated by the unauthorized absence of the applicant subsequent to the initiation of the application, or by the institution of disciplinary action or administrative separation proceedings against him. However, an applicant whose request for classification as a conscientious objector has been approved will not be discharged until all disciplinary action has been resolved.

§ 888e.32 Status of applicant whose request is under consideration.

To the extent practicable under the circumstances, during the period applications are being processed and until a decision is made by the Secretary of the Air Force or HQ USAF, every effort will

be made to assign applicants to duties within the command to which they are assigned which will conflict as little as possible with their asserted beliefs. However, members desiring to file application who are on orders for reassignment are required to submit applications at their next permanent duty station. During the period applications are being processed, applicants will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Applicants may be disciplined for violations of the Uniform Code of Military Justice while awaiting action on their applications.

Subpart E—Actions After Decisions

§ 888e.34 Disposition instructions when 1-O status is approved.

Applicants requesting discharge who are determined to be 1-O conscientious objectors will be discharged for the convenience of the Government with entry in personnel records and discharge papers that the reason for separation is conscientious objection. The type of discharge issued will be governed by the applicant's general military record and the pertinent provisions of AFM 39-10 (airmen) or AFR 36-12 (officers). The Director of the Selective Service System will be promptly notified of the discharge of those who have served less than 180 days in the Armed Forces. Pending separation, the applicant will continue to be assigned duties providing the minimum practicable conflict with his professed beliefs and will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which he is assigned. Applicants may be disciplined for violations under the Uniform Code of Military Justice while awaiting discharge.

§ 888e.36 Disposition instructions.

Applicants requesting assignment to noncombatant duties who are determined to be Class 1-A-O conscientious objectors by the Air Force will be:

- (a) Assigned to noncombatant duty as stated in § 888e.2, or
- (b) Discharged from military service at the discretion of HQ USAF (airmen) or SAF (officers). Each applicant will be required to execute the statement as shown in § 888e.38.

§ 888e.38 Statement (counseling concerning designation as conscientious objector).

I have been counseled concerning designation as a conscientious objector. Based on my religious training and belief, I consider myself to be a conscientious objector within the meaning of the statute and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to noncombatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service I am not eligible for voluntary enlistment, reenlistment, or active service in the armed forces.

If I am determined to be a conscientious objector (1-A-O status) and if a further determination is made by HQ USAF that I cannot be effectively utilized as a noncom-

batant, I am requesting that (I be discharged for the convenience of the Government in accordance with paragraph 3-8r, AFM 39-10 (airmen)) (my resignation be accepted in accordance with paragraph 16m, AFR 36-12 (officer)).

(Date)

(Signature of Member)

(Typed name, SSAN, grade, USAF)

The preceding statement of (member's name) was signed by him after he had been counseled by me.

(Date)

(Signature of officer who counseled member)

(Type name, SSAN, Grade, USAF)

§ 888e.40 Assignment to noncombatant duties.

Persons assigned to noncombatant duties, and persons assigned to normal military duties by reason of disapproval of their application, will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Violations of the Uniform Code of Military Justice by these members will be treated as in any other situation.

§ 888e.42 DD Form 214.

If a member is discharged as a conscientious objector, items 11c, and 15, DD Form 214, "Armed Forces of the United States Report of Transfer or Discharge," will be completed.

§ 888e.44 Character of discharge.

If discharge is directed, the character of discharge is determined by the member's military record; the standards established in AFR 36-12, or AFM 39-10, as appropriate; and the procedural guidelines in this part.

§ 888e.46 Disposition of correspondence.

After final approval action is taken on an application, the CBPO Reenlistment and Separations Unit will include one copy of the approved correspondence resulting in discharge in the Unit Personnel Record Group (UPRG). The UPRG will then be sent to USAFMPC/DPMDRR, Randolph AFB TX 78148, according to AFM 35-14 (Military Personnel Records System). One copy of the application, including statement of member resulting in reassignment to noncombatant duties and one copy of all disapproved applications will be filed in the Unit Personnel Record Group in accordance with AFM 35-14. All other copies will be disposed of in accordance with AFM 12-50 (Disposition of AF Documentation).

§ 888e.48 Assignment limitation.

CBPO-SA will provide CBPO-ASGN with a copy of the correspondence approving the individual for noncombatant

service as a basis for updating the assignment limitation data in the PDS.

§ 388e.50 Notifying Selective Service regarding a member who has not completed 180 days of active duty.

Bona fide conscientious objectors (1-O classification or 1-A-O, but discharge is directed) who are approved for discharge with less than 180 days service, will be discharged for the convenience of the Government by reason of conscientious

objection early enough to permit the remaining service in the civilian work program administered by Selective Service. In such cases, the CBPO Special Actions Unit will notify the SSS promptly of the date of discharge from military service and of the fact that the individual has not completed 180 days of active duty. The notification will be prepared for the immediate commander's signature. He will request the SSS to

induct the individual for the alternate service provided by the Military Selective Service Act.

By the order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr., Colonel, U.S. Air Force, Special Activities Group, Office of The Judge Advocate General.

[FR Doc.71-17861 Filed 12-6-71;8:51 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

Table with 7 columns: State, County, Location, Map No., State map repository, Local map repository, Effective date of authorization of sale of flood insurance for area. Lists various communities across different states like California, Delaware, Indiana, Kentucky, Maryland, Minnesota, Missouri, New Jersey, North Carolina, Oregon, Pennsylvania, etc.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Rhode Island	Washington	Narragansett	I 44 008 0137 04 through I 44 008 0137 06	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Division, 100 Weybosset St., Providence, R.I. 02903.	Town Clerk's Office, Town Hall, 66 Rodman St., Narragansett, RI 02882.	Dec. 3, 1971.
Tennessee	Blount	Maryville	I 47 008 1570 03 through I 47 008 1570 06	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the Building Official, City of Maryville, Municipal Bldg., Maryville, Tenn. 37811.	Do.
Do.	Campbell	Jacksboro	I 47 013 1198 01	do.	Town Hall, Town of Jacksboro, Post Office Box 75, Jacksboro, TN 37757.	Do.
Do.	Loudon	Lenoir City				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1968 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-17787 Filed 12-6-71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS
List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	Alameda	Unincorporated areas.				Dec. 3, 1971.
Delaware	New Castle		H 10 003 0000 04 through H 10 003 0000 12	Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, Post Office Box 567, Georgetown, DE 19947. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	Drainage Division, Department of Public Works, New Castle County Engineering Bldg., Post Office Box 166, Wilmington, DE 19899.	June 6, 1970 and Nov. 6, 1970.
Indiana	St. Joseph	South Bend				Dec. 3, 1971.
Kentucky	Harlan	Loyal				Do.
Do.	Jefferson	St. Matthews				Do.
Maryland		Baltimore				Do.
Minnesota	St. Louis	Cook				Do.
Missouri	Jefferson	Crystal City				Do.
Do.	St. Francois	Flat River				Do.
New Jersey	Mercer	Trenton	H 34 021 3380 03 through H 34 021 3380 06	Department of Environmental Protection, Division of Water Resources, Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	City Engineer's Office, City Hall, East State St., Trenton, N.J. 08608.	Jan. 18, 1971.
Do.	do.	Hamilton Township.				Dec. 3, 1971.
Do.	Union	Hillside Township.				Do.
Do.	Morris	Madison Borough				Do.
North Carolina	Carteret	Beaufort				Do.
Oregon	Douglas	Unincorporated areas.				Do.
Do.	Marion	Salem				Do.
Pennsylvania	Schuylkill	Tamaqua Borough.	H 42 107 8350 03 H 42 107 8350 04	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Municipal Building, 320 East Broad St., Tamaqua, PA 18252.	Feb. 9, 1971.
Do.	Bucks	Upper Makefield Township.				Dec. 3, 1971.
Do.	Chester	Downingtown Borough.				Do.
Do.	do.	West Chester Borough.				Do.
Do.	Cumberland	East Pennsboro Township.				Do.
Do.	Delaware	Chester Township.				Do.
Do.	do.	Marple Township				Do.
Do.	do.	Upland Borough				Do.
Do.	do.	Upper Providence Township.				Dec. 3, 1971.
Do.	Lehigh	Catsaunqua Borough.				Do.
Do.	Montgomery	Plymouth Township.				Do.
Do.	Washington	Union Township				Do.
Do.	do.	West Brownsville Borough.				Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Rhode Island	do	Narragansett	H 44 009 0137 04 through H 44 009 0137 06	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Division, 169 Weybosset St., Providence, RI 02903.	Town Clerk's Office, Town Hall, 66 Rodman St., Narragansett, RI 02882.	Sept. 18, 1970.
Tennessee	Blount	Maryville	H 47 009 1570 03 through H 47 009 1570 08	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the Building Official, City of Maryville, Municipal Bldg., Maryville, Tenn. 37801.	Nov. 17, 1970.
Do.	Campbell	Jacksboro	H 47 013 1198 01	do	Town Hall, Town of Jacksboro, Post Office Box 75, Jacksboro, TN 37757.	May 21, 1971.
Do.	Loudon	Lenoir City				Dec. 3, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-17788 Filed 12-6-71;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—United States Postal Service

PART 156—RURAL SERVICE

Rural Boxes

The regulations in § 156.5 of Title 39, Code of Federal Regulations, are amended to update the listing of approved manufacturers and suppliers of rural mailboxes and contemporary-style boxes. Changes in office designations are also made.

Accordingly, in § 156.5 *Rural boxes*, make the following changes in paragraph (a):

1. Amend subparagraphs (2) and (5) to read as follows:

§ 156.5 Rural boxes.

(a) * * *

(2) *Drawings.* Construction standards and drawings for guidance in the manufacture of rural mailboxes may be obtained by writing to the Delivery Services Department, Customer Services Group, U.S. Postal Service, Washington, DC 20260.

(5) *List of approved manufacturers.* Following is a list of manufacturers and suppliers of rural and contemporary-style suburban mailboxes whose samples have been approved by the Postal Service:

Babco Manufacturing, Inc.,
11677 Sheldon Street,
Sun Valley, CA 91352.
C

Chicago Heights Furnace Supply Co., Inc.,
98-104 East 22d Street,
Chicago Heights, IL 60411.
1-1A-2

Deshler Mail Box Co.,
101 East Maple Street,
Deshler, OH 43516.
1-1A-2-C

E. Z. Manufacturing Co.,
Springfield, SD 57062.
(Door Conversion Kit for No. 2)

Falls Stamping & Welding Co.,
Post Office Box 153,
Cuyahoga Falls, OH 44222.
1-2

Fulton Corp.,
Fulton, IL 61252.
1-1A-2-C

General Housewares Corp.,
800 West Willard Street,
Muncie, IN 47302.
C

Hermitage Stamping Co.,
7119 Cockrill Bend Industrial Road,
Post Office Box 7885,
Nashville, TN 37209.
1

Jacks-Evans Manufacturing Co.,
11737 Administration Drive,
St. Louis, MO 63141.
1-1A-2

Kelley Manufacturing Co.,
Los Angeles Division,
5100 Santa Fe Avenue,
Los Angeles, CA 90058.
1-2

Leigh Products, Inc.,
Coopersville, MI 49404.
C

Macklanburg-Duncan Co.,
Post Office Box 25188,
Oklahoma City, OK 73125.
1

Montgomery Ward & Co.,
619 West Chicago Avenue,
Chicago, IL 60610.
1-1A-2-C

Northern Fabricators Corp.,
Post Office Box 89,
Worthington, OH 43085.
C

Northwest Metal Products Co.,
Division of Noll Manufacturing Co.,
Post Office Box 10,
Kent, WA 98031.
1

Remington Hardware Co., Inc.,
351 West Broadway,
New York, NY 10013.
C

Rybolt Heater Co.,
615 Miller Street,
Ashland, OH 44805.
1-1A-2

Sears, Roebuck & Co.,
925 South Homan Avenue, Dept. 609,
Chicago, IL 60607.
1-2-C

Southern Fabricators,
Post Office Box 7321,
Shreveport, LA 71107.
C

Steel City Manufacturing Co.,
Post Office Box 1115,
Youngstown, OH 44501.
1-1A-2-C

Superior Sheet Metal Works Co.,
3201-9 Roosevelt Avenue,
Indianapolis, IN 46218.
1-1A-2

The Parker Co.,
Route 14, Box 318R,
Richmond, VA 23231.
C

Waterloo Industries, Inc.,
Post Office Box 209,
Waterloo, IA 50704.
C

1 Traditional rural box size No. 1.
1A Traditional rural box size No. 1A.
2 Traditional rural box size No. 2.
C Contemporary-style suburban box (also approved for use on rural routes).

2. In subparagraph (3) of paragraph (a) of § 156.5, change "Operations Department" to "Delivery Services Department".

(39 U.S.C. 401)

DAVID A. NELSON,
Senior Assistant Postmaster
General and General Counsel.

[FR Doc.71-17803 Filed 12-6-71;8:47 am]

PART 601—PROCUREMENT OF PROPERTY AND SERVICES OTHER THAN MAIL TRANSPORTATION SERVICES

Subchapter H of Title 39, Code of Federal Regulations (36 F.R. 12432) is amended by the addition of new Part 601, reading as follows:

- Sec
 601.100 Postal Contracting Manual; incorporation by reference.
 601.101 Effective date.
 601.102 Applicability and coverage.
 601.103 Content of Postal Contracting Manual.
 601.104 Availability of Postal Contracting Manual.
 601.105 Amendments to the Postal Contracting Manual.

AUTHORITY: The provisions of this Part 601 issued under 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008.

§ 601.100 Postal Contracting Manual; incorporation by reference.

Section 552(a) of title 5, United States Code, relating to public information requirements of the Administrative Procedure Act, provides in pertinent part that " * * matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register." In conformity with that provision, with 39 U.S.C. section 410(b) (1), and as provided in this part, the U.S. Postal Service hereby incorporates by reference its Postal Contracting Manual (PCM), Publication 41, a loose-leaf publication.

§ 601.101 Effective date.

The provisions of the Postal Contracting Manual are applicable, effective January 1, 1972, with respect to all covered procurement activities of the Postal Service. However, the Manual or portions thereof may be placed into effect at an earlier time by individual procurement officers of the Postal Service for procurement activities under their jurisdiction after December 7, 1971.

§ 601.102 Applicability and coverage.

(a) The Postal Contracting Manual applies to all Postal Service procurements of property services, except the purchase of mail transportation and related services by contract (see Part 619 of this subchapter). Provisions relating to the purchase of mail transportation and related services by contract may, however, be incorporated at a later date into the Postal Contracting Manual and may be subject to later incorporation by reference in the Code of Federal Regulations.

(b) The Postal Contracting Manual supersedes interim regulations on the procurement of property and services published in the FEDERAL REGISTER of June 30, 1971 (36 F.R. 12451).

§ 601.103 Content of Postal Contracting Manual.

The Postal Contracting Manual consists of 27 sections, some of which are reserved for subsequent use, and two appendices, as follows:

(a) Section 1 covers general procurement policies, including the delegation of procurement responsibilities and authorities; procedures for contracting with small and minority-owned business concerns, and concerns in labor surplus areas; and Buy American Act preferences.

(b) Section 2 establishes procedures for purchase by formal advertising and the determination of protests against award.

(c) Section 3 authorizes purchase by negotiation under certain prescribed circumstances and sets forth applicable procedures and techniques.

(d) Section 5 covers procurement from other Government agencies.

(e) Section 6 prescribes procedures for effecting small purchases not in excess of \$5,000, or \$10,000 in certain circumstances.

(f) Section 7 prescribes clauses for use in various types of contracts.

(g) Section 9 covers patents and the acquisition of rights in data.

(h) Section 10 sets forth policies and procedures governing bonds and insurance under contracts.

(i) Section 11 discusses the impact of Federal, State, and local taxes upon postal procurements, and provides clauses relating thereto.

(j) Section 12 implements the labor statutes applicable to the Postal Service, and prescribes procedures governing equal employment opportunity under postal contracts.

(k) Section 15 establishes cost principles for use in postal contracts.

(l) Section 16 illustrates procurement forms and sets forth instructions for their use.

(m) Section 18 prescribes policies and procedures for leasing postal facilities.

(n) Among others, sections 19-27 are reserved for future use.

(o) Appendix A sets forth the Rules of Practice before the Postal Service Board of Contract Appeals (Part 955 of this chapter).

(p) Appendix B contains the Rules of Practice in Proceedings Relative to Debarment and Suspension From Contracting (Part 957 of this chapter).

§ 601.104 Availability of Postal Contracting Manual.

(a) Copies of the Postal Contracting Manual, Publication 41, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a cost of \$6 per copy (add \$1.50 for foreign mailing). This price includes entitlement to receive, for an indefinite period, changes in the Manual which may be published from time to time. The Manual may be examined during normal business hours at the U.S. Postal Service, Office of Procurement, 12th and Pennsylvania Avenue NW., Washington, DC 20260, and at the following U.S. Postal Service Regional Procurement Branches:

- New York Metropolitan Region, 33d Street and Eighth Avenue, New York, NY 10006.
- Eastern Region, 1845 Walnut Street, Philadelphia, PA 19101.
- Southern Region, Front Street, Memphis, TN 38101.
- Central Region, 433 West Van Buren Street, Chicago, IL 60699.
- Western Region, 631 Howard Street, San Francisco, CA 94106.

(b) A copy of the Postal Contracting Manual is on file with the Director, Office

of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

§ 601.105 Amendments to the Postal Contracting Manual.

Notice of changes made in the Postal Contracting Manual will be periodically published in the FEDERAL REGISTER. The text of such changes will be filed with the Director, Office of the Federal Register. Subscribers to the basic Manual will receive the amendments from the Government Printing Office.

DAVID A. NELSON,
 Senior Assistant Postmaster
 General and General Counsel.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register on December 3, 1971.

[FR Doc.71-17905 Filed 12-6-71;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor

PART 50-204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Standard for Exposure to Asbestos Dust

Pursuant to section 4(b)(2) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1592, 29 U.S.C. 653), § 50-204.50 of Title 41, Code of Federal Regulations, is hereby amended in the manner indicated below in order to prescribe a new standard limiting the exposure of workers to asbestos dust. The new standard limiting the exposure of employees to asbestos dust is that adopted under section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 and published in the FEDERAL REGISTER on this date. The standard is hereby determined to be more effective than that presently provided under § 50-204.50 to the extent that it prescribes minimum levels of exposure to asbestos dust. Therefore, by operation of section 4(b)(2) of the Act the new standard issued under section 6(c) supersedes the construction safety standard relating to exposure to asbestos dust.

Section 50-204.50 is amended to read as follows in order to apply the new standard limiting the exposure of workers to asbestos dust:

§ 50-204.50 Gases, vapors, fumes, dusts, and mists.

(a) (1) Exposures by inhalation, ingestion, skin absorption, or contact to any material or substance (i) at a concentration above those specified in the "Threshold Limit Values of Airborne Contaminants for 1968" of the American Conference of Governmental Industrial Hygienists, except for the ANSI Standards listed in Table I of this section and

except for the values of mineral dusts listed in Table II of this section, and (ii) concentrations above those specified in Tables I and II of this section, shall be avoided, or protective equipment shall be provided and used.

(2) The requirements of this section do not apply to exposures to airborne asbestos dust. Exposures of employees to airborne asbestos dust shall be subject to the requirements of 29 CFR 1910.93a.

(b) To achieve compliance with paragraph (a) of this section, feasible administrative or engineering controls must first be determined and implemented in all cases. In cases where protective equipment in addition to other measures is used as the method of protecting the employee, such protection must be approved for each specific application by a competent industrial hygienist or other technically qualified source.

TABLE II—MINERAL DUSTS

Substance	Mppcf	Mg/M ³
Silica:		
Crystalline:		
Quartz (respirable).....	250 ¹	10mg/M ³ =
	%SiO ₂ +5	%SiO ₂ +2
Quartz (total dust).....		30mg/M ³
		%SiO ₂ +2
Cristobalite: Use 1/2 the value calculated from the count or mass formulae for quartz.		
Tridymite: Use 1/2 the value calculated from the formulae for quartz.		
Amorphous, including natural diatomaceous earth.....		
	20	80mg/M ³
		%SiO ₂
Silicates (less than 1% crystalline silica):		
Mica.....	20	
Soapstone.....	20	
Talc.....	20	
Portland cement.....	50	
Graphite (natural).....	15	
Coat dust (respirable fraction less than 5% SiO ₂).....		2.4mg/M ³ or 10mg/M ³
For more than 5% SiO ₂		%SiO ₂ +2
Inert or Nuisance Dust:		
Respirable fraction.....	15	5mg/M ³
Total dust.....	50	15mg/M ³

NOTE: Conversion factors—
mppcf×36.3=million particles per cubic meter
=particles per c.c.

¹ Millions of particles per cubic foot of air, based on impinger samples counted by light-field techniques.

² The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

³ As determined by the membrane filter method at 430 X phase contrast magnification.

⁴ Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

The measurements under this note refer to the use of an AEC instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 Mg/M³ in the table for coal dust is 4.5 Mg/M³.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (12-7-71).

(Sec. 4(b) (2), 84 Stat. 1592, 29 U.S.C. 653; Secretary's Order No. 12-71, 36 F.R. 8764)

Signed at Washington, D.C., this 2d day of December 1971.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.71-17834 Filed 12-6-71;8:47 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CFR 71-157]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Dangerous Cargo Containers

On pages 5246 and 5247 of the FEDERAL REGISTER (36 F.R. 5246) which appeared March 18, 1971, a notice of proposed rule making was published which proposed an amendment to the Dangerous Cargo Regulations. A public hearing was held on May 4, 1971, and interested persons were given 65 days in which to submit written comments regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

(R.S. 472 as amended, sec. 1, 19 Stat. 252 sec. 6(b) (1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b) (1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on March 6, 1972.

Dated: November 29, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

Subpart 146.05—Shipper's Requirements Regarding Packing, Marking, Labeling and Shipping Papers

1. Subpart 146.05 is amended by revoking § 146.05-15(h).

Subpart 146.07—Railroad Vehicles, Highway Vehicles, Containers or Portable Tanks Loaded With Explosives or Other Dangerous Articles and Transported on Board Ocean Vessels

1a. Section 146.07-25(b) is amended by revoking the last sentence.

Subpart 146.08—Railroad or Highway Vehicles Loaded With Dangerous Substances and Transported on Board Ferry Vessels

2. Subpart 146.08 is amended by adding § 146.08-31 to read as follows:

§ 146.08-31 Exemptions concerning labeling requirements.

Labels are not required on packages containing explosives or other dangerous articles or substances when the packages are:

(a) Loaded and unloaded under the supervision of Department of Defense personnel and are under escort by Department of Defense personnel in a separate vehicle.

(b) Cylinders containing compressed gases classed as nonflammable, provided that the cylinders are carried by private or contract motor carriers and are not overpacked.

Subpart 146.21—Detailed Regulations Governing Inflammable Liquids

3. Subpart 146.21 is amended for the article "Acrolein (inhibited)" by adding in the 4th column ("Required conditions for transportation—Cargo vessel"), of § 146.21-100 the words reading as follows:

Cylinders (DOT-4B240, 4BA240, or 4BW240) complying with DOT regulations.
Portable tanks (DOT-51) not over 20,000 lbs. gr. wt.
Tank cars complying with DOT regulations (trainship only).

Subpart 146.25—Detailed Regulations Governing Poisonous Articles

4. Subpart 146.25 is amended by revising the 4th column of § 146.25-100 for the articles:

- (a) Cyanogen chloride containing less than 0.9 percent water;
- (b) Cyanogen gas;
- (c) Ethyldichloroarsine;
- (d) Lewisite;
- (e) Methylidichloroarsine;
- (f) Mustard gas;
- (g) Phenylcarbylamine chloride; and
- (h) Poisonous liquid or gas, N.O.S.

to read as follows:

Required conditions for transportation	Cargo vessel
.....
Stowage: "On deck under cover."
Outside containers: Steel cylinders (DOT-33, 3D) with valve protection cap or when without cap in nonspecification strong wooden boxes marked with prescribed name of contents, prescribed label and the words "This side up" and the notation "Inside packages comply with prescribed specifications."
.....
Cylinders (DOT-3A1800, 3AA1800 or 3E1800). Spec. 3A and 3AA cylinders must not exceed 125 pound water capacity (nominal) and must have valve protection or be packed in strong wooden or metal boxes as described in 49 CFR 173.327(a)(2). Spec. 3E1800 cylinders must be packed in strong wooden or metal boxes.
.....

[FR Doc.71-17831 Filed 12-6-71;8:49 am]

**Title 6—ECONOMIC
STABILIZATION**

**Chapter II—Pay Board
PART 201—STABILIZATION OF
WAGES AND SALARIES**

Retroactivity

The purpose of these amendments is to set forth for public information and guidance additions to the regulations relating to the stabilization of wages and salaries. These amendments incorporate the substance of items (3), (4), and (5) of Appendix B—Interpretive Decisions Adopted by the Pay Board, relating to tandem relationships, low-wage employees, and one-time benefits, respectively; item (3) of Appendix C—Definitional Decisions Adopted by the Pay Board, relating to tandem relationships; and item (3) of Appendix D—Procedural Decisions Adopted by the Pay Board, relating to self-determinations. As previously announced (36 F.R. 22581), each of the items described above is being deleted from its respective appendix because it has been incorporated in the regulations. In the case of item (2) of Appendix D, relating to ruling authority in certain retroactivity cases, it has been decided to retain such item in Appendix D until procedures with respect to rulings have been formulated by the Internal Revenue Service for incorporation in regulations under this chapter.

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38), Executive Order No. 11627 (36 F.R. 20139, Oct. 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971), the Pay Board hereby adopts these following amendments to the regulations.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained in these amendments, it is hereby found impracticable to issue such amendments with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C., section 553(d).

Effective date. These amendments shall be effective on and after November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

PARAGRAPH 1. Section 201.3 of the Stabilization of Wages and Salaries Regulations (relating to definitions) is amended by revising the introductory paragraph and by adding a new definition to be inserted alphabetically. These amended and added provisions read as follows:

§ 201.3 Definitions.

For purposes of this part, unless otherwise restricted herein—

“Tandem relationship” means, for purposes of § 201.13(c), a well-established and consistently maintained practice whereby the precise timing, amount, and nature of general increases in wages and salaries of a given appropriate employee unit have so followed those of another such unit of employees of the same employer or of other employers within a commonly recognized industry (such as standard industrial classification two-digit category) that a general increase, in the normal operation of the practice, would have been put into effect and have been applicable to work performed on or before November 13, 1971, but for the operation of the freeze.

PAR. 2. Section 201.13 of the Stabilization of Wages and Salaries Regulations (relating to retroactivity payments) is amended to read as follows:

§ 201.13 Scheduled increases in wages and salaries for services rendered after August 15, 1971, and before November 14, 1971.

Payments of scheduled increases in wages and salaries for services rendered by employees after August 15, 1971, and before November 14, 1971, which were not made because prohibited by the freeze, may be made retroactively if—

(a) It is demonstrated to the Secretary of the Treasury (or his delegate), with right of appeal to the Pay Board in the event of an adverse determination, that the employer of the employees on whose behalf such payment is being sought raised the prices for his products or services prior to August 16, 1971, in anticipation of wage and salary increases scheduled to be paid to such employees after August 15, 1971.

(b) It is demonstrated to the Secretary of the Treasury (or his delegate), with right of appeal to the Pay Board in the event of an adverse determination, that a wage and salary agreement or pay schedule or practice adopted after August 15, 1971, succeeded an agreement, schedule or practice that expired or terminated prior to August 16, 1971, and retroactivity is demonstrated to be an established past practice of an employer and his employees or retroactivity had been agreed to prior to November 14, 1971.

(c) It is demonstrated to the Secretary of the Treasury (or his delegate), with right of appeal to the Pay Board in the event of an adverse determination, that in the case of a tandem relationship (as defined specifically for this paragraph, in § 201.3)—

(1) The basic agreement to which a tandem agreement is claimed was reached before August 16, 1971;

(2) The tandem agreement with respect to which retroactivity is claimed expired no more than 90 days after the expiration of the basic agreement;

(3) The tandem relationship between the basic agreement described in subparagraph (1) of this paragraph and the tandem agreement described in subparagraph (2) of this paragraph was clearly established as a past pay practice

for 5 years or in the immediately preceding two consecutive basic and tandem agreements; and

(4) It can be shown that retroactivity was either an established pay practice or had been agreed to before November 14, 1971.

(d) It is demonstrated to and approved by the Pay Board, except as provided in § 201.16, that the proposed retroactive payment satisfies such further criteria as the Pay Board may hereafter establish to remedy severe inequities.

PAR. 3. Subpart B of Part 201, relating to Pay Stabilization is amended by adding at the end thereof (but before the appendices) the following new section:

§ 201.16 Retroactivity; self-determinations; criteria for severe inequities.

Employers may make retroactive payments on their own determination, subject only to compliance checking by the Secretary of the Treasury (or his delegate) in verification thereof, that they qualify to make retroactive payments to remove severe inequities in the following circumstances—

(a) An employee member of an appropriate employee unit earned \$2 or less per hour straight time prior to the freeze and would have become eligible without changing the nature or classification of his services for a pay increase in the straight time hourly rate but for the operation of the freeze; or

(b) An employee member of an appropriate employee unit, but for the operation of the freeze, would have become eligible to receive a new or increased benefit under a fringe benefit plan on the happening of an event which actually occurred during the freeze and which, by the nature of such event, cannot occur after the freeze.

Example 1. A, an employee-member of an appropriate employee unit in a company, died on September 16, 1971. Pursuant to a collective bargaining agreement reached before the freeze, A's employer was to have increased his contribution to the group life insurance plan applicable to such unit on September 1, 1971. Under the plan death benefits were scheduled to be increased up to \$2,000 per employee based on age and length of employee service to the company. The life insurer is willing to pay the increased benefit to A's estate if the employer will retroactively pay the unit's increased contribution to the group life insurance plan. A retroactive payment may be made by the employer of the scheduled increase in group life insurance premiums for the appropriate employee unit in such a case to remedy the severe inequity to an employee such as A who, because of his death during the freeze, could not become eligible for the increased benefit after the freeze ended.

Example 2. B, an employee-member of an appropriate employee unit in a company, retired on October 31, 1971. Pursuant to a collective bargaining agreement reached before the freeze, B's employer was to have increased the lump-sum payment on or after October 1, 1971, available to employees of the unit for vacation accrued but not taken prior to retirement. A retroactive increase in the lump-sum payment of accrued vacation may be made to B who, because of his retirement during the freeze, could not become eligible for the increased benefit after the freeze.

PAR. 4. The appendices immediately following Part 201 are amended by deleting therefrom the following items: Items (3), (4), and (5) of Appendix B; Item (3) of Appendix C; and Item (3) of Appendix D.

[FR Doc.71-17960 Filed 12-6-71;9:05 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Recodification Correction

In F.R. Doc. 71-17612 appearing at page 22902 in the issue of Thursday, December 2, 1971, the heading for § 571.108 in the second column of page 22909 should read "§ 571.108a Standard No. 108; Lamps, reflective devices, and associated equipment. (Reflecting amendments effective Jan. 1, 1973)."

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 272—USE OF "WOODSY OWL" SYMBOL

Pursuant to the authority vested in the Secretary of Agriculture by 7 U.S.C. 2201 and 16 U.S.C. 528-531, the addition of a new Part 272 to Title 36 of the Code of Federal Regulations is established.

The purpose of the new part is to delegate to the Chief of the Forest Service authority to administer uses of the Department's new antipollution symbol, "Woodsy Owl," and to establish criteria under which such uses will be authorized.

Chapter II of Title 36 of the Code of Federal Regulations is revised to add Part 272 to read as follows:

Sec.

- 272.1 Definitions.
- 272.2 Use of official campaign materials.
- 272.3 Public service use.
- 272.4 Commercial use.
- 272.5 Unauthorized use.
- 272.6 Power to revoke.

AUTHORITY: The provisions of this Part 272 issued under 7 U.S.C. 2201 and 16 U.S.C. 528-531.

§ 272.1 Definitions.

(a) The term "Woodsy Owl," as used in these regulations, means the character, "Woodsy Owl," originated by the Forest Service of the U.S. Department of Agriculture, or any facsimile thereof, or the name "Woodsy Owl," or any name or designation sufficiently similar as to suggest the character, "Woodsy Owl."

(b) The term "Chief" means the Chief of the Forest Service, U.S. Department

of Agriculture, or person designated to act for him.

§ 272.2 Use of official campaign materials.

Official materials produced for the "Woodsy Owl" campaign may be used without express approval from the Chief where such use is solely for the purpose of increasing public information regarding pollution abatement or environmental enhancement.

§ 272.3 Public service use.

The Chief may authorize the use of "Woodsy Owl" for noncommercial educational purposes, without charge, when such use is essentially as a public service and will, in his judgment, contribute to public information and education concerning pollution abatement or environmental enhancement.

§ 272.4 Commercial use.

The Chief may authorize the commercial manufacture, importation, reproduction, or use of "Woodsy Owl" upon the following findings:

(a) That the authorized use of "Woodsy Owl" will contribute to public information concerning pollution abatement or environmental enhancement.

(b) That the proposed use is consistent with the status of "Woodsy Owl" as a national symbol of pollution abatement and environmental enhancement and will not detract from such status.

(c) That a use charge, royalty charge, or payment in kind which is reasonably related to the commercial value has been established.

(d) That the applicant is, of all known interested parties, the best-qualified to further the goals and purposes of the "Woodsy Owl" campaign.

(e) That, when an exclusive license is requested, no other qualified applicant can be found who will provide comparable campaign support under a nonexclusive license.

(f) That such other conditions as the Chief may deem necessary in each case have been established.

§ 272.5 Unauthorized use.

The manufacture, importation, reproduction or use of "Woodsy Owl," except as provided under §§ 272.2, 272.3, and 272.4, is unauthorized.

§ 272.6 Power to revoke.

It is the intention of these regulations that the Chief, in exercising the authorities delegated hereunder, will at all times consider the primary purpose of fostering public information concerning pollution abatement and environmental enhancement. All authorities and licenses granted under these regulations shall be subject to abrogation by the Chief at any time he finds that the use involved is injurious to the purpose of the "Woodsy Owl" campaign, is offensive to decency or good taste, or for similar reasons, in addition to any other limitations and terms contained in the licenses.

Findings and determination. Availability of "Woodsy Owl" merchandise to support the 1972 campaign requires that producers be selected without delay. In

accordance with the exception provided in the Department of Agriculture's policy published on July 24, 1971, in 36 F.R. 13804, it has been found and determined that the advance notice procedure contained in 5 U.S.C. 553 would be impracticable and contrary to public interest.

Effective date. These regulations shall become effective on the date of publication in the FEDERAL REGISTER (12-7-71).

T. K. COWDEN,

Assistant Secretary of Agriculture.

DECEMBER 3, 1971.

[FR Doc.71-17961 Filed 12-6-71;9:19 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-7-71).

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

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, N.Y., is permitted on the areas designated by signs as open to fishing. These open areas comprising 26 acres during spring, summer and fall, and 172 acres during the winter, are delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The use of boats with motors is not permitted.

(2) The use of boats after October 1 is not permitted.

(3) Fishing through the ice is permitted only on Ringneck Marsh from January 1 to March 1 and November 15 to December 31, ice conditions permitting.

(4) Leaving boats, structures, or other equipment overnight is not permitted.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

DECEMBER 1, 1971.

[FR Doc.71-17862 Filed 12-6-71;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FORT HALL IRRIGATION PROJECT

Proposed Basic and Other Water Charges

NOVEMBER 24, 1971.

These proposed regulations are being considered for issuance under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

Notice is hereby given that it is proposed to modify § 221.32 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the basic rate for annual operation and maintenance assessments on the Fort Hall Project for calendar year 1972 and subsequent years. The basic rate for lands within the boundaries of the Fort Hall Reservation would be changed from \$7.50 to \$7.75 per acre. The rate for lands lying off the reservation would be reduced from \$6.75 to \$6.50 per acre.

The purpose of this modification is to adjust the assessment rate to more accurately reflect the actual operation and maintenance costs based on the previous year's operating experience and the anticipated program of work.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, OR 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

Section 221.32 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 221.32 Basic and other water charges.

(a) In compliance with the provisions of the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026), the annual basic water charges for the operation and maintenance of the lands in non-Indian ownership and Indian-owned lands leased to a non-Indian or a nonmember of the Shoshone-Bannock Tribe of the Fort Hall Indian Reservation, Idaho, to which water can be delivered for irrigation are hereby fixed for the calendar year 1972 and subsequent years until further notice as follows:

	<i>Per acre</i>
(1) Fort Hall Project:	
Basic rate for all lands located within the boundaries of Fort Hall Reservation	\$7.75
Basic rate for all lands lying off the Fort Hall Reservation.....	6.50
(2) Michaud Division, Fort Hall Reservation:	
Basic rate for all lands except Deep Well Units.....	11.50
Basic rate for Deep Well Units.....	9.00
Additional rate for sprinkler irrigation when pressure is supplied by the project.....	3.00
(3) Minor Units, Fort Hall Reservation:	
Basic rate.....	4.75

(b) In addition to the foregoing charges, there shall be collected a minimum charge of \$5 for the first acre or fraction thereof on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

RICHARD M. BALSIGER,
Acting Area Director.

[FR Doc.71-17807 Filed 12-6-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Allotment and Marketing Quotas

Notice of determinations to be made with respect to regulations pertaining to farm acreage allotments and farm marketing quotas for Fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1972-73 and subsequent marketing years.

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department is preparing to issue regulations for determination of acreage allotments and marketing quotas for the 1972-73 and subsequent marketing years. It is proposed that the regulations, including amendments and corrections thereto, currently in effect for establishing farm acreage allotments and marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and records and reports incident thereto for Fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1968-69

and subsequent crops be reissued to become applicable for the 1972-73 and subsequent years.

The main purposes in amending the regulations are to eliminate provisions applicable to Burley and Maryland tobacco, since regulations for administering the Burley tobacco marketing quota poundage program for 1972-73 and subsequent marketing years were issued as Part 726, and regulations for establishing Maryland tobacco farm acreage allotments are now contained in Part 723; and to provide regulations for incorporating Public Law 92-144, approved by the President on October 23, 1971. Public Law 92-144 amended the Agricultural Adjustment Act of 1938, as amended, to allow the transfer of Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco acreage allotments by lease, sale, or by owner across county lines within the State of Virginia. Other significant changes proposed are as follows:

1. Section 724.68(c) would be amended to provide for use of Form ASCS-375 as a record of transfer of allotment and quota. It would also provide that Form ASCS-375, when executed at the county office, may be used to meet the requirement that a copy of the lease agreement between the parties involved must be filed with the county committee before a lease and transfer of an allotment and quota can be effective.

2. Sections 724.68(j) and (g) and 724.70(v) would be amended to clarify that subleasing of allotment and quota is prohibited, and to clarify the effective date where cancellation, dissolution or revision of transfer occurs.

3. Section 724.70(b) would be amended to eliminate the requirement for approval of the Deputy Administrator for late-filing leases where the late-filing resulted from a misunderstanding of filing requirements after oral discussion between the applicant and a representative of the county committee.

4. Sections 724.79(a) and (b) would be amended to provide that whether a nonquota kind of tobacco will be considered as a kind of tobacco subject to marketing quotas will be determined on the basis of classification in Service and Regulatory Announcement No. 118 of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture.

Prior to issuance of the proposed changes in the regulations, data, views, or recommendations pertaining thereto which are submitted to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submissions should be post-marked not later than 30 days after date

of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in the manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on December 1, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17852 Filed 12-6-71;8:50 am]

Consumer and Marketing Service [7 CFR Part 932]

[Docket No. AO-352-A2]

OLIVES GROWN IN CALIFORNIA

Notice of Postponement of Hearing With Respect to Proposed Further Amendment of the Marketing Agreement and Order

On September 3, 1971, the Assistant Secretary issued a partial decision and referendum order (36 F.R. 18085) with respect to further amendment of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), which regulate the handling of olives grown in California, with amendatory action completed on October 21, 1971 (36 F.R. 20355). Said decision contained notification that the hearing with respect to that portion of material issue (8) not covered by said decision was reopened at that time, with the tentative date for reception of further evidence being December 8, 1971.

Consolidated Olive Growers, Inc., the organization which originated the proposal embodied in said portion of material issue (8), has requested that the tentative hearing date of December 8, 1971, be postponed indefinitely to provide more time to refine the proposal in consultation with other principals in the olive industry.

In view of the stated reason for the request for postponement, the hearing tentatively scheduled to begin on December 8, 1971, is hereby postponed until further notice.

Dated: December 2, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-17827 Filed 12-6-71;8:49 am]

[7 CFR Parts 1001, 1002, 1004, 1006,
1007, 1011, 1012, 1013, 1015,
1030, 1032, 1033, 1036, 1040,
1043, 1044, 1046, 1049, 1050,
1060, 1061, 1062, 1063, 1064,
1065, 1068, 1069, 1070, 1071,
1073, 1075, 1076, 1078, 1079,
1090, 1094, 1096, 1097, 1098,
1099, 1101, 1102, 1103, 1104,
1106, 1108, 1120, 1121, 1124,
1125, 1126, 1127, 1128, 1129,
1130, 1131, 1132, 1133, 1134,
1136, 1137, 1138]

[Docket No. AO-14-A50, etc.]

MILK IN THE BOSTON REGIONAL AND CERTAIN OTHER MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Market- ing Agreements and Orders

7 CFR Part	Marketing area	Docket No.
1001	Boston Regional	AO-14-A80.
1002	New York-New Jersey	AO-71-A63.
1004	Middle Atlantic	AO-160-A48.
1006	Upper Florida	AO-356-A9.
1007	Georgia	AO-366-A9.
1011	Appalachian	AO-261-A14.
1012	Tampa Bay	AO-347-A13.
1013	Southeastern Florida	AO-286-A21.
1015	Connecticut	AO-306-A29.
1030	Chicago Regional	AO-361-A6.
1032	Southern Illinois	AO-313-A22.
1033	Ohio Valley	AO-166-A42.
1036	Eastern Ohio-Western Pennsylvania	AO-179-A36.
1040	Southern Michigan	AO-226-A24.
1043	Upstate Michigan	AO-247-A17.
1044	Michigan Upper Peninsula	AO-299-A19.
1046	Louisville-Lexington-Evans- ville	AO-123-A39.
1049	Indiana	AO-319-A19.
1050	Central Illinois	AO-356-A11.
1060	Minnesota-North Dakota	AO-380-A7.
1061	Southeastern Minnesota- Northern Iowa (Dairyland)	AO-367-A6.
1062	St. Louis-Ozarks	AO-10-A44.
1063	Quad Cities-Dubuque	AO-106-A36.
1064	Greater Kansas City	AO-23-A43.
1065	Nebraska-Western Iowa	AO-63-A26.
1068	Minneapolis-St. Paul	AO-176-A29.
1069	Duluth-Superior	AO-183-A20.
1070	Cedar Rapids-Iowa City	AO-233-A27.
1073	Wescho Valley	AO-227-A27.
1075	Wichita, Kans.	AO-173-A27.
1076	Black Hills, S. Dak.	AO-248-A14.
1078	Eastern South Dakota	AO-280-A18.
1078	North Central Iowa	AO-273-A21.
1079	Des Moines, Iowa	AO-295-A26.
1080	Chattanooga, Tenn.	AO-266-A16.
1084	New Orleans, La.	AO-103-A34.
1086	Northern Louisiana	AO-267-A21.
1087	Memphis, Tenn.	AO-219-A26.
1088	Nashville, Tenn.	AO-184-A32.
1089	Paducah, Ky.	AO-183-A27.
1101	Knoxville, Tenn.	AO-195-A21.
1102	Fort Smith, Ark.	AO-287-A21.
1103	Mississippi	AO-346-A16.
1104	Red River Valley	AO-298-A20.
1106	Oklahoma Metropolitan	AO-210-A32.
1108	Central Arkansas	AO-243-A23.
1120	Lubbock Plainview, Tex.	AO-326-A14.
1121	South Texas	AO-364-A5.
1124	Oregon-Washington	AO-368-A5.
1125	Puget Sound, Wash.	AO-226-A24.
1126	North Texas	AO-281-A38.
1127	San Antonio, Tex.	AO-252-A24.
1128	Central West Texas	AO-238-A27.
1129	Austin-Waco, Tex.	AO-266-A20.
1130	Corpus Christi, Tex.	AO-289-A24.
1131	Central Arizona	AO-271-A16.
1132	Texas Panhandle	AO-262-A23.
1133	Inland Empire	AO-275-A23.
1134	Western Colorado	AO-301-A13.
1136	Great Basin	AO-303-A18.
1137	Eastern Colorado	AO-326-A17.
1138	Rio Grande Valley	AO-336-A19.

Notice is hereby given of a public hearing to be held at the U.S. Department of Agriculture (South Building, Jefferson Auditorium), 14th and Independence Avenue, Washington, DC, beginning at 10 a.m., on December 13, 1971, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposal(s) No. 1.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Industry Foundation:

Proposal No. 1. The Class I price shall be announced on the fifth of the month preceding the month to which it is applicable. (The Minnesota-Wisconsin price of the preceding month, announced on the fifth of the current month, shall be the basis for establishing Class I prices for the following month.)

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 2. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators of the respective orders, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on December 3, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-17834 Filed 12-6-71;8:51 am]

[7 CFR Part 1007]

[Docket No. AO-366-A7]

MILK IN THE GEORGIA MARKETING AREA**Decision on Proposed Amendments to Marketing Agreement and to Order**

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Georgia marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at East Point, Ga., pursuant to notice thereof issued on April 5, 1971 (F.R. 6830).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 8, 1971, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein with the following modifications:

With respect to Issue No. 2:

1. A paragraph is added following the fifth paragraph.

With respect to Issue No. 3:

1. Under the heading "Adoption of a Class I base plan" a new heading is added following the second paragraph, the eighth paragraph is revised, and two new paragraphs are added following the 11th paragraph.

2. Under the heading (b) "Representative period" the second paragraph is revised and two new paragraphs are added following the second paragraph.

3. Under the heading (d) "Initial production history" all paragraphs are revised except the first and sixth.

4. Under the heading (e) "Annual update of production history" the second paragraph is deleted, the third paragraph is revised, and a new paragraph is added following the third paragraph.

5. Under the heading (f) "Factors to be considered in updating production history" the seventh paragraph is deleted.

6. Under the heading (g) "New producers" two new paragraphs are added following the ninth paragraph.

7. Under the heading (h) "Allocation of Class I bases" a new paragraph is added following the third paragraph.

8. Under the heading (i) "Base transfers" the 21st and 22d paragraphs are revised.

9. Under the heading (j) "Provisions for allocation of hardship and inequity" the seventh paragraph is revised.

The material issues on the record relate to:

1. Pooling standards for a plant operated by a cooperative association.
2. Pricing point on diverted milk.
3. Adoption of a Class I base plan.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for a plant operated by a cooperative association.* Provision should be made in the Georgia order for pooling a supply plant operated by a cooperative association on the basis of the cooperative's overall performance in the market rather than solely on shipments from the plant.

The proponent cooperative association representing producers in the market operates a milk receiving and storage facility at Eatonton, Ga. The cooperative plans to use the Eatonton receiving facility (1) to balance supplies of handlers whose direct receipts from farms may be less than their current needs, and (2) to assemble milk supplies in excess of handlers' needs for disposal to manufacturing outlets. These are primary functions of proponent cooperative association.

The principal manufacturing outlets for the Georgia reserve supply are located outside the State of Georgia. In some cases, diversion of milk directly to such nonpool plants provides the most efficient handling of the milk in excess of handlers' needs. Because of the long distances usually involved, it is frequently more economical, however, to receive the milk first at Eatonton where the milk from small pickup tank trucks is reloaded into large over-the-road tankers. Receiving and assembling the milk at Eatonton results in a substantial reduction in the cost of moving such reserve milk.

Pool plants under the Georgia order are scattered over a wide area. In many instances the distributing plant may be nearer to a producer's farm than the Eatonton receiving facility. Therefore, since all producer milk in the market is delivered in bulk tanks, it normally is more economical to move the milk directly from the farm to a handler's plant than it is to haul the milk to Eatonton, receive it at the cooperative plant for purposes of qualifying the plant, reload it and then haul it back to a distributing plant which is closer to where the milk was produced. Consequently, very little milk actually is moved through the Eatonton facility to supply Georgia distributing plants even though it provides a supply-balancing function for the Georgia market.

If the Eatonton plant were not a pool plant, at least some of the reserve supply of the market received at Eatonton still could retain pool status as diverted milk. The order requires, however, that 10 days' production of each producer must be received at a pool plant during each month to be eligible for diversion on the remaining days of the month. Since it is most economical to receive at the Eatonton facility each day the milk located nearest the plant, it would be nec-

essary on at least 10 days during the month to haul substantial amounts of milk from farms close to Eatonton to more distant pool plants and then return the milk to Eatonton. Qualifying the Eatonton plant as a pool plant will eliminate a substantial amount of uneconomic hauling otherwise necessary.

A cooperative plant such as that at Eatonton therefore can serve the market more efficiently if it is a pool plant, but, in view of the nature of the operation as described, the market performance required for pooling such a supply plant operated by a cooperative association must be somewhat different from that of other supply plants. The conditions for pooling such a plant should be that: (1) The plant is not a distributing plant; (2) two-thirds or more of such cooperative's total member producer milk (including such milk delivered directly from farms and from the association's plant(s)) is received during the month as producer milk at pool distributing plants; and (3) such plant meets the order's minimum shipping requirements for supply plants generally, subject to the conditions set forth below. These conditions will insure that undue quantities of milk not regularly serving the Georgia fluid milk market will not be associated with the Georgia pool.

In view of the fact that the Georgia market is one which is frequently relatively short on supply (and the fact that there is some seasonal variation in supplies), the cooperative in order to qualify a supply plant on terms somewhat different from those applicable to other supply plants, should have a high proportion of its producer-member milk regularly supplying the market. A supply plant, other than one operated by a cooperative as described herein, must deliver at least 50 percent of its receipts to pool distributing plants. When the milk of member-producers which is delivered directly from the farm to other pool plants, is considered as having been first received at the plant of the cooperative it is reasonable to require as a basis for such plant qualification that not less than two-thirds of a cooperative's member-producer milk be received at pool distributing plants.

In determining whether such cooperative plant meets the minimum 50 percent shipping requirement generally applicable to supply plants in this market, all deliveries by the cooperative (acting as a bulk tank handler) on milk delivered to pool distributing plants would be considered as having been received first at the association's plant qualifying under this provision. If the cooperative were to operate more than one supply plant all such direct deliveries of member producer milk to pool distributing plants would be assigned for this purpose to the supply plant nearest Atlanta.

At the hearing, a proprietary handler representative expressed concern that large volumes of distant milk could be associated and pooled under the order if a provision of this kind were adopted.

However, it is concluded that the conditions for pool participation set forth herein will insure that only the regular reserve supply for the Georgia market will be pooled.

Additional supply plants of the cooperative could qualify, of course, for pool supply plant status on the basis of actual shipments from the plant to pool distributing plants under the 50 percent rule.

2. *Pricing point on diverted milk.* No change should be made in the current Georgia order with respect to the pricing point on diverted milk. Milk diverted from a pool plant to a nonpool plant should continue to be priced at the location of the plant to which diverted rather than the pool plant from which diverted, as proposed.

The purpose of the location adjustment is to reflect the value of the milk at the point of receipt. The uniform price for base milk paid to producers for diverted milk in this market should be the price applicable at the plant of physical receipt, not the price applicable at the plant where the milk was received prior to diversion. When producer milk is moved from the farm to a nonpool plant at which no location adjustment applies, the producer pays the cost of moving his milk to such plant. When milk is diverted to a nonpool manufacturing plant at which a location adjustment is applicable, it is appropriate that the difference in the price at such location be reflected in the uniform price received by the producer.

Proponents of the change in the pricing point on diverted milk contended that in the Georgia market, most manufacturing plants are located a considerable distance from the market and that the cost of moving milk from the producers' farms to such plants sometimes exceeds the cost of moving milk to the pool distributing plants. However, when milk is priced at the plant from which diverted, this cost is borne instead by all producers on the market since the amount of the location adjustment applicable at the point of receipt otherwise would enhance the uniform price for base milk.

Pricing the milk at the point of receipt will insure that milk will not be moved uneconomically or undue distances at other producers' expense. It will further protect the uniform price for regular producer suppliers by eliminating the incentive to associate with a plant in the central market dairy farmers whose milk usually is received at a distant point, and then to divert such milk to the plant of usual receipt while drawing from the Georgia pool the applicable uniform price f.o.b. central market.

At the hearing and also in its brief, the proponent cooperative association indicated that the proposal to change the pricing point on diverted milk should be adopted to make it clear that diverted milk may qualify as base milk under the Class I base plan. The Georgia order, as amended herein, makes it clear that a producer will receive credit under the Class I base plan for all his producer milk

deliveries whether such milk is received at a pool plant, or is diverted therefrom to a nonpool manufacturing plant under the rules for diversion.

In an exception, producer organizations reiterated their objections to the continuation of pricing diverted milk at the point of actual receipt. For the reasons set forth herein such exception is overruled.

3. *Adoption of a Class I base plan.* Producers supplying plants regulated by the Georgia Federal order should have the opportunity to decide whether the proceeds from the sale of their milk should be distributed among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

At the present time, producers under the Georgia order are paid in accordance with the terms of a 12-month seasonal base-excess plan.

(1) *The purpose of the Class I base plan.* The purpose of the Class I base plan is to provide a method for producers regulated by the Georgia order individually to adjust production to meet the Class I needs of the market. Cooperative organizations representing a majority of the producers on the Georgia market presented all the testimony in favor of the proposed base plan. There was no opposition to the proposed base plan. However, a proprietary handler representative suggested modifications regarding certain aspects of the proposal.

The proposed base plan is designed to adapt to changing supply-demand conditions. Under it new producers coming on the market would be able to earn, over a reasonable period of time, bases comparable to those of other producers. Similarly, it would provide a means whereby any producer desiring to increase his production and thus earn additional base may do so.

Under the plan proposed herein producer bases would be adjusted annually to reflect changing supply-sales conditions. While the plan provides a means whereby new producers may earn bases and established producers may increase their bases, it also provides that base-holding producers who reduce their marketings will not be adversely affected. This would be accomplished by providing that a producer's production history would not be reduced as long as he markets a volume of milk at least equal to his Class I base.

In its brief, the proponent cooperative organization stated that a number of producers had purchased 1970-71 bases under the seasonal base plan. In order to provide an equitable transition from the base-excess plan, presently a part of the Georgia order, proponent stated that all transfers of 1970-71 base under the present plan, purchased by producers between March 1971 and the effective date of this order, should be assigned to them under the new base plan. There is no basis, however, for such a transfer of production history. The Agricultural Act of 1970 does not provide that a producer be credited with production history associated with a seasonal base purchased

prior to the effective date of the new Class I base plan. Consequently, producers who purchased 1970-71 base under the present seasonal base plan will not receive credit for production history associated with such bases. All bases issued under the present plan must terminate on the effective date of a Class I base plan, and production history associated with such bases earned under the present plan may not be transferred.

The only exception would be in the case of an intrafamily base transfer which occurred prior to the effective date of the new plan, in which the herd and farm were transferred with the base and there was an uninterrupted continuation of the same dairy operation. In such case the production of the transferor producer would be considered as having been delivered by the transferee producer.

To alleviate this situation the recommended decision provided that the effective date of the Class I base plan would be delayed until March 1, 1972. This would permit producers who purchased base under the current seasonal base plan, in the expectation that they would enjoy the benefit of such base until February 29, 1972, to gain a full return on their investment.

Proponents of the Class I base plan expressed the view that delaying the effective date until March 1 would provide an incentive to farmers to increase their production during the coming September-January period in order to take advantage of the new plan. We cannot agree with this argument. Producers who increase their production, or who become producers, during the coming base-forming period will receive approximately the same monetary returns for their milk and earn the same production history for future base computations regardless of whether the present seasonal plan or the new Class I base plan is in effect.

A producer who increases production will receive only the excess price for his additional production regardless of which plan is in effect. Similarly, a dairy farmer who begins production on September 1, will receive the base price for 50 percent of his deliveries regardless of which plan is in effect.

When Class I bases are computed on March 1, 1972, the producer will receive the same credit toward computing his new production history and Class I base under either plan. Thus, a delay until March 1, 1972, will neither afford an incentive for a so-called "race for base", nor will it affect the monetary returns of producers. Such a delay, however, will permit those producers who, in good faith, acquired seasonal base by transfer to avoid the financial loss they would incur if the Class I base plan were made effective at an earlier date.

In exceptions, producer organizations indicated that delaying the effective date of the base plan alleviates some of the problems regarding transfers of seasonal bases. However, they stated that the method proposed in the recommended decision for computing initial production histories can penalize producers who have purchased a seasonal base and a

dairy herd since March 1, 1971, and increased their level of production accordingly. Such producers would be adversely affected because their assigned production history at the outset of this Class I base plan would not be consistent with their current level of production. It was pointed out that a significant number of base transfers have occurred since March 1, 1971, under the seasonal plan currently effective in the Georgia order.

After careful consideration of the exceptions it is concluded that the initial production history of each producer should be based on each producer's deliveries during the September 1971-January 1972 period only, as discussed later in this decision. Accordingly, in addition to delaying the effective date until March 1, 1972, as provided in the recommended decision, this decision provides that initial production history will be computed on the producer's average daily deliveries during the period of September 1971 to January 1972.

(2) *A description of the Class I base plan adopted herein—(a) A summary of the basic features of the Class I base plan.* The new Class I base plan adopted herein generally follows the form of base plan proposed by producer representatives.

Class I bases would be assigned to eligible producers on the effective date of the base plan and would be updated on March 1 of each year thereafter.

The total Class I bases to be assigned would equal 115 percent of the average daily producer milk used in Class I during the previous September-January period. For the purpose of allocating Class I bases to producers, such quantity would be prorated to the production history of each producer.

New producers coming on the market would be assigned Class I bases or base milk at a time and in an amount depending on the circumstances of their entry into the market. The various categories of new producers and the manner in which their base assignments would be made are specified in subsequent findings and conclusions.

(b) *Representative period.* With respect to the representative period and computation of production history, the Agricultural Act of 1970 provides: "and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of 1 to 3 years, which will be automatically updated each year."

The representative period for the computation of production histories and Class I basis would be a 3-year period consisting of three 12-month periods extending from March of one year through February of the next year. The production of each producer to be credited to his production history each year would be his average daily deliveries during the months of September through January in each such 12-month period.

These are the months in which Class I sales by handlers regulated by the Georgia Federal order are the highest relative to the market supply. Use of these 5 months will create production incentives consistent with Class I sales patterns of handlers regulated under the Georgia order.

The representative period for the computation of initial production histories and Class I bases is the 12-month period extending from March 1971 through February 1972. On March 1 of each succeeding year the succeeding 12-month period would be added to the representative period until a 3-year period had been accumulated. Thereafter a 3-year rolling average would be used. Production data in the most recent period would be added and the oldest data would be dropped.

In computing the production history of each producer only his production in the months of September through January would be used. His production history would be computed from his average daily deliveries during these 5 months of each 12-month period.

The months of September through January are the months in which Class I sales by handlers regulated by the Georgia Federal order are the highest relative to supply. Use of these 5 months to compute production histories will create production incentives consistent with Class I sales patterns of handlers regulated under the Georgia order.

In addition, this particular 5-month period was chosen by producers because it is the base-forming period for the seasonal base-excess plan now effective in the current Georgia order. Since Georgia order producers have conducted their entire dairy operations including feeding, breeding, and farm management with this 5-month period as the base forming months, it would be desirable to continue with the same September-January period under the Class I base plan.

There are 153 days in the 5-month period. However, dividing a producer's total deliveries during the representative period by 153 creates inequities when most producers are on every-other-day delivery.

For the most part, the milk of Georgia order producers is picked up on an every-other-day basis. Producers delivering milk on the first day of September and every other day thereafter through January 31 would have delivered 154 days' production during the 5-month period. Producers picked up on September 2, and each succeeding alternate day thereafter, would have delivered only 152 days' production during the 5-month period. If the total volume of milk delivered during such period is divided by 153, one producer's base is enhanced and the other producer's base is reduced as a result of the use of this common divisor.

To illustrate—in the case of two producers, each producing exactly 1,000 pounds per day, one whose milk is received on September 1, and on each alternate day thereafter, would have delivered 154,000 pounds of milk and would receive a base of 1,007 pounds.

The other producer would deliver only 152,000 pounds of milk and would receive a base of only 993 pounds. Since each produced 153,000 pounds during the 153-day period, each should receive a base of 1,000 pounds.

In addition, the use of a common divisor of 153 would work a hardship on a producer who may be off the market for a few days through no fault of his own. A producer's health permit may be suspended temporarily because pesticide residues are found in milk even though the source of that residue may have been purchased hay. A dairy farmer may intend to begin shipping milk to the market as a producer on September 1, but his actual entrance on the market, for one reason or another, may be delayed a few days. Other producers may have milk rejected for high acidity resulting from a power failure, or other circumstances over which the producer has no control.

The proponent cooperative organizations recognized these problems and incorporated a provision in the Class I base plan which would allow a producer 8 days to correct the situation without penalty to the producer with respect to his Class I base. The 8-day grace period is adequate and reasonable. Any producer problem covering failure of delivery of more than 8 days' production should be considered by the hardship committee.

Accordingly, it is provided, that, in determining a producer's average daily deliveries during the September-January period, his total deliveries will be divided by the number of days of production represented by such deliveries or by 145, whichever is greater.

(c) *Production history period.* The base plan provides for a 3-year rolling average to determine the production history of each producer for use in assigning him a Class I base. In each such year (the 12-month period of March through February), the average daily deliveries of the producer during the months of September through January would be used to establish his production history for that year. His 3-year production history base would be the simple average of his daily producer milk deliveries during the September-January period of each of the 3 years.

In addition to providing a method for each producer to share in the Class I milk of the market in relation to his marketings over a period of 3 years, the order must provide for the assignment of bases to producers with a production history of less than 3 years.

The Agricultural Act of 1970 provides that a new dairy farmer, upon becoming a producer under the order, will be assigned a base consistent with the supply and demand conditions on the market, the development of orderly and efficient marketing conditions and the interests of producers under the order, other dairy farmers and the consuming public. The Act further provides that bases so assigned shall, for a period of not more than 3 years, be reduced by not more than 20 percent.

In view of the current and anticipated supply-demand situation in the market, it is provided that the production history base of a new producer shall be reduced only for his first year on the market.

(d) *Initial production history.* Following the adoption of the base plan the market administrator will compute and assign a production history for each eligible producer. The production history for each producer will be computed on an average daily basis.

The recommended decision provided that the representative period to be used initially in computing the production history of the producer who had delivered producer milk continuously since September 1969, would be either of 2 years (March 1969–February 1970 or March 1970–February 1971), whichever represented his higher production during the months of September through January, plus his average production during the September–January period of the year March 1971 to February 1972.

However, as noted above, it has been concluded herein that the initial computation of production history base should be determined on the basis of a producer's average daily deliveries during September to January of the year March 1971 to February 1972.

Producers delivering producer milk on not less than 100 days during the September 1971–January 1972 period would be assigned an initial production history base by the market administrator. Such production history base would consist of his average daily deliveries during the 5-month period.

A producer who delivered less than 100 days during the September 1971–January 1972 period, but had delivered for at least 90 days on March 1, 1972 would have a production history base equal to 80 percent of his deliveries during his first 3 months of delivery, adjusted to reflect the seasonality of production on the market.

Producers delivering producer milk for less than 90 days on the effective date of the base plan would have no initial production history. Such producers would be assigned a Class I base in accordance with the provisions applicable for new producers.

In view of the current and anticipated supply-demand situation in this market, the 80 percent figure adopted herein for use in the assignment of initial production history to a producer who had delivered milk for at least 90 days prior to March 1, both on the effective date of the order and on the occasion of subsequent updating of production history, will contribute to orderly and efficient marketing conditions. It will afford reasonable opportunity for the establishment of new production units, yet will not disrupt the market for established

(e) *Annual update of production history.* Following the computation of an initial production history on the effective date of this base plan the market administrator would update the production history for each eligible producer on March 1 of each year thereafter.

Producers assigned an initial production history base on March 1, 1972, would be assigned a 2-year production history base on March 1, 1973. If such producer increased his production during the September 1972–January 1973 period he would have his production history base increased by one-half of the amount of the increase. The production history base so assigned would be effective from March 1973 through February 1974.

Similarly, on March 1, 1974, a producer assigned a 2-year production history base on March 1, 1973, who increased his production during the period September 1973–January 1974 would have his production history base increased by one-third of the amount of the increase in production above the initial level. Such production history would be effective from March 1974 through February 1975.

On March 1 of each year thereafter the average daily computation for the most recent September–January period would be added and the oldest data would be deleted in computing the 3-year rolling average production history for each producer.

A producer who had not been assigned a production history previously but who had delivered at least 90 days' production prior to March 1 would be assigned a production history equal to his average daily deliveries during such period. The production history base assigned to such producer would be 80 percent of his production history. This initial allotment would be updated by including his average daily deliveries in two subsequent September–January periods until a 3-year production history is established for such producer. After a 3-year production history is established, the data for the most current September–January period would be added and the oldest deleted.

(f) *Factors to be considered in updating production history.* The basic factors to be considered in updating each producer's production history on March 1 each year are: (1) His average daily production during the most recent September–January period; and (2) his production history subject to adjustments for underdelivery, transfers, and hardship.

The Act of 1970 provides that a producer may retain his previously assigned production history even though he reduces his marketings, unless his marketings fall below the level of his Class I base.

In updating the production history of each producer with regard to underdelivery, these rules would be applicable. If a producer delivers an amount equal to his Class I base times the number of days in the months of September through January, his production history for the next year would not be reduced. If a producer delivers less than his daily

average Class I base during the most recent September–January period, then such producer's production history would be reduced in proportion to the amount his average daily Class I base exceeds his average daily delivery during the immediately preceding September through January.

In effect, a producer who is assigned a Class I base assumes the duty of supplying the market with a certain volume of milk. When he fails to deliver that amount it is fitting that his assigned share of the market be reduced by the amount of his underproduction. This is accomplished by reducing his production history base in proportion to his underdelivery of Class I base milk. Proponents proposed that the production history base be reduced by the amount that the producer underdelivered his base.

Since Class I bases are a percentage of a producer's production history, only by reducing his production history base in proportion to his underdelivery of base milk, will the producer receive a new Class I base on the same basis as all other producers on the market.

It is provided, however, that in no event shall a producer's production history base be reduced by more than 25 percent in any one year as a result of underdelivery. Proponents requested such a modification on the basis that a producer's deliveries could not fall below 25 percent of his base, except in the case of some catastrophe. Limiting production history reductions to 25 percent will limit the number of hardship claims which will be submitted for review by the hardship committee.

Under the Class I base plan adopted herein, a producer could also modify his assigned production history through transfers. Thus, when a producer disposes of Class I base by transfer, he automatically transfers a proportionate amount of the production history associated with such Class I base. Accordingly, this amount of production history would be subtracted from that previously assigned to him in arriving at his updated production history. Similarly, production history associated with the acquisition of Class I base would be added to his assigned production history. Also, any adjustment for hardship or inequity would be accounted for in terms of a proportionate amount of production history. This recognizes that a producer's effective Class I base could change during the year due to transfers.

If an adjustment is necessary in a producer's production history and Class I base as a result of: (1) The acquisition or disposition of Class I base by transfer; or (2) the decision of the hardship committee, such producer's production history and Class I base would be updated immediately or as of the effective date of the transfer or the hardship committee's action.

(g) *New producers.* The law requires that a base be assigned to a new producer who comes on the market because the nonpool plant to which he has been delivering milk becomes a fully regulated plant under the Georgia order. His production history and Class I base would be determined in the same manner as for a producer who had been on the market, depending on his average daily milk deliveries during the productive history period. Such Class I base would be assigned to him effective on the date on which he becomes a producer under the Georgia order.

A Class I base would also be assigned to a producer who had been a producer-handler in the past. His production history and Class I base would be computed as if his milk production received at his plant had been delivered to a pool plant.

It is required under the law that a new producer who previously delivered to a nonpool plant and comes on the market as an individual (rather than because the plant to which he had been delivering becomes regulated) be assigned a base within 90 days after his first delivery under the order. Such a base would be assigned only to a producer marketing milk from the same production facilities from which he marketed milk during the representative period. Under the proposed Class I base plan, such a producer would be assigned to Class I base on the first day of the third pay period in which he began producer milk deliveries under the Georgia order. Then he would be assigned a production history and a Class I base computed from his deliveries to nonpool plants and to pool plants as if all such deliveries had been to a pool plant. For producer milk delivered in the period prior to such assignment of Class I base such a producer would receive only the Class II price.

Another category of new producers includes those who had not produced milk previously and have not acquired base by transfer.

Such new producers would be assigned base milk until a production history and Class I base can be established for such producers based on their deliveries in a subsequent September-January period. The effective date of the base assignment would vary depending upon the month in which such new producer enters the market.

Under the base plan, adopted herein, a new producer coming on the Georgia market during the September-January period when the milk is needed most because Class I sales are highest would be assigned Class I base milk immediately. A new producer coming on the market in other months when milk supplies have been more than adequate to meet fluid needs in the Georgia market would not be assigned Class I base milk until the third month of his delivery of producer milk. In the interim, such producer would receive a price reflecting the lowest use classification for all his producer milk deliveries.

A new producer making his first delivery of producer milk during the months of September through January,

would be assigned Class I base milk in an amount equal to 50 percent of his producer milk deliveries each month.

A new producer coming on the market during the months of February through August would be assigned Class I base milk in an amount equal to 50 percent of his deliveries each month, effective the first day of the third pay period in which such producer delivers producer milk under the Georgia order.

This method of assigning base milk to new producers will encourage new production units to enter the market at a time when their milk will not contribute to a burdensome supply. Paying new producers for 50 percent of their milk as base milk will provide an incentive for such producers to come on the market and earn bases, rather than acquire base by transfer. This will tend to prevent bases from taking on an excessive value.

In their exceptions proponent cooperatives held that during the months of June, July, and August the amount of Class I base milk assigned non-base-holding producers should be adjusted by the same percentage as the Class I bases of base-holding producers during those months. As discussed below, Class I bases are adjusted in June, July, and August to reflect the lower Class I utilization of producer milk. It is concluded that the assignment of base milk to non-base-holding producers in these months should likewise be adjusted to reflect the seasonality of Class I sales. This action is necessary to insure uniform application of the seasonal adjustment to all producers entitled to receive the Class I base price for a portion of their milk.

An attorney, representing six proprietary handlers, excepted to the failure to assign base milk immediately to new producers commencing delivery to the market during the months of February-August. He stated that pricing all of a producer's milk at the excess price for 2 months, if he enters the market during the February-August period, is unduly harsh and restrictive. However, for the reasons stated herein this exception is overruled.

The Agricultural Act of 1970 requires that if any producer delivers a portion of his milk to plants not fully regulated by an order, his Class I base allocation should be reduced accordingly. Therefore, if a producer delivers a portion of his milk to a nonpool plant (except by diversion) during the month, he would receive no credit for base deliveries on the days on which milk was delivered to such nonpool plants. His base milk for the month would be computed by multiplying his Class I base by the number of days in the month on which his entire production was delivered as producer milk.

(h) *Allocation of Class I bases.* On the effective date of this base plan, the market administrator will compute a "Class I base" for each producer based on his initial production history. The production history for each producer will be adjusted by a ratio computed by dividing 115 percent of Class I sales in the 1971-72 September-January period by the sum of the production history as-

signed to all producers serving the Georgia market.

The proponent cooperative association proposed the assignment of 110 percent of the net Class I sales. However, a 10 percent reserve would not provide an adequate reserve supply to fulfill Class I needs in the market. Therefore, allocating Class I bases equal to 110 percent of Class I use would be insufficient to meet the changing day to day, weekend, and holiday supply-demand situations as well as the normal seasonal fluctuation associated with milk production.

The 115 percent figure adopted herein should provide an adequate supply to meet the fluid demand and provide the necessary reserve to allow for the changing supply-demand conditions.

In their exceptions, producer organizations excepted to the recommended decision providing for assignment of bases equal to 115 percent of producer milk used in Class I, and continued to support their proposal which included the 110 percent figure. However, in the Georgia market 110 percent of producer milk used in Class I is not sufficient to meet the total Class I disposition in the Georgia market. For this reason and the others stated herein the exception is overruled.

This plan provides that the total of Class I bases to be assigned would be 115 percent of producer milk used in Class I by handlers in the market in the preceding period of September through January. The quantity of Class I milk used in this computation would include:

(1) Total producer milk disposed of as Class I by all regulated handlers during the immediately preceding September-January period;

(2) Class I disposition of plants which were nonpool plants during part or all of the September-January period and which were pool plants in the second month preceding the effective date of the new plan; and

(3) The Class I disposition of persons who were producer-handlers during part or all of the September-January period, and in the second month preceding the effective date of the new plan have producer status.

The total of such Class I disposition during the September-January period would be multiplied by 115 percent and averaged on a daily basis. The resulting quantity would be prorated to the production history of individual producers. The quantity prorated to each producer will be his "Class I base."

For purposes of this proration, the relationship between Class I base and production history will be expressed as a percentage called the "Class I base percentage." The Class I base percentage would be computed by dividing the sum of the production history into the total Class I to be assigned, with the resulting ratio converted to a percentage by multiplying by 100 and rounding to the third decimal place.

Each year producers' Class I base will be updated to reflect changes in Class I sales and production history. The Class I milk quantity to be used for the updating would be that disposed of by regulated

handlers in the preceding September-January together with the Class I milk of any former nonpool plant which became a pool plant and held pool plant status in January preceding the March 1 on which the new bases are to be computed. The Class I sales of former producer-handlers would likewise be included if such persons were producers in January preceding the March 1 date.

The law also provides that an order may include a provision to encourage seasonal adjustments in milk production. The base plan adopted herein would provide for a seasonal reduction of Class I bases in the summer months of June, July, and August. This reduction would reflect the decrease in the average daily Class I sales during the summer months relative to the average daily Class I sales in the other 9 months. The seasonal adjustment would encourage producers to increase production in the fall when Class I sales are highest and milk is needed and to decrease production in the summer when Class I sales are lowest and the milk supply is more than adequate to meet the fluid demand.

Thus, on March 1 of each year the market administrator would: (1) Update the production history for each producer; and (2) adjust the production history of each producer by a ratio reflecting the relationship between Class I sales and the total amount of production history allotted to producers under the Georgia order. For June, July, and August each assigned Class I base is reduced seasonally according to the relationship between Class I sales in June, July, and August compared with Class I sales in the months of September through May on a daily average basis.

Following these three computations by the market administrator each producer would be assigned a share of the Class I sales in the Georgia market. The assigned base would be effective for 1 year from March 1 through February of the following year.

Using the most current data to make the base computation, it is estimated that for each 100 pounds of production history during the September-January period, a producer would receive a Class I base of approximately 90 pounds. This would be reduced to approximately 81 pounds for the months of June, July, and August.

(i) *Base transfers*—(1) *The need for base transfers.* The Agricultural Act of 1970 provides that bases allocated to producers may be transferable under an order pursuant to the terms and conditions set forth in that order, including those which would prevent bases taking on an unreasonable value. Considered by proponent to be an important part of the base plan as adopted herein, the transfer provisions should be included in this order for several reasons.

Base transfers allow new producers to obtain base quickly and in a manner which would not dilute the base pool. This method promotes an orderly alternative to base building. Moreover, a producer can plan his production in accordance with his share of the Class I sales from the beginning of his dairy opera-

tion. A producer building base from his own production must develop a production history which would be in excess of his allotted Class I base. To reduce his production in accordance with his Class I base, a producer would have to reduce his operation, which, after possibly investing in expensive equipment, he would be reluctant to do. Acquiring a base by transfer, therefore, would help a producer adjust his production to his share of the market in a way which would be beneficial to him as well as to existing baseholders.

Providing for transfers of base also would help established producers to adjust the scale of their operations. An established producer could purchase Class I base to cover an increase in his milk production, thus avoiding the necessity of establishing a greater production history himself. A producer desiring to decrease the scale of his operation, perhaps as a result of ill health or a shortage of labor, would have opportunity to do so. In the absence of transfers, a producer may reluctantly continue production at the same level.

While base transfers would be permitted, the Act requires that bases should not take on an "unreasonable value." Several features of the plan adopted herein would keep bases from taking on an unreasonable value. The Class I base plan allows a new dairy farmer to establish a production history for himself and earn a full base over a 3-year period. Thus, the producer does not have to buy a base to assure the base price for a portion of his milk production. There is less incentive for a new producer to buy base when he can earn one himself.

Similarly, an established producer may increase his Class I base by building up a greater production history through his own production. With the option of earning additional base himself, such producer will have less incentive to buy base under the Class I base plan.

(2) *The rules regarding base transfers.* Under the base plan, Class I bases established on producer milk deliveries for not less than 100 days in the preceding September-January period would be transferable. Allowing base transfers would facilitate adjustments by producers desiring to expand or contract their operations. In addition, transfers of base would provide producers an opportunity for more economical milk production and would contribute to the maintenance of an adequate supply of milk for the market. The following rules would be applicable to base transfers under the Class I base plan adopted herein.

A producer may transfer his base in its entirety or in multiples of 100 pounds. These limits are administratively practical and should be adequate.

The transfer of an entire base may be made effective as of the day on which the transfer takes place, if the market administrator receives an application for such transfer within 5 days of the transaction. Usually an entire base is transferred only in the case of death or the retirement of the producer. In the latter instance, the base transfer often

is accompanied by a dispersal sale at which the herd and the base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer would become effective as of the first day of the following month.

Partial transfers of base, in 100-pound multiples, would be effective as of the first day of the month following that in which the application for transfer is made to the market administrator. An exception is made for the month of March because a producer does not know until March 5 of each year what his Class I base will be for the 12-month period beginning March 1.

A producer who finds that his established base exceeds his anticipated production for the year will be permitted to transfer that portion of his base in excess of his requirements to another producer effective as of March 1. For such transfer to become effective on March 1, the signed application for transfer must be received by the market administrator no later than March 15.

The dates on which notice of transfer must be filed with the market administrator are the same as those incorporated in the present seasonal base-excess plan. They are equally appropriate for the Class I base plan. The reasons for the adoption of these dates are set forth in the decision of the Assistant Secretary issued August 18, 1970 (35 F.R. 13454), which is officially noticed.

To further insure that there will be no month-to-month transfers between producers or between groups of producers to enhance unduly the returns of the producers who are parties thereto, no producer who has received base by transfer will be permitted to dispose of any base to another producer until 3 full months have elapsed. Similarly, no producer who has transferred base to another will be permitted to acquire additional base by transfer until 3 full months have elapsed. Such rules will not interfere with the acquisition of additional base by a producer who intends to increase his production on a long-term basis, nor will they adversely affect the producer who is reducing the size of his operation and desires to dispose of base in excess of his anticipated production.

In the case of jointly held bases, transfers of either the entire base or a portion thereof would be recognized only if the application for transfer is signed by each of the joint holders. In the case of bases held by estates or held in trust, the executor or trustee would have authority to sign an application for transfer of such base.

A base established by two or more persons, operating a dairy farm as joint owners or as a partnership, may be divided between the owners. Such division will be effective on the first day of the month following receipt of written notification by the market administrator indicating the agreed division and signed

by each baseholder (joint owner, partner, heir, executor, or trustee).

The rules regarding base transfers discussed thus far in these findings are similar to the rules pertaining to base transfers with respect to the seasonal base-excess plan which is currently effective under the Georgia order. From an administrative point of view, these rules have worked well in the current Georgia order. Such rules would be equally applicable and effective for the Class I base plan adopted herein, and therefore should be continued.

In addition to the rules regarding base transfers, which have been discussed already, certain other conditions are necessary to discourage producers from selling their bases and earning new bases.

The base plan proposal provided that a producer transferring his entire base to another person would not be eligible to receive a base as a new producer for 3 years after the effective date of such transfer.

A producer who sells his entire base, and resumes production at a subsequent date, is not a new producer in the same sense as other nonbaseholding dairy farmers. Therefore, he need not be assigned a Class I base subject to the same terms and conditions as other dairy farmers who become producers for the first time under the order.

Obviously, a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is thereby disposing of his privilege to receive returns for his milk at the minimum base price under the order. He would be aware that under these circumstances he would be eligible to receive only the excess price as long as he has no base.

Normally, he would receive a payment in return for the sale of his base. If the payment so obtainable by sale is substantial, and the producer could get a new base assignment without delay, there would be a strong incentive for many producers to engage in milk production in large part for the returns to be obtained by the sale of Class I base. Such a situation would be contrary to the statutory requirement that bases should not take on an unreasonable value.

Thus, if a producer disposes of his entire Class I base by transfer, some time limitation on his reentry is justified. However, the 3-year restriction is unduly restrictive. It is, therefore, provided that a producer who disposes of his entire base by transfer and continues in production or subsequently resumes production will not be eligible to be assigned a base as a new producer for 1 year after the date on which such producer transferred his entire base.

Producer organizations excepted to the 1-year limitation on a producer's reentry as a new producer after the sale of his entire base. They suggested that at least a 2-year period would be necessary to insure that such producer would not gain a substantial profit by such action. The exact period of time necessary to remove any profit from such a transaction cannot be determined precisely because of the many variables, particularly the

changing values of Class I base. The 1-year period adopted herein should be sufficient to eliminate any incentive for a producer to engage in the practice of selling his base and obtaining a new one.

A similar situation and treatment should apply to a producer assigned a Class I base who ceases deliveries for a period and then returns at a later time. The base plan proposal provided that a producer assigned a Class I base who failed to ship producer milk during the immediately preceding 12 months and has not transferred his base would forfeit such base and production history effective March 1. The 12-month period is excessive, however. Except for situations beyond his control (which are covered by the rules applicable to hardship) cessation of deliveries for as long as 90 days would indicate that a producer no longer intended to continue regular supply service to the market.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could, of his own free will, cease deliveries to the market for an extended period, and then return to the market with the privilege of receiving payment under the plan for Class I base milk in the same amount as before he left the market. Therefore, it is provided that if a producer ceases producer milk deliveries for more than 90 consecutive days under this base plan his assigned Class I base and production history will be forfeited.

There would be only one exception to this rule. A producer who enters the military service would retain his Class I base and the associated production history until 1 year after such person is released from active military service.

A time limitation on transferring base is another feature of this new Class I base plan. With the exception of intrafamily transfers, Class I bases computed for producers established on deliveries of producer milk for less than 100 days during the preceding representative period, and bases computed for dairy farmers who become new producers after the effective date of this plan, may not be transferred until 12 months after the effective date of the base assignment.

This provision will require a producer to demonstrate his ability and willingness to supply the market's needs regularly before becoming eligible to transfer base. All producers shipping to a nonpool plant which becomes a pool plant would be assigned a Class I base. Such a plant could get a short-term contract in the marketing area and lose it a short time later. However, if such producers are allowed to transfer their base immediately, the producers shipping to that nonpool plant which became pooled under the Georgia order for a short time could sell their allotted bases—thereby receiving a windfall gain—at the expense of other producers remaining on the market, since the total assigned Class I base would be unchanged but the Class I base percentage would be diluted.

A time limitation on transfer of base is needed for other types of producers

also. In the absence of some limitation, a producer-handler could easily switch to producer status, be assigned a full Class I base, and then sell it. A 1-year time limitation on the transfer of base by a former producer-handler will prevent such windfalls at the expense of other producers. This 12-month waiting period would begin to run when the base is allotted to the producer-handler and would apply to any family member who receives this base via the intrafamily transfer provision.

The Class I base plan also should provide that a producer who desires to become a producer-handler must forfeit the maximum amount of Class I base and production history base held at any time during the preceding 12-month period before he can be designated a producer-handler. This provision is necessary to assure that such a person does not receive a windfall by having a Class I base available for transfer and simultaneously having exemption as producer-handler. This forfeiture should also be required if producer-handler designation is to be issued to any member of such a producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part. This is necessary in order to prevent windfall benefits. The definition of producer-handler is modified, therefore, to reflect this requirement that a former producer must forfeit his base before attaining producer-handler status.

An intrafamily transfer involves the transfer of base from the baseholder to a member of his immediate family (including transfers to an estate and from an estate to a member of the family), provided that the transfer implements a continuous operation on the same farm with the same herd.

In instances where an intrafamily transfer has occurred under the present seasonal base-excess plan resulting in the maintenance of a continuing farm herd production unit, the operation shall be considered as one operation for establishing production history base under the new Class I base plan. Thus, the production delivered by the transferor producer during base-earning periods prior to the effective date of the new Class I base plan is assumed to have been delivered by the transferee for use in computing a production history base under the new plan.

(j) *Provisions for alleviation of hardship and inequity.* The Agricultural Act of 1970 requires that provision be made for the alleviation of hardship and inequity among producers. Therefore, certain administrative guidelines should be established for review of hardship claims and the alleviation of hardship and inequities to producers under the Class I base plan adopted herein.

Certain provisions are included in the order to define circumstances for which a producer may apply for relief. A producer may apply for adjustment or alleviation of hardship or inequity if he feels his production history is not representative of his level of milk production because of conditions which are beyond

his control (such as acts of God, disease, pesticide residue, and condemnation of milk). Conditions over which a producer could have exerted control through prudent precautionary measures are not cause for hardship adjustment. These conditions would include, for example, inability to obtain adequate labor or equipment failure during the representative base period.

The producer would be responsible for filing a written request for review of any hardship condition or inequity affecting him. Such request would be submitted to the market administrator for future review by the hardship committee. A claimed hardship or inequity would set forth the following: (1) Conditions that caused alleged hardship or inequity; (2) extent of relief or adjustment requested; (3) basis upon which the amount of adjustment requested was determined; and (4) reasons why the relief or adjustment should be granted. Such request must be filed within 45 days of the date on which Class I bases are issued, or of the occurrence to which it is related.

The market administrator would establish one or more "Producer Base Committees". A committee would consist of five producers appointed by the market administrator. The committee would review the requests for relief from hardship or inequity referred to it by the market administrator in a meeting called by the market administrator. The market administrator, or his designated representative, would be the recording secretary at such meeting. The committee decision must be endorsed by at least three of the five members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification of the producer, subject only to appeal by such producer to the Director, Dairy Division within 45 days thereafter. Recommendations of the committee to grant a request, in whole or in part, would be transmitted to the Director, Dairy Division, and would become final unless vetoed by the Director within 15 days after transmitted.

The market administrator is authorized to reimburse committee members for their services at \$30 per day, and for necessary travel and subsistence expenses incurred in carrying out their duties as committee members. Reimbursement to committee members would be from monies collected under the administrative expense fund.

At the hearing, a proprietary handler witness objected to financing the operations of the Producer Base Committee on monies collected in the Administrative Fund. In his brief, an attorney, representing six fluid milk processors regulated by the Georgia order, also objected to the use of administrative fund monies to pay for expenses associated with the function of the Producer Base Committee. This same point was repeated in exceptions.

However, the monies collected in the administrative fund are to pay for the

necessary expenses incurred in the administration of the order. The statute expressly requires that provision be made for the relief of hardship and inequity among producers. It has been concluded that the review of petitions for such relief can be handled most effectively by a committee of producers. Hence, the expense associated with the operation of a Producer Base Committee is one incurred in the performance of an appropriate and necessary function of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committee be paid from monies collected pursuant to the administrative assessment.

RULING ON OBJECTIONS

At the hearing a witness for the proponent cooperative association declined to answer certain questions on cross examination. The Hearing Examiner upon being requested to compel the witness to answer these questions ruled that he was without authority to compel this testimony. We affirm the ruling of the Hearing Examiner which has been further challenged in a brief filed in behalf of six proprietary handlers.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and

wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Georgia marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

It is hereby further directed that a separate referendum in which each individual producer has one vote be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the proposed base plan of payment to producers' as specified in the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is

separately approved or favored by producers, as defined under the terms of the order as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be September 1971.

The agent of the Secretary to conduct such referendum is hereby designated to be E. Hickman Greene.

Signed at Washington, D.C., on December 2, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Amending the Order, Regulating the Handling of Milk in the Georgia Marketing Area

FINDINGS AND DETERMINATIONS

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

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

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

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity speci-

fied in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Georgia marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 8, 1971, and published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18425) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein with the following modifications:

1. Sections 1007.111 and 1007.112 are revised.

2. In § 1007.113 paragraphs (b) and (c) are revised.

3. In § 1007.114 paragraphs (c) and (d) are revised.

1. In § 1007.10 the introductory text is revised and a new paragraph (c) is added to read as follows:

§ 1007.10 Pool plant.

"Pool plant" means a plant specified in paragraph (a), (b), or (c) of this section that is not an other order plant, a producer handler plant, or an exempt distributing plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.13(d)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.13(d); in the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

2. In § 1007.14, a new paragraph (e) is added to read as follows:

§ 1007.14 Producer-handler.

(e) If such person had been a producer to whom a Class I base had been assigned pursuant to § 1007.114, has forfeited such Class I base in accordance with the requirement of § 1007.116(c).

§§ 1007.22, 1007.23 [Revoked]

2a. Revoke §§ 1007.22 and 1007.23.

3. Revise § 1007.61a to read as follows:

§ 1007.61a Computation of uniform prices for base milk and excess milk.

The market administrator shall compute uniform prices for base milk and excess milk each month as follows:

(a) Determine the aggregate amount of producer milk in each class included in the computation pursuant to § 1007.61 and the hundredweight of such milk that is base milk and that is excess milk;

(b) Determine the value of the total hundredweight of milk of producers specified in § 1007.114 (c) and (d) to whom no base milk has been assigned by multiplying such volume by the Class II price;

(c) Determine the total value of excess milk by assigning such milk in series beginning with Class II to the hundredweight of milk in each class as determined pursuant to paragraph (a) of this section, multiplying the quantities so assigned by the respective class prices and adding together the resulting amounts;

(d) Divide the total value of excess milk in paragraph (c) of this section by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk;

(e) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to paragraph (c) of this section;

(f) Multiply the hundredweight of milk specified in § 1007.61(e) (2) by the uniform price for the month;

(g) Subtract the total values arrived at in paragraphs (b), (e), and (f) of this section from the amount resulting from the computations pursuant to paragraphs (a) through (e) of § 1007.61; and

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk determined in paragraph (a) of this section and subtract not less than 4 nor more than 5 cents per hundredweight. The resulting figure rounded to the nearest cent, shall be the uniform price for base milk.

4. In § 1007.70 paragraph (a) (2) is revised and a new paragraph (a) (3) is added to read as follows:

§ 1007.70 Time and method of payment.

(a) * * *

(2) On or before the 15th day of each month at not less than the applicable uniform prices for the quantities of base milk and excess milk received adjusted by the butterfat differential computed pursuant to § 1007.71, and in the case of base milk by the location differential computed pursuant to § 1007.72, subject to the following:

(i) Less payments made pursuant to subparagraph (1) of this paragraph;

(ii) Less proper deductions authorized by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator; and

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(3) On or before the 15th day of the month at not less than the Class II price adjusted by the butterfat differential computed pursuant to § 1007.71 for the quantity of milk received from producers described in § 1007.114 (c) and (d) for whom no base milk has been computed.

5. The centerhead immediately preceding § 1007.110 and §§ 1007.110, 1007.111, and 1007.112 are revoked and a new centerhead and new §§ 1007.110 through 1007.117 are substituted therefor.

CLASS I BASE PLAN

§ 1007.110 Definition of terms relating to the Class I base plan.

For purposes of determination and assignment of the Class I base of each producer the following terms are defined:

(a) "Production history" means the average daily marketings of a producer during the production history period used for the determination of bases or the future updating of bases.

(b) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1007.111.

(c) "Production history period" means the days or months to be used for the computation of the production history base of a producer.

(d) "Average daily producer milk deliveries" of any producer in any specified period used for computing a production history base means the total pounds of producer milk delivered by the producer divided by the number of days' production represented by such deliveries: *Provided*, That for any September-January period, the divisor shall be the actual days of production, or 145 whichever is greater.

(e) "Class I base" means a quantity of milk in pounds per day computed pursuant to § 1007.114 for which a producer may receive the base milk price.

(f) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued in the amount determined for such producer pursuant to § 1007.114 (c) and (d).

(g) "Excess milk" means milk received in excess of base milk from a producer who is delivering base milk during such month.

§ 1007.111 Computation of production history base.

A "production history base" shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on March 1 of each year thereafter. The computation of production history base shall be subject to adjustments due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if:

As a producer he delivered milk of his own production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1007.116(a); and during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer. The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The market administrator shall determine a production history base for each producer who delivered at least 100 days' production during the immediately preceding period of September-January by computing his average daily producer milk deliveries as defined in § 1007.110 (d) during such period.

(b) For producers who delivered milk on less than 100 days during the immediately preceding period of September-January, but at least 90 days prior to March 1, the market administrator shall determine a production history base by multiplying such producer's average daily producer milk deliveries during the months in which milk was delivered prior to March 1, by .80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September-January period by the average daily producer milk deliveries during the same months used for such producer.

(c) Producers who have delivered milk for less than 90 days prior to March 1 shall have no initial production history base but shall be assigned a history of production in accordance with the provisions applicable for new producers.

(d) For each producer not subject to § 1007.114(d) who became a producer for this market subsequent to September 1, 1971, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible pursuant to paragraph (a) or (b) of this section based on his deliveries of milk as if the non-pool plant to which he delivered had been a pool plant during the representative period.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant(s) prior to becoming a producer and who is not subject to the provisions of § 1007.114(c), shall have a production history base effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (a) or (b) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had been a pool plant(s) during the preceding 12 months.

(f) For a producer who held producer-handler status at any time subsequent to September 1, 1971, a production history base shall be calculated as prescribed in paragraph (a) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to the computation of production history base pursuant to this section, the following rules shall apply:

(1) If a producer operated more than one farm at the same time, a separate computation shall be made with respect to the average daily producer milk deliveries from each farm except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler.

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned or operated.

§ 1007.112 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1007.116(a) or after having disposed of his entire base by transfer or forfeiture, has met the delivery requirements prescribed in § 1007.113 shall be determined by the market administrator on March 1 of each year as follows:

(a) Effective March 1, 1973, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who is assigned an initial history of production pursuant to § 1007.111 (a) or (b) on the effective date of this order, add the average daily milk deliveries of such producer during the period September 1972 through January 1973 to the production history bases computed for such producer on the effective date of this order and divide the result by 2. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period but in no event, shall such producer's production history base be reduced by more than 25 percent.

(2) For producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the period September 1972 through January 1973 and multiplying the result by 0.80.

(b) Effective March 1, 1974, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a production history base for the 2 most recent years, determine the average daily producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the 2 most recent years and divide the result by 3: (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced; (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by 2: (i) If during the immediately preceding period of September through January a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced; (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base, then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80; and

(c) Effective March 1, 1975, and on March 1 of each year thereafter the market administrator shall update the history of production for each producer as follows:

(1) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for producers who have a production history base covering 3 or more years, the market administrator shall compute the average daily producer milk

deliveries for such producer during the immediately preceding period of September through January and shall add such figure to the average daily producer milk deliveries of the preceding two years and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding September through January period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a production history base for the two most recent periods, determine the average producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the two most recent periods and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by 2. (i) If during the immediately preceding period of September through January a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base

exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(4) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80; and

(5) On March 1 of each year of which this plan is in effect, the market administrator shall determine a production history base for producers who delivered milk for less than 100 days in the immediately preceding period of September through January but who delivered milk for at least 90 days prior to March 1 by determining such producers average daily producer milk deliveries during the first 3 months in which the producer delivered milk to the market, multiplying the result by 0.80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September-January period by the average daily deliveries per producer during the same months used for such producer.

§ 1007.113 New producers.

The market administrator shall determine a history of production for each producer for whom a production history base was not determined pursuant to § 1007.111 as follows:

(a) Any producer who during the immediately preceding September through January period delivered his milk to a nonpool plant which became a pool plant shall be assigned a history of production on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant.

(b) Effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant a producer who delivered milk to a nonpool plant prior to becoming a producer as defined in this order shall be assigned a production history base on the same basis as if he had been a producer under the order and his deliveries to the nonpool plant had been deliveries to a pool plant provided that in no event shall the production history base exceed the amount of milk actually delivered by such producer under this order.

(c) A producer who delivered no milk to a nonpool plant or who delivered milk to a pool plant for less than 90 days prior to March 1 of any year and who has not acquired a history of production by transfer shall be assigned Class I base milk pursuant to the provisions of § 1007.114(c).

§ 1007.114 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on March 1 of each subsequent year the market administrator shall assign

a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1007.113 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding period of September through January:

(i) Class I producer milk pursuant to § 1007.45(c),

(ii) The Class I disposition of plants during the period when they were non-pool plants, if such plants were pool plants in the preceding January, and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding January.

Multiply the sum by 1.15 and divide the result by 153:

(2) Divide the quantity computed pursuant to subparagraph (1) of this paragraph by a quantity which is the total of production history bases computed pursuant to § 1007.111 or § 1007.112, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage." For each of the months of June, July, and August the Class I base so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the preceding months of September through May.

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month until the first March 1 on which he is eligible for a Class I base in an amount equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month (1) effective with his first delivery of producer milk if he begins deliveries in the months of September through January, and (2) effective on the first day of the second month following the month in which he began delivery if he begins deliveries in the months of February through August. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May.

(d) (1) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month, such assignment to be effective on the later of the following dates: the first day of the third month following the month in which he recommences deliveries of producer milk on the market, or the first day of the twelfth month following the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May. The production history period of such producer shall begin on the later of the following dates: The date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1007.113.

(2) In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1007.115 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of Class I base of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer, and the amount of base to be transferred.

Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the base holder(s), his heirs, executor, or trustee and by the person to whom such base is to be transferred.

(c) A transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise, such transfer shall be effective on the first day of the month following that in which application is made.

(d) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator, except that a portion of a base may be transferred to be effective on March 1 of any year if application for such transfer is filed with the market administrator no later than March 15.

(e) A producer who has received base by transfer on or after March 1 of any year may not transfer any portion of the base for 3 full months following the effective date of such transfer.

(f) A producer who has transferred base on or after March 1 of any year may not receive additional base by transfer for 3 full months from the effective date of such transfer.

(g) A base which is jointly held or in a partnership may be transferred in part or in its entirety only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred.

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is received by the market administrator prior to the first day of the month on which such division is to be effective.

(i) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(j) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(k) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(l) A producer who receives a base pursuant to § 1007.111 (c) or (d) may not transfer such base, other than pursuant to paragraph (k) of this section, for 1 year from the date of receipt.

(m) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 1 year from the date of receipt, except to a member of the immediate family pursuant to paragraph (k) of this section.

(n) A base which has been computed from less than a full production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (k) of this section.

(o) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will require a transfer of bases and compliance with all base rules therein.

§ 1007.116 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1007.14, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1007.117 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1007.111 through 1007.116 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding March 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

- (1) He was not issued a Class I base;
- (2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood or storms, official

quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1007.116(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1007.112; and

(5) Inability to transfer base due to the provisions of § 1007.115 (l), (m), and (n).

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1007.116 with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a

producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1007.77 for their services at \$30 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

[FR Doc.71-17856 Filed 12-6-71;8:50 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 525]

EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

Proposed Change in Conditions

Pursuant to authority in section 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Orders Nos. 13-71 and 15-71 (36 F.R. 8755 and 8756), and 29 CFR 525.19, I propose to amend Part 525 of Title 29 of the Code of Federal Regulations. This amendment would allow work activities centers to employ handicapped workers in or about a home, apartment, tenement, or room in a residential establishment without the necessity of obtaining a special industrial homemaker's certificate for such persons.

Part 525 provides for applications for several different types of special certificates. Experience under these regulations indicates that the present prohibition of employment at home of clients of work activities centers curtails the employment opportunities of those severely handicapped workers who are unable to come to the work activities centers. Accordingly, this proposal would amend 29 CFR Part 525 by deleting the phrase "except one for a work activities center" contained in § 525.12.

Interested persons are invited to submit written data, views, or arguments regarding the proposed amendment to Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210,

within 30 days of publication of this notice in the FEDERAL REGISTER.

1. Section 525.12 would be amended to read as follows:

§ 525.12 Industrial homework.

A special certificate issued pursuant to this part authorizes a sheltered workshop to employ a handicapped worker in or about a home, apartment, tenement, or room in a residential establishment, without the necessity of obtaining a special industrial homemaker's certificate for such person under regulations of the Administrator governing the employment of industrial homeworkers; nor shall it be necessary for a sheltered workshop to obtain a special industrial homemaker's certificate for handicapped workers working in or about a home, apartment, tenement, or room in a residential establishment, who are earning the minimum required under section 6 of the Act.

(52 Stat. 1068, as amended; 29 U.S.C. 214)

Signed at Washington, D.C., this 29th day of November 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour
Division, U.S. Department of
Labor.

[FR Doc.71-17841 Filed 12-6-71; 8:50 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

**[21 CFR Parts 141, 141a, 148w]
HYDROXYLAMINE COLORIMETRIC
ASSAY**

Notice of Proposed Rule Making

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Parts 141, 141a, and 148w be revised as follows to bring the hydroxylamine colorimetric assay up to date and to provide for its addition as an alternate potency test for sodium cephalothin and cephaloridine;

1. It is proposed that Part 141 be amended:

a. In § 141.102(a) by adding a new subparagraph (17), as follows:

§ 141.102 Solutions.

(a) * * *

(17) *Solution 17 (5 percent methyl alcohol in 1 percent potassium phosphate buffer, pH 6.0).*

Methyl alcohol: 50.0 ml.
1 percent potassium phosphate buffer, pH 6.0, q.s.: 1,000.0 ml.

b. In § 141.507 by revising paragraphs (b) and (c), as follows:

§ 141.507 Hydroxylamine colorimetric assay.

* * * * *

(b) *Preparation of working standard solutions.* From the following table, select the diluent and final concentration as listed for each antibiotic working standard. Dissolve and dilute an accurately weighed portion to the specified final concentration and proceed as directed in paragraph (d) of this section.

Antibiotic	Diluent (solution number as listed in § 141.102(a))	Final concentration in milligrams per milliliter of standard solution
Ampicillin.....	Distilled water.	1.25
Cephaloridine.....	do.....	1.0
Cephalothin.....	do.....	2.0
Cloxacillin.....	1.....	1.25
Dicloxacillin.....	Distilled water.	1.25
Methicillin.....	1.....	1.25
Nafcillin.....	1.....	1.25
Oxacillin.....	1.....	1.25
Penicillin G.....	1.....	1.25
Phenethicillin.....	1.....	1.25
Phenoxyethyl penicillin.....	17.....	1.25
Procaine penicillin G.....	17.....	2.0

(c) *Preparation of sample solutions.* From the following table, select the diluent and final concentration as listed for each antibiotic. Dissolve an accurately weighed portion of the sample, dilute to the appropriate final concentration, and proceed as directed in paragraph (d) of this section; if the product is packaged for dispensing, dilute an aliquot of the stock solution (prepared as described in the individual monograph) to the appropriate concentration and then proceed as directed in paragraph (d) of this section.

Antibiotic	Diluent (solution number as listed in § 141.102(a))	Final concentration in milligrams per milliliter of sample
Ampicillin.....	Distilled water.	1.25
Ampicillin trihydrate.....	do.....	1.25
Cephaloridine.....	do.....	1.0
Phenoxyethyl penicillin.....	17.....	1.25
Potassium penicillin G.....	1.....	1.25
Potassium phenethicillin.....	1.....	1.25
Potassium phenoxyethyl penicillin.....	1.....	1.25
Procaine penicillin G.....	17.....	2.0
Sodium ampicillin.....	Distilled water.	1.25
Sodium cephalothin.....	do.....	2.0
Sodium cloxacillin monohydrate.....	1.....	1.25
Sodium dicloxacillin monohydrate.....	Distilled water.	1.25
Sodium methicillin monohydrate.....	1.....	1.25
Sodium nafcillin monohydrate.....	1.....	1.25
Sodium oxacillin monohydrate.....	1.....	1.25
Sodium penicillin G.....	1.....	1.25

2. It is proposed that Part 141a be amended:

a. In § 141a.26 by revising paragraph (a) (3), as follows:

§ 141a.26 Procaine penicillin.

(a) * * *

(3) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

b. In § 141a.111 by revising paragraph (a) (3), as follows:

§ 141a.111 Ampicillin trihydrate.

(a) * * *

(3) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

* * * * *

c. In § 141a.118 by revising paragraph (a) (3), as follows:

§ 141a.118 Sodium cloxacillin monohydrate.

(a) * * *

(3) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

* * * * *

d. In § 141a.123 by revising paragraph (a) (3), as follows:

§ 141a.123 Sodium ampicillin.

(a) * * *

(3) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

* * * * *

e. In § 141a.131(a) by adding a new subparagraph (3), as follows:

§ 141a.131 Sterile sodium nafcillin monohydrate.

(a) * * *

(3) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

* * * * *

3. It is proposed that Part 148 be amended:

a. In § 148w.1 by revising paragraph (b), as follows:

§ 148w.1 Sodium cephalothin.

* * * * *

(b) * * *

(1) * * *

(i) *Sample preparation.* Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay, distilled water for the iodometric assay or hydroxylamine colorimetric assay, to give a stock solution of convenient concentration; also if it is packaged for dispensing, reconstitute as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with either solution 1 or distilled water as specified above to give a stock solution of convenient concentration.

(ii) *Assay procedures.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

* * * * *

(c) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

* * * * *

b. In § 148w.2 by revising paragraph (b), as follows:

§ 148w.2 Cephaloridine.

- (b) * * *
- (1) * * *

(i) *Sample preparation.* Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay, distilled water for the iodometric assay or hydroxylamine colorimetric assay, to give a stock solution of convenient concentration; also if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with either solution 1 or distilled water as specified above to give a stock solution of convenient concentration.

(ii) *Assay procedures.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(c) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 21, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.

[FR Doc.71-17777 Filed 12-6-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-CE-10-AD]

CERTAIN MARVEL SCHEBLER SERIES CARBURETORS

Proposed Airworthiness Directive

On May 18, 1971, an advance notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9026),

soliciting comments regarding possible rule making action to correct loosening or separation of the throttle arm from the throttle stop on Marvel Schebler MA-3, MA-4, MA-4-5, and HA-6 series carburetors used on various Teledyne Continental, Franklin, and Lycoming model engines.

The advance notice stated that consideration would be given all comments received on or before July 17, 1971. Approximately 50 comments were received. The commentators' answers to the six questions posed did not establish any one area as the primary cause of the problem. However, a significant number indicated that the throttle arm required special care at installation and close examination at subsequent inspections. After analyzing the comments and service reports, the Federal Aviation Administration is of the opinion that Part 39 of the Federal Aviation Regulations should be amended by issuing an Airworthiness Directive which would require throttle arms on carburetors now in service to be inspected, retorqued and safety wired to the throttle stop so that the safety wire retains the arm on the stop.

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 Director, Central Region, Attention: Regional Counsel, Airworthiness Rules Docket, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of the notice in the FEDERAL REGISTER will be considered before action is taken 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 Airworthiness Rules Docket for examination by interested persons.

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 AD.

MARVEL SCHEBLER: Applies to Models MA-3, MA-3A, MA3-PA, MA-3SPA, MA4-SPA, MA4-5, MA4-5AA, MA-6AA, and HA-6 carburetors used on various Franklin (Aircooled), Continental, Lycoming, and Ranger engines.

Compliance: Required at next annual inspection, unless already accomplished.

To prevent looseness or separation of the throttle arm, accomplish the following or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region, Kansas City, Mo.:

- (1) Inspect the throttle arm to verify that it is bottomed against the shoulder on the throttle stop and positioned so that full throttle travel is obtained, and if not, loosen clamping screw and reposition arm and/or re-rig control system in accordance with airplane manufacturers' maintenance instructions to obtain these conditions.

- (2) Torque clamping screw on Marvel-Schebler MA-3, MA-3A, MA-3PA, MA-3SPA, and MA-4SPA series carburetors to 15 to 20-in. -lbs. and safety wire throttle arm to throttle stop as shown in Illustration A.

- (3) Torque clamping screw on Marvel-Schebler MA-4-5, MA-4-5AA, MA-6AA, and HA-6 series to 35 to 40-in. -lbs. if a 10-32 bolt and hexagonal head locknut is used or 20 to 28-in. -lbs. if a 10-24 fillister head screw is used and safety wire throttle arm to throttle stop as shown in Illustration B, C, or D.

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 and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on November 24, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

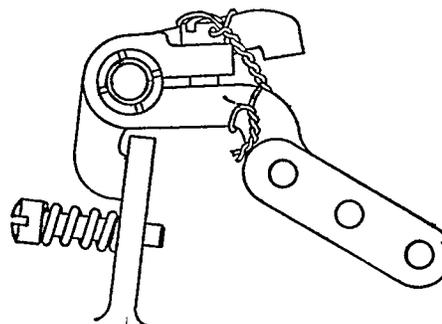
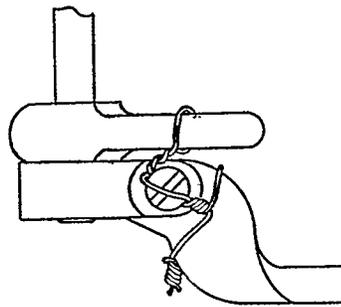


ILLUSTRATION A

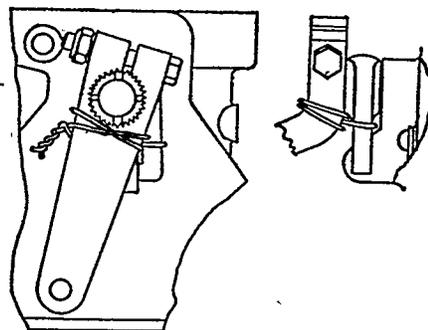


ILLUSTRATION B

[14 CFR Part 71]

[Airspace Docket No. 71-AL-12]

CONTROL ZONE AND TRANSITION AREA**Proposed Alteration**

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Big Delta, Alaska, terminal airspace structure.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501.

Application of the U.S. Standard for Terminal Instrument Procedures (TERPS) and revised criteria for establishment of terminal controlled airspace require amendments to the Big Delta, Alaska, control zone. Refined coordinates of the airport reference point (ARP) are also contained in this docket. The following actions are proposed:

1. Alter the Big Delta, Alaska, control zone by redesignating it as that airspace within a 5-mile radius of the Allen AAF, Fort Greely, Alaska (latitude 63°59'37" N, longitude 145°43'08" W.) and within 4.5 miles each side of the Big Delta VORTAC 040° True (011° Magnetic) radial extending from the 5-mile-radius zone to 11 miles northeast. This control zone is effective from 0600 to 2200 local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.
2. Designate the Big Delta, Alaska, transition area as that airspace extending upward from 700 feet above the surface within 9.5 miles each side of the Big

Delta VORTAC 220° True (191° Magnetic) and 040° True (011° Magnetic) radials extending from 2 miles southwest to 18.5-mile radius of the Big Delta VORTAC extending clockwise from the 309° True (280° Magnetic) radial to the 006° True (337° Magnetic) radial.

The action proposed herein would alter the Big Delta, Alaska, control zone by increasing the length and width of the control zone extension to the northeast. This is required by revised criteria and provides controlled airspace to protect aircraft executing the VOR and LFR standard instrument approach procedures to Allen AAF when operating less than 1,000 feet above ground level. The control zone extension to the northwest would be canceled. The 700-foot transition area provides controlled airspace to protect aircraft executing the prescribed instrument approach and departure procedures beyond the limits of the control zone. The 700-foot transition area also provides protective airspace for instrument approaches and departures when the control zone is not effective.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Anchorage, Alaska, on November 18, 1971.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.71-17798 Filed 12-6-71;8:46 am]

[14 CFR Part 75]

[Airspace Docket No. 71-WA-29]

AREA HIGH ROUTE**Proposed Designation**

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate an area high route from Phoenix, Ariz., to Bridgeport, Tex.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER (35 F.R. 10653) which established regulatory bases for the designation of specific area high and low routes.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

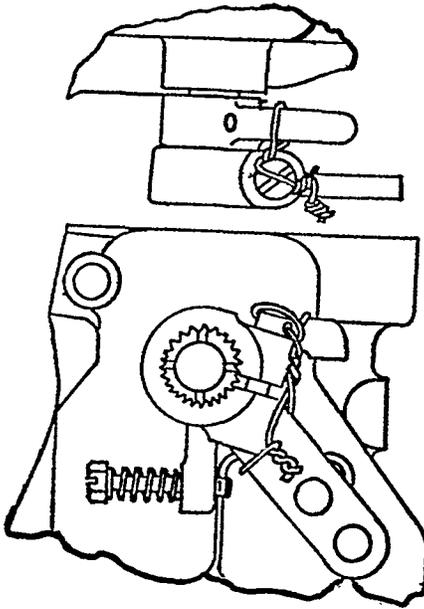


ILLUSTRATION C

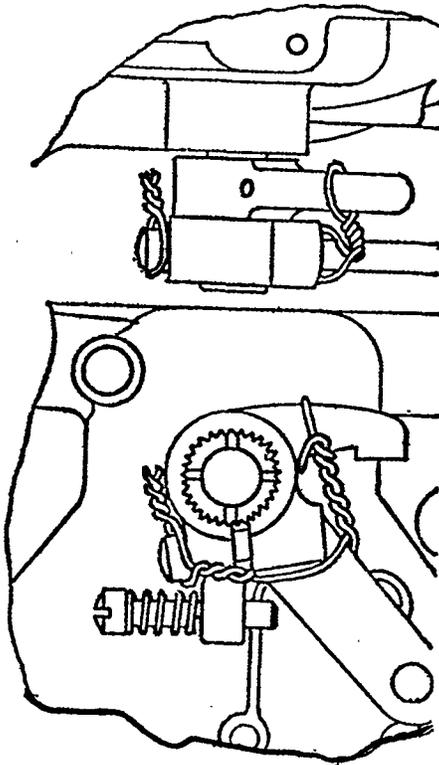


ILLUSTRATION D

[FR Doc.71-17718 Filed 12-6-71;8:45 am]

The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating an area high route as follows:

J99OR PHOENIX, ARIZ., TO BRIDGEPORT, TEX.

Reference facility, Theta/Rho, north latitude/west longitude

Phoenix, Ariz.,	000.0/00.0,	33°25'53''/111°53'17''.
St. Johns, Ariz.,	168.4/63.5,	33°21'55''/109°11'49''.
Socorro, N. Mex.,	187.1/67.3,	33°16'57''/107°16'48''.
Roswell, N. Mex.,	000.0/00.0,	33°20'15''/104°37'15''.
Texico, N. Mex.,	169.1/68.7,	33°20'52''/102°50'29''.
Ablene, Tex.,	351.7/49.5,	33°18'28''/99°50'01''.
Ardmore, Okla.,	198.3/65.6,	33°14'16''/97°45'58''.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (48 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 30, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-17797 Filed 12-6-71;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 61]

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Proposed Standards for Asbestos, Beryllium, Mercury

Pursuant to section 112 of the Clean Air Act, as amended, the Administrator published in the FEDERAL REGISTER of March 31, 1971 [36 CFR Part 62] an initial list of three hazardous air pollutants which in his judgment may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness. Publication of the list constituted an announcement of the Administrator's intention of establishing, under section 112, national emission standards for certain source categories known to emit these hazardous pollutants. These standards are based on information derived from many sources, including health effects levels, meteorology, technical analysis of control capability, and consideration of economic impact. The overriding considerations are health effects. Considera-

tion also has been given to the need to minimize the emission of hazardous pollutants that can accumulate in the environment.

In many cases, information on possible sources of the hazardous pollutants is not available in sufficient detail to determine the need for emission standards. Investigations are underway to fill these gaps in knowledge, and the results of these investigations may require modification of these standards and inclusion of additional source categories for these pollutants.

Beryllium, mercury, and asbestos are very different in the number and type of sources and control options available; therefore, each standard has been written in a different manner to optimize effectiveness and facilitate compliance.

Asbestos—The proposed standards for asbestos are designed to minimize emissions to the atmosphere. Because there is no suitable technique for sampling and analyzing asbestos in the ambient air or in emission gases, the standards are expressed as requirements for the operation of specific control equipment (or other equipment of comparable effectiveness), or in situations where no control system is available as prohibitions on the use of asbestos. When acceptable source sampling and analytical methods are available and it is possible to delineate hazardous levels, these standards may be revised to require compliance with a measured allowable emission.

The sources covered in the asbestos standard are: Mining, milling, spraying, and manufacturing. Specific examples of emission sources which would be subject to the proposed standards applicable to manufacturers of asbestos-containing products include, but are not limited to, manufacturers of the following products when those products contain asbestos: Cement, textiles, paper and board, friction products, plastics, floor tiles, gaskets, packings, roofing felts, and insulation products.

Beryllium—A maximum allowable concentration of beryllium for ambient air has been in use by the Department of Defense and the Atomic Energy Commission for many years. This guideline has been used in the development of the beryllium standards. The proposed standards offer the owner or operator the option of measuring compliance by either emission testing or measurement of ambient concentration levels in the vicinity of the plant. However, it is anticipated that most sources will elect to comply with the given emission limitation. Buildings or other obstructions in the vicinity of the source, or location in highly urbanized areas, may make it impossible to design and locate a sampling network that provides sufficient assurance that areas of maximum concentration are measured.

The known major sources of beryllium are extraction plants, machine shops and foundries handling beryllium or beryllium-containing alloys, ceramic plants using beryllium, rocket propellants containing beryllium, and incinerators burning beryllium-containing waste. These are covered in the proposed standards.

Other possible sources of beryllium are being investigated, and those sources which can potentially cause ambient concentrations to exceed 0.01 $\mu\text{g}/\text{m}^3$ will be included in revisions to this standard.

Mercury—Information currently available suggests that an ambient concentration level in the air below one (1) microgram per cubic meter is sufficient to protect the public health from illness due to inhalation of mercury. However, mercury is mobile in the environment, and once released to the atmosphere may cycle between air, land, and water for long periods of time. Natural processes and living organisms can change mercury from one form to another, at times converting mercury into its most hazardous forms. Therefore, when sufficient information and understanding are available, it will be necessary to consider the broader environmental problems caused by mercury emissions to the atmosphere.

The only industries known to be emitting mercury in quantities and in a fashion such that these facilities, assuming a negligible background level, may cause the ambient concentration level to exceed 1 $\mu\text{g}/\text{m}^3$ are the facilities producing mercury from ore and the mercury cell chlor-alkali plants. These industries are covered in this standard. Other sources may emit mercury, but present information indicates that these sources alone will not cause the ambient concentration level to exceed 1 $\mu\text{g}/\text{m}^3$.

Investigations are underway to identify all mercury sources and to quantify their emissions into the air. As more information becomes available, this subpart will be revised, as necessary, to add additional source categories.

The proposed regulations require application to the Administrator for approval for construction or modification of any stationary source to which a standard prescribed in the regulations is applicable. The Administrator will notify the applicant of approval or disapproval of such application within 60 days of receipt. A fee will be charged to defray part or all the costs of the review. The fee structure will be revised from time to time as experience with the program is developed.

Omitted from the proposed regulations are provisions for delegations of authority to States under section 112(d)(1). Nevertheless, it is the Administrator's intention to encourage States to assume the principal responsibility for enforcement of national emission standards for hazardous air pollutants. Toward this end, procedures for delegating authority will be established early next year, after the States have submitted their plans for implementation of national ambient air quality standards.

In accordance with section 117(f) of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

Interested persons may participate in this rule making by submitting written comments in triplicate to the Environmental Protection Agency, Office of Air

Programs, Division of Compliance, Research Triangle Park, N.C. 27711. The Administrator will welcome comments on all aspects of the proposed regulations, including economic and technological issues and on the proposed test methods. All relevant comments received not later than 90 days after the date of publication of this notice will be considered. Receipt of comments will be acknowledged, but the Office of Air Programs will not provide substantive responses to individual comments.

Public hearings will be held as required by section 112(b)(1)(B) of the Clean Air Act. A notice of time, date, and place for these public hearings will be published in the FEDERAL REGISTER within 30 days of the publication date of these standards. Not later than 180 days after publication of the emission standards set forth below, the Administrator is required to promulgate such emission standards, unless he finds, on the basis of information presented at public hearings, that the pollutants in question clearly are not hazardous. Accordingly, all persons having scientific information pertinent either to the question of whether asbestos, beryllium, and/or mercury are in fact, hazardous within the meaning of section 112 of the Clean Air Act or to the question of the level of the various substances that constitute a risk to public health are urged to present such information either by testifying at the hearings or by submitting the data for the hearings record. In addition, all interested persons are specifically asked to present information on the extent to which promulgation of these emission standards for asbestos, beryllium, and mercury will be of benefit to the public health. In any testimony or written comments on the specific points mentioned herein or on other matters relevant to this proposed rule making, all assertions and claims should be fully substantiated by factual information.

Summaries of the pertinent data used in developing these standards are available free of charge from the Environmental Protection Agency, Office of Air Programs, Research Triangle Park, N.C. 27711.

This notice of proposed rule making is issued under the authority of sections 112 and 114 of the Clean Air Act, Public Law 91-604, 84 Stat. 1713.

WILLIAM D. RUCKELSHAUS,
Administrator,

Environmental Protection Agency.

NOVEMBER 30, 1971.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subpart A—General Provisions

- Sec.
- 61.01 Applicability.
 - 61.02 Definitions.
 - 61.03 Abbreviations.
 - 61.04 Address.
 - 61.05 Prohibited activities.
 - 61.06 Determination of construction or modification.
 - 61.07 Application for approval for construction or modification.

Sec.

- 61.08 Approval by Administrator.
- 61.09 Source reporting.
- 61.10 Request for waiver of compliance.
- 61.11 Waiver.
- 61.12 Emission tests and monitoring.
- 61.13 Availability of information.
- 61.14 State authority.

Subpart B—National Emission Standards for Asbestos

- 61.20 Applicability.
- 61.21 Definitions.
- 61.22 Emission standards for asbestos.
- 61.23 Referenced equipment specifications.
- 61.24 Substitute devices for the attainment of equivalent emission control.

Subpart C—National Emission Standards for Beryllium

- 61.30 Applicability.
- 61.31 Definitions.
- 61.32 Emission standards for beryllium.
- 61.33 Test methods and procedures—stack sampling.
- 61.34 Periodic stack sampling and reports.
- 61.35 Waiver of periodic stack sampling and report requirements.
- 61.36 Test methods and procedures—air sampling.
- 61.37 Monitoring and reports—air sampling.
- 61.38 Election.

Subpart D—National Emission Standards for Beryllium—Rocket Motor Firing

- 61.40 Applicability.
- 61.41 Definitions.
- 61.42 Beryllium emission standards.
- 61.43 Test methods and procedures—air sampling.
- 61.44 Test method and procedures—stack sampling.
- 61.45 Monitoring and reports for air sampling.
- 61.46 Stack sampling and reports.

Subpart E—National Emission Standard for Mercury

- 61.50 Applicability.
- 61.51 Definitions.
- 61.52 Abbreviations.
- 61.53 Emission standard for mercury.
- 61.54 Test methods and procedures—mercury ore processing facility.
- 61.55 Periodic emission testing—mercury ore processing facility.
- 61.56 Recordkeeping—mercury ore processing facility.
- 61.57 Waiver of emission test requirements—mercury ore processing facility.
- 61.58 Test methods and procedures—mercury cell chlor-alkali plant.
- 61.59 Periodic emission testing—mercury cell chlor-alkali plants.
- 61.60 Recordkeeping—mercury cell chlor-alkali plant.
- 61.61 Waiver of emission test requirements—mercury cell chlor-alkali facility.

Subpart A—General Provisions

§ 61.01 Applicability.

The provisions of this part apply to the owner or operator of any source which is operated, or the construction or modification of which is commenced after the date of publication in the FEDERAL REGISTER of proposed emission standards for hazardous air pollutants which are applicable to such source.

§ 61.02 Definitions.

As used in this part, all terms not defined in these subparts shall have the meaning given them in the Act:

(a) "Act" means the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Public Law 91-604, 84 Stat. 1676).

(b) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(c) "Commenced" means that an owner or operator and a contractor to, or affiliate of, such owner or operator have entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(d) "Construction" means fabrication, erection, or installation of a stationary source.

(e) "Emission test" means measurement and analysis of emissions or other procedures used for the purpose of determining compliance with a standard for hazardous air pollutants.

(f) "Existing source" means any stationary source which is not a "new source".

(g) "Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any hazardous air pollutant emitted by such source or which results in the emission of any hazardous air pollutant not previously emitted, except that routine maintenance, repair, and replacement shall not be considered physical changes.

(h) "New source" means any stationary source, the construction or modification of which is commenced after the publication in the FEDERAL REGISTER of proposed national emission standards for hazardous air pollutants which will be applicable to such facility.

(i) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(j) "Start up of operation" means the beginning of routine operation of a stationary source.

(k) "Stationary source" means any building, structure, facility, or installation which emits or may emit any hazardous air pollutant.

§ 61.03 Abbreviations.

The abbreviations used in this part have the following meanings:

- cfm—Cubic feet per minute.
- ft²—Square feet.
- ft³—Cubic feet.
- *F—Degree Fahrenheit.
- in.—Inch.
- l—Liter.
- mg—Milligram.
- ml—Milliliter.
- M—Molar.
- nm—Nanometer.
- v/v—Volume per volume.
- w.g.—Water gauge.
- W/V—Weight per volume.
- µg/m³—Micrograms per cubic meter.
- %—Percent.

§ 61.04 Address.

All applications, requests, submissions and inquiries under this part shall be addressed to the Environmental Protection Agency, Office of Air Programs, Division of Compliance, Research Triangle Park, N.C. 27711.

§ 61.05 Prohibited activities.

(a) After the effective date of any emission standard prescribed under this part, no person shall construct or modify any stationary source subject to such standards without first obtaining written approval of the Administrator in accordance with this subpart, except under an exemption granted by the President under section 112(c) (2) of the Act.

(b) Ninety days after the effective date of any emission standard prescribed by this part, no person shall operate any stationary source in violation of such standard except under a waiver granted by the Administrator in accordance with this subpart or under any exemption granted by the President under section 112(c) (2) of the Act.

§ 61.06 Determination of construction or modification.

Upon written application therefor by an owner or operator, the Administrator will make a determination of whether actions taken or intended to be taken by such owner or operator constitute construction or modification or the commencement thereof within the meaning of this part.

§ 61.07 Application for approval for construction or modification.

(a) The owner or operator of any stationary source to which a standard prescribed under this part will be or is applicable shall, not less than 60 days prior to the date on which construction or modification is planned to commence, submit to the Administrator an application for approval of such construction or modification.

(b) A separate application shall be submitted for each stationary source.

(c) Each application shall include the following:

- (1) Name and address of the applicant.
- (2) Location or proposed location of the source.
- (3) Technical information describing the proposed nature, size, design, and method of operation of the source, including a description of any equipment to be used for measurement or control of emissions.

§ 61.08 Approval by Administrator.

(a) The Administrator will, within 60 days of receipt of application, notify the owner or operator of approval or disapproval of construction or modification.

(b) If the Administrator determines, based on information included in an application submitted under § 61.06 or other information that a stationary source for which an application pursuant to § 61.06 was submitted will, if properly operated not cause emissions in violation of an applicable standard, he will approve the construction or modification of such source.

(c) Prior to denying any request for approval of construction or modification pursuant to this section, the Administrator will notify the person making such request of the Administrator's intention to issue such, together with:

(1) Notice of the information and findings on which such intended denial is based, and

(2) Notice of opportunity for such person to present additional information or arguments, orally or in writing, to the Administrator prior to final action on such request.

(d) A final determination to deny any request for approval will be in writing and will set forth the specific grounds on which such denial is based.

(e) Neither the submission of an application for approval or the Administrator's granting of approval to construct or modify shall:

(1) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or of any applicable State or local requirement, or

(2) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

§ 61.09 Source reporting.

(a) The owner or operator of any existing stationary source to which a standard prescribed in this part is applicable shall, within 30 days after the effective date of such standard, provide the Administrator the following information:

(1) Name and address of the owner or operator.

(2) Identification and location of the source.

(3) Brief description of the nature, size, design, and method of operation including description of any equipment used for the measurement or control of emissions.

(b) Changes in the information provided under paragraphs (a) (1) and (3) of this section shall be provided to the Administrator within 90 days of such change.

§ 61.10 Request for waiver of compliance.

(a) The owner or operator of an existing stationary source unable to operate in compliance with a standard or standards prescribed in this part may request a waiver of compliance with any applicable emission standard under this part for a period not exceeding 2 years.

(b) Any such request shall be in writing and shall include:

(1) The owner's or operator's name and address.

(2) Identification and location of the source.

(3) Technical information describing the nature, size, design, and method of operation of the source, including a description of any equipment used for measurement or control of emissions.

(4) Description of the controls necessary for compliance with the applicable standard and plans for installation of such controls.

(5) A time schedule for obtaining, producing, or installing such controls. The schedule should include interim measures to achieve compliance.

(6) Description of the emission control steps or other measures which will be taken by the owner during the waiver

period to assure that the health of persons will be protected from imminent endangerment.

(c) As used in this subpart, "imminent endangerment" means an immediate risk of significant harm to the human body.

§ 61.11 Waiver.

(a) Based on the information provided in any request under § 61.09 and any other information, the Administrator may grant a waiver of compliance with the applicable emission standard for a period not exceeding 2 years.

(b) Any such waiver shall be in writing and shall:

(1) Identify the source covered.

(2) Specify the termination date of the waiver.

(3) Impose such reasonable conditions as the Administrator determines to be necessary to assure installation of the necessary controls within the waiver period and to assure protection of the health of persons from imminent endangerment during the waiver period.

(c) Prior to finally denying any request for a waiver pursuant to this section, the Administrator will notify the person making such request of the Administrator's intention to issue such denial, together with:

(1) Notice of the information and findings on which such intended denial is based, and

(2) Notice of opportunity for such person to present additional information or arguments, orally or in writing, to the Administrator prior to final action on such request.

(d) A final determination to deny any request for a waiver will be in writing and will set forth the specific grounds on which such denial is based.

§ 61.12 Emission tests and monitoring.

(a) Emission tests and monitoring shall be conducted and results reported in accordance with the test methods and reporting requirements set forth in this part.

(b) At the request of the Administrator, the owner or operator of a source subject to this part shall provide, or cause to be provided, emission testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to such source.

(2) Safe sampling platform(s).

(3) Safe access to sampling platform(s).

(4) Utilities for sampling and testing equipment.

§ 61.13 Availability of information.

(a) Emission data provided to, or otherwise obtained by, the Administrator in accordance with the provisions of this part shall be available to the public.

(b) Any records, reports, or information provided to, or otherwise obtained by, the Administrator in accordance with the provisions of this part shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that such records, reports, or information, or particular part thereof (other than emission data), if made public, would divulge methods or processes

entitled to protection as trade secrets of such person, the Administrator shall consider such records, reports, or information, or particular part thereof, confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such records, reports, or information, or particular part thereof, may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out the provisions of the Act or when relevant in any proceeding under the Act.

§ 61.14 State authority.

The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from:

(a) Adopting and enforcing any emission standard or limitation applicable to a stationary source provided that such emission standard or limitation is not less stringent than the national emission standard for hazardous air pollutants applicable to such source.

(b) Requiring the owner or operator of a stationary source to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of such source.

Subpart B—National Emission Standards for Asbestos

§ 61.20 Applicability.

The provisions of this subpart are applicable to the following sources of atmospheric asbestos:

- Asbestos mines;
- Asbestos mills;
- Buildings, structures, or facilities within which manufacturing or fabricating operations involving the use of commercial asbestos are carried on;
- Buildings or structures which have been or will be constructed or modified using asbestos insulating products;
- Roadway facilities which would be surfaced or resurfaced using asbestos tailings.

§ 61.21 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given in the Act and in Subpart A of this part.

(a) "Asbestos" means any of six naturally occurring, hydrated mineral silicates: Actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

(b) "Commercial asbestos" means any variety of asbestos which is produced by the concentration of asbestos ore.

(c) "Asbestos mine" means any facility engaged in the extraction of asbestos ore from the earth for the purpose of recovering commercial asbestos.

(d) "Air flow permeability" means the volumetric rate of air flow in cfm, produced by a pressure decrease of 0.5 in. w.g. across a new, clean filtering fabric, divided by the area of the fabric in ft². The test air stream is maintained at nominal atmospheric pressure and temperature.

(e) "Dry drilling" means the process of drilling holes in the earth in the absence of an applied liquid stream, mist-containing stream or air stream.

(f) "Air-swept drilling" means the process of drilling holes in the earth in the presence of a forced or induced air stream, but not a liquid stream or mist-containing stream.

(g) "Wet drilling" means the process of drilling holes in the earth in the presence of a forced liquid stream or mist-containing stream.

(h) "Particulate matter" means any material, other than uncombined water, which exists in a finely divided form as a liquid or solid.

(i) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

(j) "Visible emission" means, for the purpose of this subpart, any emission which is visually detectable.

(k) "Asbestos mill" means any facility engaged in the conversion of asbestos ore into commercial asbestos.

(l) "Manufacturing operation" means the processing of commercial asbestos or the production of any product containing commercial asbestos.

(m) "Fabricating" means the cutting, shaping, assembly, mixing or other altering of any manufactured product containing commercial asbestos.

§ 61.22 Emission standards for asbestos.

(a) Emissions to the atmosphere from asbestos mines shall be limited as follows:

(1) Emissions of particulate matter from air-swept or dry drilling operations shall not exceed those which would be emitted from an air-swept or dry drill, respectively, equipped with a fabric filter device for collection of dust generated from drilling, as described in § 61.23(a).

(2) Emissions of particulate matter from wet drilling operations shall not exceed those which would be emitted from a wet drill equipped with a cyclone gas cleaning device for collection of dust or mist generated from drilling as described in § 61.23(b).

(3) Visible emissions of particulate matter from any mine road surfaced with asbestos tailings are prohibited.

(b) Emissions to the atmosphere from asbestos mills shall be limited as follows:

(1) Visible emissions of particulate matter from asbestos ore dumps, open storage areas for asbestos-containing materials, external conveyors for asbestos-containing materials, or asbestos-containing tailings dumps are prohibited.

(2) Emissions of particulate matter from asbestos ore dryers shall not exceed those which would be emitted from asbestos ore dryers equipped with fabric filter installations as described in § 61.23(c).

(3) Emissions of particulate matter from air streams used to process asbestos ores or for exhausting particulate matter resulting from milling operations shall not exceed the amounts which would be emitted if such air streams were treated in fabric filter installations as described in § 61.23(d).

(4) Emissions of particulate matter from any milling operation which continuously generates visible emissions shall not exceed the amounts which would be emitted if such air streams

were treated in fabric filter installations as described in § 61.23(d).

(c) Emissions to the atmosphere from buildings, structures, or facilities within which any fabricating or manufacturing operation is carried on shall be limited as follows:

(1) Emissions, in direct forced gas streams, of particulate matter resulting from manufacturing or fabricating operations shall not exceed the amounts which would be emitted if such forced exhausts were treated in fabric filter installations as described in § 61.23(d) or, where approved by the Administrator because of special process conditions, in wet collectors as described in § 61.23(f).

(2) Emissions of particulate matter from any manufacturing or fabricating operation which continuously generates visible emissions shall not exceed the amount which would be emitted if the air containing such emissions were treated in fabric filter installations as described in § 61.23(d) or, where approved by the Administrator because of special process conditions, in wet collectors as described in § 61.23(f).

(3) Visible emissions of particulate matter from any manufacturing or fabricating operations in an area directly open to the atmosphere are prohibited.

(d) Visible emissions to the atmosphere of asbestos particulate matter resulting from the repair or demolition of any building or structure, other than a single-family dwelling are prohibited.

(e) The spraying of asbestos is limited as follows:

(1) The spraying of any product which contains asbestos on any portion of a building or structure is prohibited.

(2) The spraying of any product which contains asbestos in an area directly open to the atmosphere is prohibited.

(3) Emissions of particulate matter from spraying of any product which contains asbestos, if such spraying is not specifically prohibited in subparagraphs (1) or (2) of this paragraph, shall not exceed the amounts which would be emitted if the air containing such emissions were treated in fabric filter installations as described in § 61.23(d) or, where approved by the Administrator because of special process conditions, in wet collectors as described in § 61.23(f).

(f) The surfacing or resurfacing of any roadway with asbestos tailings is prohibited.

§ 61.23 Referenced equipment specifications.

(a) Fabric filters referred to in § 61.22(a)(1) are equipped with fabrics having airflow permeabilities not exceeding 40 cfm/ft².

(b) Cyclone collectors referred to in § 61.22(a)(2) are operated at not less than 7 in. w.g. pressure decrease as measured from the cyclone inlet to the outlet.

(c) Fabric filters referred to in § 61.22(b)(2) are equipped with fabrics having airflow permeabilities not exceeding 30 cfm/ft².

(d) Fabric filters referred to in § 61.22(b)(3) and (4), (c)(1) and (2), and (e)(3) are equipped with woven cotton fabrics having airflow permeabilities not

exceeding 20 cfm/ft³. No bypass devices are utilized, and provisions are made for emptying the collection hoppers without creating visible emissions of particulate matter.

(e) Fabric filter devices do not meet the descriptions in paragraphs (a), (c), and (d) of this section if any of the following conditions exist:

(1) Leakage of gases, containing particulate matter, from the control system prior to filtration.

(2) Torn or ruptured bags.

(3) Improperly positioned bags.

(4) Badly worn or threadbare bags.

(f) Wet collectors referred to in § 61.22(c) (1) and (2) and (e) (3) are of the high-energy venturi type operated with a minimum gas pressure decrease across the venturi throat of 40 inches w.g.

(g) Wet collectors do not meet the description in paragraph (f) of this section if any of the following conditions exist:

(1) Leakage of gases containing particulate matter from the control system prior to filtration.

(2) Operation at less than 40 inches w.g. pressure decrease.

(3) Operation at a scrubbing medium flow rate less than specified by the manufacturer for optimum collection efficiency.

§ 61.24 Substitute devices for the attainment of equivalent emission control.

(a) Compliance with any applicable standard of this subpart which refers to a control equipment specification in § 61.23 shall be demonstrated in accordance with this section if the referenced control equipment is not used.

(b) The owner or operator of the emission source shall make available to the Administrator sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of control which, in the judgment of the Administrator, is at least as stringent as that which would be achieved by using the equipment specified in the applicable standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is or will be operated on the emission source. Factors which will be considered include, but are not limited to, collection efficiency, reliability, and maintenance practices associated with proper operation of the substitute device.

(c) The owner or operator of the emission source shall submit to the Administrator performance data including, but not limited to, total mass collection efficiency of the substitute control device under actual operating conditions or conditions which are representative of those of the existing or planned operating conditions.

(d) In cases for which it is not reasonable, in the judgment of the Administrator, to require an owner or operator to submit performance data which are based upon actual operating conditions or conditions which are representative of

these, the owner or operator shall make available to the Administrator performance data on comparative tests, using suitable standard test aerosols, on the substitute device and the device specified by the applicable standard. The performance data shall include, but not be limited to, the total mass efficiencies of the substitute device and the device specified by the applicable standard.

(e) The total mass efficiency of any substitute device for those specified by § 61.23 (a), (c), or (d) shall not be less than 99.9 percent.

(f) The total mass efficiency of any substitute device for that specified by § 61.23(b) shall not be less than 85 percent.

(g) The total mass efficiency of any substitute device for that specified by § 61.23(f) shall not be less than 99.5 percent.

Subpart C—National Emission Standards for Beryllium

§ 61.30 Applicability.

The provisions of this subpart are applicable to the following sources:

Machine shops;
Ceramic plants;
Propellant plants;
Foundries;
Extraction plants;
Incinerators designed or modified for disposal of toxic substances.

§ 61.31 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them by the Act and in Subpart A of this part.

(a) "Beryllium" means the element beryllium excluding any associated elements.

(b) "Extraction plant" means a facility chemically processing beryllium ore to beryllium metal, alloy or oxide, or performing any of the intermediate steps in these processes.

(c) "Beryllium ore" means any material mined, hand cobbled, or gathered in any way specifically for its beryllium content.

(d) "Machine shop" means a facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, hot rolling, etching or other similar operations on beryllium metal, alloys or oxide.

(e) "Ceramic plant" means a manufacturing plant producing commercial ceramic stock forms, ware, or other items from beryllium oxide.

(f) "Foundry" means a facility engaged in the melting and/or casting of beryllium metal or alloy.

(g) "Propellant" means a fuel and oxidizer physically or chemically combined which undergoes combustion to provide rocket propulsion.

(h) "Beryllium alloy" means any metal to which beryllium is deliberately added and contains more than 0.1 percent beryllium by weight.

(i) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant that contains beryllium.

(j) "Total emissions" means the emissions of beryllium in any form or any compound, from all points within a stationary source including emissions from the disposal of beryllium contaminated waste.

§ 61.32 Emission standards for beryllium.

A stationary source subject to this subpart shall, in accordance with the provisions of § 61.38, elect to comply with either paragraph (a) or (b) of this section.

(a) Total emissions to the atmosphere from sources subject to this subpart shall not exceed 10 grams of beryllium in a 24-hour day as measured in accordance with Method 3 in the appendix.

(b) Total emissions to the atmosphere from sources subject to this subpart shall not exceed amounts which result in an outplant concentration of 0.01 micrograms of beryllium per cubic meter of air averaged over a 30-day period, measured in accordance with a sampling network approved by the Administrator.

§ 61.33 Test methods and procedures—stack sampling.

Owners or operators electing to comply with § 61.32(a) shall comply with the requirements of this section and § 61.34.

(a) All beryllium emissions shall be transported through stacks or ducts which permit testing by the methods set forth in Method 3 in the appendix to this part.

(b) All tests shall be conducted to indicate the weight emitted per 24-hour day.

(c) Method 3 set forth in the appendix to this part shall be used as follows:

(1) The minimum sampling time shall be 2 hours, and the minimum sampling volume shall be 75 ft³ as measured by the gas meter. The total gas volume sampled at stack conditions shall be calculated.

(2) The velocity of the effluents shall be determined at stack conditions.

(3) For each repetition, beryllium emission expressed in grams per day shall be determined in accordance with Method 3.

§ 61.34 Periodic stack sampling and reports.

(a) All existing sources shall be tested within 3 months of the effective date of these regulations and at least once every 3 months thereafter.

(b) All sources constructed after the effective date of these regulations shall be tested immediately upon start-up of operations and at least once every 3 months thereafter.

(c) Samples shall be taken over such a period or periods as are necessary to accurately determine the maximum emissions which would occur in a 24-hour period. In the case of cyclic operations, sufficient tests shall be made so as to allow accurate determination or calculation of the emissions which will occur over the duration of the cycle.

(d) All samples shall be analyzed, and beryllium emissions shall be calculated within 5 working days after collection of samples. A total emission exceeding the

standard shall be reported to the Administrator immediately following determination of such emission.

(e) A written test report shall be made as soon as the calculations are completed and shall be retained available for inspection by the Administrator for a period of at least 2 years after the date of such report.

(f) Test reports shall include, as a minimum, detailed information on testing and test calculations, records of operations, unusual occurrences that might affect emissions, and the calculations correlating operations with test results sufficient to show maximum 24-hour beryllium emissions.

§ 61.35 Waiver of periodic stack sampling and report requirements.

(a) After performance of initial emission tests, the requirements of § 61.34 may be waived upon written application to the Administrator if in his judgment the installed control systems and the operating procedures are deemed adequate to insure the standard will be met. This waiver in no way prohibits the Administrator from requiring one or more emission tests.

(b) Detailed information on necessary requirements for waiver qualification may be obtained by submitting a written request to the Environmental Protection Agency, Office of Air Programs, Division of Compliance, Research Triangle Park, N.C. 27711.

§ 61.36 Test methods and procedures—air sampling.

Sources electing to comply with § 61.32 (b) shall comply with the requirements of this section and § 61.37.

(a) Air sampling sites shall be located in such a manner as is calculated to detect maximum ambient air concentrations of beryllium near ground level.

(b) Ambient air concentrations of beryllium shall be determined in accordance with a method approved by the Administrator.

§ 61.37 Monitoring and reports—air sampling.

(a) Ambient air shall be continuously monitored at all monitoring sites except for a reasonable time allowance for instrument maintenance and calibration, for changing filters, or for replacement of equipment needing major repair.

(b) Filters shall be changed at least every 4 days and shall be analyzed within 24 hours after collection.

(c) A written test report shall be made and shall be retained, available for inspection by the Administrator, for a period of at least 2 years after the date of such report.

(d) Test reports shall include, as a minimum, detailed information on testing and test calculations, records of operations, and unusual occurrences that might affect emissions.

(e) A test result on any sample of more than 0.03 $\mu\text{g}/\text{m}^3$ or the determination of an average 30 day concentration exceeding 0.01 $\mu\text{g}/\text{m}^3$ shall immediately be reported to the Administrator.

§ 61.38 Election.

(a) Owners or operators electing to comply with the standard in § 61.32(b) shall so notify the Administrator within 30 days of the effective date of these standards. A report setting forth the information listed below shall be submitted to the Administrator for approval within 45 days of such effective date.

The information shall include:

- (1) Description of sampling method.
- (2) Method of sample analysis.
- (3) Method and frequency of calibration.
- (4) Averaging technique for determining 30-day average concentration.
- (5) Identity and number of sampling sites. Whether the sites are existing or proposed shall be indicated.
- (6) Sampling locations (address, coordinates, or distance and heading from plant).
- (7) Ground elevation and height above ground of sampling inlet.
- (8) Sampling location relative to obstructions.
- (9) Meteorological and existing air sampling data used to determine relative distribution of ambient air concentrations surrounding the plant.
- (10) Plant and sampling area plots showing emission points and sampling sites. Topographic features significantly affecting dispersion shall be indicated.
- (11) Plant building heights.
- (12) Stack parameters necessary for estimating dispersion (stack height, inside diameter, exit gas temperature, and exit velocity or flow rate).

If the election is not made, the report not submitted, or the Administrator disapproves any portion of the air sampling network, compliance with the standard will be determined under § 61.32(a).

(b) Prior to disapproving any report under paragraph (a) of this section, the Administrator will consult with representatives of the source for which the report is submitted.

(c) If the Administrator at any time has reason to believe an approved network may not be sampling at points of maximum concentration, he may request changes in, or expansion of, the sampling network.

Subpart D—National Emission Standards for Beryllium-Rocket Motor Firing

§ 61.40 Applicability.

The provisions of this subpart are applicable to rocket motor test sites.

§ 61.41 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them by the Act and in Subpart A of this part.

(a) "Rocket motor test site" means any building, structure, or installation where the static test firing of a rocket motor is conducted.

(b) "Beryllium propellant" means any solid propellant incorporating beryllium particles as a fuel.

§ 61.42 Beryllium emission standard.

(a) Emissions to the atmosphere from sources subject to this subpart shall not cause atmospheric concentrations of beryllium to exceed 75 microgram minutes per cubic meter of air within 10 to 60 minutes, accumulated during any 2 consecutive weeks, measured anywhere beyond the property line of such source or at the nearest place of human habitation.

(b) If combustion products of motors containing beryllium propellant are fired into a closed tank, emissions from such tank shall not exceed 2 grams per hour and a maximum of 10 grams per day.

§ 61.43 Test methods and procedures—air sampling.

(a) Compliance with the standard in § 61.42(a) shall be determined in accordance with this section and § 61.46.

(b) Air sampling instruments and sites shall be selected to accurately reflect the effect of rocket motor firing on ambient air concentrations of beryllium near ground level. Such numbers and sites shall be approved by the Administrator.

(c) Ambient air concentrations of beryllium shall be determined according to a method approved by the Administrator.

§ 61.44 Test methods and procedures—stack sampling.

(a) Compliance with the standard in § 61.42(b) shall be determined in accordance with this section and § 61.46.

(b) Test methods and procedures for stack sampling in § 61.33 shall apply, with the exclusion of requirements in § 61.34.

§ 61.45 Monitoring and reports for air sampling.

(a) Ambient air concentrations shall be measured during and after firing of rocket motors and in such a manner that the effect of these emissions can be compared with the standard. Such sampling techniques shall be approved by the Administrator.

(b) Samples shall be analyzed and results shall be calculated before any subsequent rocket motor firing.

(c) A written test report shall be made and shall be retained for inspection by the Administrator for a period of at least 2 years after the date of the report.

(d) Test reports shall include, as a minimum, detailed information on testing and test calculations, a record of the rocket firing, and unusual occurrences that might affect emissions.

(e) A test result exceeding the standard shall be reported to the Administrator on the next business day following determination of such test result.

§ 61.46 Stack sampling and reports.

(a) The provisions of this section are applicable to monitoring and reporting beryllium emissions for determining compliance with the standard of § 61.42(b).

(b) Each release of combustion products to the atmosphere shall be monitored in such a manner as to show the maximum total emission during a 24-hour period.

(c) Samples shall be analyzed, and results shall be calculated before any subsequent rocket motor is fired.

(d) A written test report shall be made and shall be retained for inspection by the Administrator for a period of at least 2 years after the date of such report.

(e) Test reports shall include, as a minimum, detailed information on testing and test calculations, a record of the rocket firing, and unusual occurrences that might affect emissions.

(f) A test result exceeding the standard will be reported to the Administrator immediately following determination of such test result.

Subpart E—National Emission Standard for Mercury

§ 61.50 Applicability.

The provisions of this subpart are applicable to facilities processing ore to recover mercury and facilities using mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide.

§ 61.51 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

(a) "Total mercury" means the element mercury, excluding any associated elements, and includes mercury in particulates, vapors, aerosols, and compounds.

(b) "Mercury ore" means a mineral mined specifically for its mercury content.

(c) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

(d) "Mercury chlor-alkali cell" means any device utilizing mercury as a cathode in an electrolytic process to produce chlorine gas and alkali metal hydroxide.

(e) "Denuder" means a horizontal or vertical container which is part of a mercury chlor-alkali cell and in which water and alkali-metal amalgam is converted to alkali metal hydroxide, metallic mercury and hydrogen gas in a short-circuited, electrolytic reaction.

(f) "Hydrogen gas stream" means a hydrogen stream formed in the chlor-alkali cell denuder.

(g) "End box" means a container located on each end of a chlor-alkali cell which functions as a collection point for mercury, amalgam, and brine.

(h) "Cell room" means a structure housing one or more mercury electrolytic chlor-alkali cells.

§ 61.52 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lower case:

Hg—mercury.

§ 61.53 Emission standard for mercury.

Emissions to the atmosphere from sources subject to this subpart shall not exceed 2,300 grams of mercury per 24-hour period (5.0 pounds per 24-hour period), as measured in accordance with techniques set forth in the appendix.

§ 61.54 Test methods and procedures—mercury ore processing facility.

All facilities processing mercury ore shall be tested by Method 1 in the appendix. The minimum sampling time shall be 2 hours, and the minimum sampling volume shall be 50 ft³ as measured by the gas meter. For each repetition, mercury emission expressed in pounds per day shall be determined in accordance with Method 1.

§ 61.55 Periodic emission testing—mercury ore processing facility.

(a) All existing sources shall be tested within 3 months of the effective date of these regulations and at least once every 3 months thereafter.

(b) All sources constructed after the effective date of these regulations shall be tested immediately upon start-up of operation and at least once every 3 months thereafter.

(c) Samples shall be taken over such a period or periods as are necessary to accurately determine the maximum emissions which would occur in a 24-hour period. In the case of cyclic operations, sufficient tests shall be made so as to allow accurate determination or calculation of the emissions which will occur over the duration of the cycle.

(d) All samples shall be analyzed, and mercury emissions shall be calculated within 5 working days after collection of samples. A total emission exceeding the standard shall be reported to the Administrator immediately following determination of such emission.

§ 61.56 Record keeping—mercury ore processing facility.

Written records of information obtained in § 61.55 as well as other operating data which will allow determination or calculation of mercury emissions for a 24-hour period shall be established and made available for inspection by the Administrator. Such records shall be maintained for a period of at least two years from the date of the record.

§ 61.57 Waiver of emission test requirements—mercury ore processing facility.

(a) After performance of initial emission tests, the requirements of § 61.55 may be waived upon written application to the Administrator if in his judgment the installed control system and the operating techniques are deemed adequate to ensure the standard will be met. This waiver in no way prohibits the Administrator from requiring one or more emission tests.

(b) Detailed information on necessary requirements for waiver qualifications may be obtained by submitting a written request to the Environmental Protection Agency, Office of Air Programs, Division of Compliance, Research Triangle Park, N.C. 27711.

§ 61.58 Test methods and procedures—mercury cell chlor-alkali plant.

(a) All facilities operating mercury cell chlor-alkali plants shall test their process gases, which are hydrogen from the de-

nuders and vent gases from the end boxes of the chlorine cells, for mercury particulates and vapors using Method 1 in the appendix. The minimum sampling time shall be 2 hours, and the minimum sampling volume shall be 50 ft³ as measured by the gas meter. For each repetition, mercury emission expressed in pounds per day shall be determined in accordance with Method 1.

(b) These facilities shall test their mercury emissions in the ventilation effluents from the cell room using Method 2 in the appendix. The average emissions of mercury as vapor from long, narrow ventilation ducts, square or rectangular openings or fans shall be determined as given below using Method 2.

(1) Long, narrow ventilation ducts of the cell room should be sampled at six equally spaced locations. Use the same sample train for all six samples which are taken consecutively. The samples should be extracted at a rate proportional to the gas velocity at each point. The minimum sampling time shall be 1½ hours, and the minimum sampling volume shall be 3.0 ft³ as measured by the gas meter. The sample shall be collected in a manner described in Method 2.

(2) Square or rectangular openings with an area greater than 16 ft² shall be split into eight sections. A sample from the center of each section shall be taken as described in subparagraph (1) of this paragraph. Openings with less than 16 ft² shall be split into four sections and a sample taken from the center of each section.

(3) Velocities of effluents out of ventilators shall be measured with a vane anemometer.

(4) Fans used for ventilation of cell room shall be sampled. Fans with uniform discharges out the fan housing shall be sampled in the center of air flow. Volume shall be determined from the fan curve. Sample at a rate proportional to the average gas flow rate. The minimum sample time shall be 1½ hours, and the minimum sampling volume shall be 3.0 ft³ as measured by the gas meter. Fans with gas discharges out of the periphery of the fan housing shall be sampled in the center of the gas flow in a manner similar to that described above.

(5) Total mercury emitted per 24-hour period from the cell room shall be the sum of emissions from all ventilators.

§ 61.59 Periodic emission testing—mercury cell chlor-alkali plant.

(a) All existing sources shall be tested within 3 months of the effective date of these regulations and at least once every 3 months thereafter.

(b) All sources constructed after the effective date of these regulations shall be tested immediately upon start-up of operation and at least once every 3 months thereafter.

(c) Samples shall be taken over such a period or periods as are necessary to accurately determine the maximum emissions which would occur in a 24-hour period. In the case of cyclic operations, sufficient tests shall be made so as to allow

accurate determination of the emissions which will occur over the duration of the cycle.

(d) All samples shall be analyzed and mercury emissions shall be calculated within 5 working days after collection of samples. A total emission exceeding the standard shall be reported to the Administrator immediately following determination of such emission.

§ 61.60 Record keeping—mercury cell chlor-alkali plant.

Written records of information obtained in § 61.59 as well as other operating data which will allow determination or calculation of mercury emissions for a 24-hour period shall be established and made available for inspection by the Administrator. Such records shall be maintained for a period of at least 2 years from the date of the record.

§ 61.61 Waiver of emission test requirements—mercury cell chlor-alkali facility.

(a) After performance of initial emission tests, the requirements of § 61.59 may be waived upon written application to the Administrator if in his judgment the installed control system and the operating techniques are deemed adequate to ensure the standard will be met. This waiver in no way prohibits the Adminis-

trator from requiring one or more emission tests.

(b) Detailed information on necessary requirements for waiver qualifications may be obtained by submitting a written request to the Environmental Protection Agency, Office of Air Programs, Division of Compliance, Research Triangle Park, N.C. 27711.

METHOD 1—DETERMINATION OF MERCURY IN PARTICULATE AND GASEOUS EMISSIONS FROM STATIONARY SOURCES

1. Principle and applicability.

1.1 Principle. Particulate and gaseous emissions are isokinetically sampled from the source and collected in acidic iodine monochloride solution. The mercury collected (in the mercuric state) is reduced to elemental mercury in basic solution by hydroxylamine sulfate. Mercury is vaporized from the solution using a zero grade air stream and analyzed using an atomic absorption spectrophotometer in the flameless mode.

1.2 Applicability. This method is applicable for the determination of mercury in particulate and gaseous emissions from stationary sources only when specified by the test procedures for determining compliance with the Clean Air Act.

2. Apparatus.

2.1 Sampling train. The design specifications of the particulate sampling train used by EPA (Figure 1-1) are described in APTD-0581. Commercial models of this train are available.

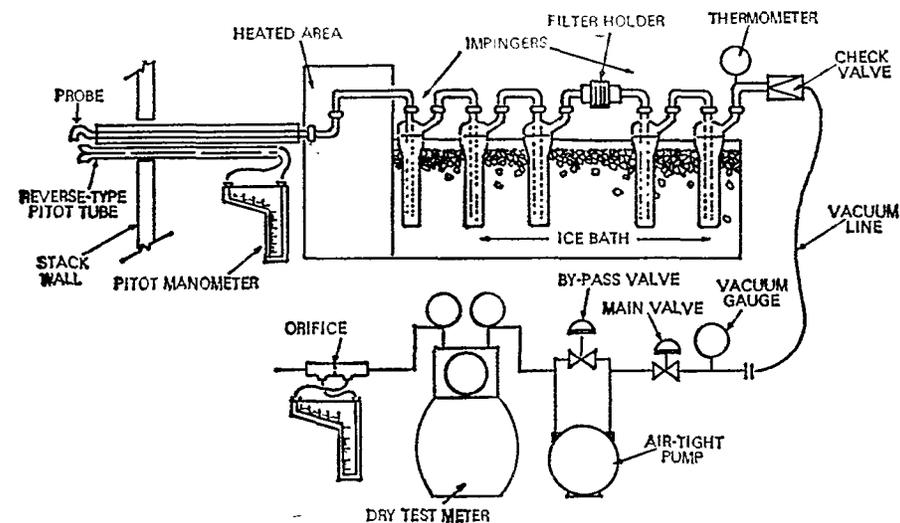


Figure 1-1. Particulate-sampling train.

2.1.1 Nozzle—Stainless steel (316) with sharp, tapered leading edge.

2.1.2 Probe—Pyrex¹ glass with a heating system capable of maintaining a minimum gas temperature of 250° F at the exit end during sampling to prevent condensation from occurring. Probes for sampling gas streams at temperatures in excess of 600° F and where length limitations are encountered are subject to approval by the Administrator.

¹ Disclaimer—Mention of trade names or commercial products does not constitute endorsement by the Environmental Protection Agency.

2.1.3 Pitot tube—Type S, or equivalent, attached to probe to monitor stack gas velocity.

2.1.4 Filter Holder—Pyrex¹ glass.

2.1.5 Impingers—Five impingers connected in series with glass ball joint fittings. The first, third, fourth and fifth are of the Greenburg-Smith design, modified by replacing the tip with a 1/2-inch ID glass tube extending to 1/2 inch from the bottom of the flask. The second impinger is of the Greenburg-Smith design with the standard tip.

2.1.6 Metering system—Vacuum gauge, leak-free pump, thermometers capable of measuring temperature to within 5° F, dry gas meter with 2% accuracy, and related equipment, or equivalent, as required to

maintain an isokinetic sampling rate and to determine sample volume.

2.1.7 Barometer—To measure atmospheric pressure to ±0.1 inches Hg.

2.2 Measurement of stack conditions (stack pressure, temperature, moisture and velocity).

2.2.1 Pitot tube—Type S (Figure 1-2), or equivalent, with a coefficient within ±5% over the working range.

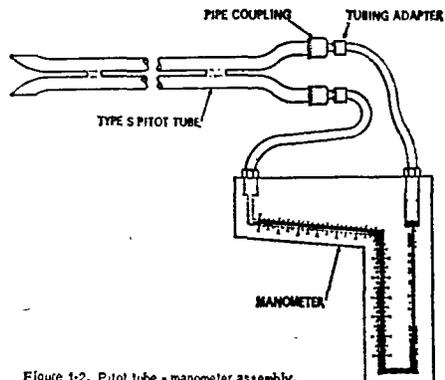


Figure 1-2. Pitot tube - manometer assembly.

2.2.2 Differential pressure gauge—Inclined manometer, or equivalent, to measure velocity head to within 10% of the minimum value.

2.2.3 Temperature gauge—Thermocouple, or equivalent, attached to the pitot tube to measure stack temperature to within 1.5% of the minimum absolute stack temperature.

2.2.4 Pressure gauge—Mercury-filled U-tube manometer, or equivalent, to measure stack pressure to within 0.1 in. Hg.

2.2.5 Barometer—To measure atmospheric pressure to within 0.1 in. Hg.

2.2.6 Thermometers—Wet and dry bulb.

2.3 Sample Recovery.

2.3.1 Leakless glass sample bottles—(one) 500 ml. and (two) 100 ml. with Teflon[®] lined tops.

2.3.2 Graduated cylinder—250 ml.

2.3.3 Plastic jar—one, approximately 300 ml.

2.4 Analysis.

2.4.1 Atomic absorption spectrophotometer (A.A.S.)—Perkin Elmer Model 303, or equivalent, with a cylindrical gas cell (approximately 1.5 in. O.D. x 7 in.) with quartz glass windows.

2.4.2 Analysis tube—100 ml., glass, bulb type, "Mae West", with ground glass fittings.

2.4.3 Light source—Mercury vapor lamp

2.4.4 Recorder—(one) to match output of atomic absorption spectrophotometer.

2.4.5 Trip balance—300 g. capacity, to measure to ±0.05 g.

3. Reagents.

3.1 Stock Reagent.

3.1.1 Potassium Iodide (KI) 25% W/V (weight/volume)—Dissolve 250 grams of KI in distilled water and dilute to 1 liter.

3.1.2 Hydrochloric acid (HCl)—concentrated.

3.1.3 Potassium iodate—reagent grade.

3.1.4 Distilled water.

3.1.5 Iodine monochloride (ICl)—1.0M— to 800 ml. of 25% potassium iodide solution (reagent 3.1.1), add 800 ml. of concentrated hydrochloric acid. Cool to room temperature. With vigorous stirring, slowly add 135 grams of potassium iodate and continue stirring until all free iodine has dissolved to give a clear orange-red solution. Cool to room temperature and dilute to 1,800 ml.

3.2 Sampling.

3.2.1 Filter—Glass fiber, Mine Safety Appliances 1106 BH[®], or equivalent, numbered for identification and preweighed.

3.2.2 Absorbing solution, iodine monochloride (ICl) 0.1M—Dilute 100 ml. of the 1.0M ICl stock solution (reagent 3.1.5) to 1 liter with distilled water. This reagent is stable for at least 2 months.

3.2.3 Wash acid—1:1 v/v nitric acid—water.

3.2.4 Distilled and deionized water.

3.2.5 Silica gel—indicating type, 6 to 16 mesh, dried at 175° C (350° F) for 2 hours.

3.2.6 Soda lime—6 to 16 mesh.

3.3 Analysis.

3.3.1 Sodium Hydroxide (NaOH) 10 N.

3.3.2 Reducing agent, 12% W/V hydroxylamine sulfate (NH₂OH·1/2 H₂SO₄), 12% W/V sodium chloride (NaCl)—to 60 ml. of distilled water, add 12 grams of hydroxylamine sulfate and 12 grams of sodium chloride. Dilute to 100 ml. This quantity is sufficient for 20 analyses.

3.3.3 Aeration gas—zero grade air.

3.4 Mercury Standard Solutions.

3.4.1 Stock solution—Add 0.1354 grams of mercuric chloride (HgCl₂) to 80 ml. of 0.3N hydrochloric acid (HCl). After the mercuric chloride has dissolved, add 0.3N HCl to adjust the volume of 100 ml. One ml. of this solution is equivalent to 1 mg. of free mercury.

3.4.2 Standard solutions—Prepare calibration solutions of 0.1 µg/ml, 0.4 µg/ml, 0.6 µg/ml, 1.0 µg/ml, and 2.0 µg/ml, by serially diluting the stock solution (3.4.1) with 0.3N HCl. Store in glass-stoppered, glass bottles. These solutions are stable for at least 2 months.

4. Procedure.

4.1 Selection of a sampling site and minimum number of traverse points.

4.1.1 Select a sampling site that is at least eight stack or duct diameters downstream and two diameters upstream from any flow disturbance such as a bend, expansion, contraction, or visible flame. For rectangular cross section, determine an equivalent diameter from the following equation:

$$\text{equivalent diameter} = 2 \left(\frac{(\text{length})(\text{width})}{\text{length} + \text{width}} \right) \quad \text{eq. 1-1}$$

4.1.2 When the above sampling site criteria can be met, the minimum number of traverse points is four (4) for stacks 1 foot in diameter or less, eight (8) for stacks above 1 foot but 2 feet in diameter or less, and twelve (12) for stacks larger than 2 feet.

4.1.3 Some sampling situations render the above sampling site criteria impractical. When this is the case, choose a convenient sampling location and use Figure 1-3 to determine the minimum number of traverse points.

4.1.4 To use Figure 1-3 first measure the distance from the chosen sampling location to the nearest upstream and downstream disturbances. Determine the corresponding number of traverse points for each distance from Figure 1-3. Select the higher of the two numbers of traverse points, or a greater value, such that for circular stacks the number is a multiple of four, and for rectangular stacks the number follows the criteria of section 4.2.2.

4.1.5 Under no conditions should a sampling point be selected within 1 inch of the stack wall.

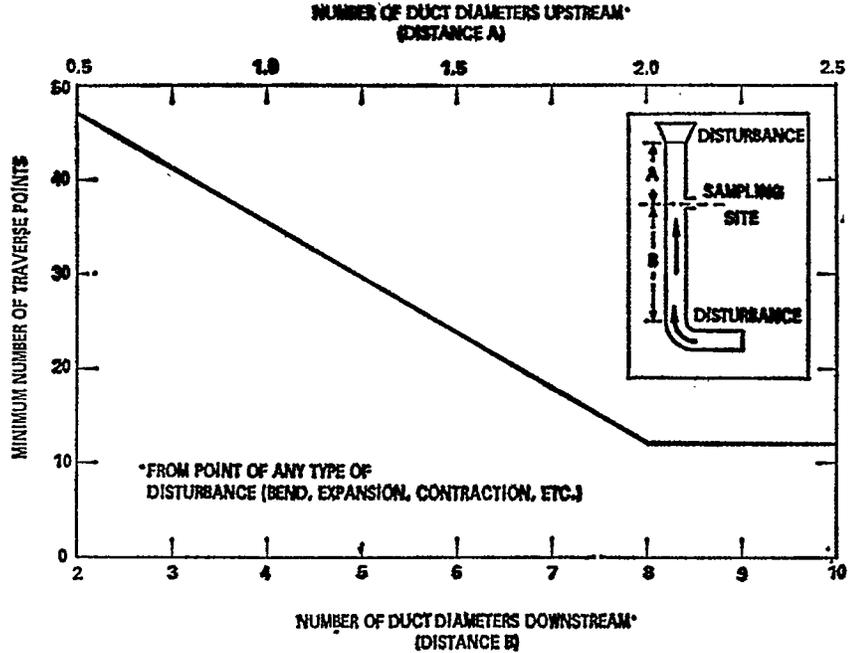


Figure 1-3. Minimum number of traverse points.

4.2 Cross-sectional layout and location of traverse points.

4.2.1 For circular stacks locate the traverse points on at least two diameters according to Figure 1-4 and Table 1-1. The traverse axes shall divide the stack cross section into equal parts.

4.2.2 For rectangular stacks divide the cross section into as many equal rectangular areas as traverse points, such that the ratio of the length to the width of the elemental areas is between one and two. Locate the traverse points at the centroid of each equal area according to Figure 1-5.

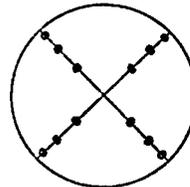


Figure 1-4. Cross section of circular stack showing location of traverse points on perpendicular diameters.

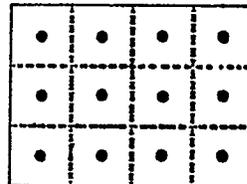


Figure 1-5. Cross section of rectangular stack divided into 12 equal areas, with traverse points at centroid of each area.

6.8.1 Acceptable results. The following range sets the limit on acceptable isokinetic sampling results:

If $90\% \leq I \leq 110\%$, the results are acceptable; otherwise, reject the results and repeat the test.

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METHOD 2—DETERMINATION OF MERCURY IN GASEOUS EMISSIONS FROM STATIONARY SOURCES

1. Principle and applicability.

1.1 Principle. Gaseous samples are collected in impingers containing acidic iodine monochloride solutions. The collected mercury (in the mercuric state) is reduced to elemental mercury in basic solution by hydroxylamine sulfate. Mercury is vaporized from the solution using zero grade air stream and analyzed using an atomic absorption spectrophotometer in the flameless mode.

1.2 Applicability. This method is applicable for the determination of mercury in gaseous emissions from stationary sources only when specified by the test procedures for determining compliance with the Clean Air Act.

2. Apparatus.

2.1 Sampling. See Figure 2-1. (Note: All surfaces that come into contact with the iodine monochloride solution must be glass.)

2.1.1 Probe—Pyrex* glass, approximately 5-6 mm. I.D.

2.1.2 Impingers—Four midget type.

2.1.3 Drying tube—One, packed with silica gel.

2.1.4 Acid absorbing tube—One, packed with soda lime.

2.1.5 Vacuum pump—Leakless, with capacity to reduce pressure to 3 in. Hg. abs.

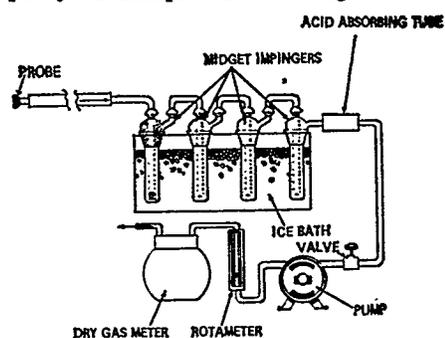


Figure 2-1. Hg sampling train.

2.1.6 Rate meter—Rotameter, or equivalent, to measure 0-10 scfm. (standard cubic feet per hour) flow range.

2.1.7 Dry gas meter—With capacity to measure gas sample volume to $\pm 1\%$.

2.2 Measurement of exit gas conditions (temperature, velocity, and pressure).

2.2.1 Vane anemometer, commercial.

2.2.2 Temperature gauge, to measure exit gas temperature to within 1.5% of minimum absolute exit gas temperature.

2.2.3 Barometer, to measure atmospheric pressure to within 0.1 in. Hg.

2.3 Sample recovery.

2.3.1 Leakless glass sample storage bottles—Two (2), approximately 200 ml. with Teflon lined tops.

2.3.2 Graduated cylinder—100 ml.

2.4 Analysis.

2.4.1 Atomic absorption spectrophotometer (A.A.S.), Perkin-Elmer Model 303, or equivalent, with a cylindrical gas cell (approximately 1.5 in. O. D. x 7 in.) with quartz glass windows.

2.4.2 Analysis tube—100 ml., glass, bulb type, "Mae West," with ground glass fittings.

2.4.3 Light source—Mercury vapor lamp.

2.4.4 Recorder—(One) to match output of atomic absorption spectrophotometer.

3. Reagents.

3.1 Stock reagent.

3.1.1 Potassium iodide (KI) 25% W/V (weight/volume)—Dissolve 250 grams of KI in distilled water and dilute to 1 liter.

3.1.2 Hydrochloric acid (HCl)—Concentrated.

3.1.3 Potassium iodate—Reagent grade.

3.1.4 Distilled water.

3.1.5 Iodine monochloride (ICI) 1.0M—To 800 ml of 25% potassium iodide solution (reagent 3.1.1), add 800 ml of concentrated hydrochloric acid. Cool to room temperature. With vigorous stirring, slowly add 135 grams of potassium iodate and continue stirring until all free iodine has dissolved to give a clear orange-red solution. Cool to room temperature and dilute to 1,800 ml.

3.2 Sampling.

3.2.1 Absorbing solution, iodine monochloride (ICI) 0.1M—Dilute 100 ml of the 1.0M ICI stock solution (reagent 3.1.5) to 1 liter with distilled water. This reagent is stable for at least 2 months.

3.2.2 Wash acid—1:1 v/v nitric acid—water.

3.2.3 Distilled and deionized water.

3.3 Analysis.

3.3.1 Sodium hydroxide (NaOH) 10 N.

3.3.2 Reducing agent, 12% W/V hydroxylamine sulfate ($\text{NH}_2\text{OH} \cdot 1/2 \text{H}_2\text{SO}_4$) 12% W/V sodium chloride (NaCl)—To 60 ml of distilled water, add 12 grams of hydroxylamine sulfate and 12 grams of sodium chloride. Dilute to 100 ml. This quantity is sufficient for 20 analyses.

3.3.3 Aeration gas—Zero grade air.

3.4 Mercury standard solutions.

3.4.1 Stock solution—Add 0.1354 grams of mercuric chloride (HgCl_2) to 80 ml of 0.3N hydrochloric acid (HCl). After the mercuric chloride has dissolved, add 0.3N HCl to adjust the volume to 100 ml. One ml of this solution is equivalent to 1 mg of free mercury.

3.4.2 Standard solutions—Prepare calibration solutions of 0.1 $\mu\text{g}/\text{ml}$, 0.4 $\mu\text{g}/\text{ml}$, 0.6 $\mu\text{g}/\text{ml}$, 1.0 $\mu\text{g}/\text{ml}$, and 2.0 $\mu\text{g}/\text{ml}$ by serially diluting the stock solution (3.4.1) with 0.3N HCl. Store in glass-stoppered, glass bottles. These solutions are stable for at least 2 months.

4. Procedures.

4.1 Selection of sampling sites.

4.1.1 Long, narrow ventilation ducts of the cell room shall be sampled at six equally spaced locations.

4.1.2 Square or rectangular openings with an area greater than 16 ft² shall be split into eight equal sections. A sample from the center of each section shall be taken as described in section 4.1.1. Openings with less than 16 ft² shall be split into four sections and a sample taken from the center of each section.

4.1.3 Fans with uniform discharges out the fan housing shall be sampled in the center of air flow. Fans with gas discharges out of the periphery of the fan housing shall be sampled in the center of the gas flow.

4.2 Measurement of exit gas conditions.

4.2.1 Measure the exit gas temperature at each sample site. Determine the average temperature.

4.2.2 Measure the barometric pressure at the time of the test.

4.2.3 Velocities of effluents out of ventilators shall be measured with a vane anemometer.

4.2.4 Fan volumes shall be determined from the fan curve.

4.3 Preparation of sampling train.

4.3.1 Prior to assembly, clean all glassware (probe, impingers and connectors) by rinsing with the acid wash solution (reagent 3.2.2), tap water, and finally distilled water. Place 15 ml of 0.1M iodine monochloride in each of the first three midget impingers. The fourth impinger is filled with silica gel. Assemble the sampling train as shown in Figure 2-1.

4.3.2 Place a plug in the probe inlet and leak check the sampling train by applying a vacuum of 10 in. Hg. to the system. If the leakage, as observed on the dry gas meter, exceeds 1% of the desired sampling rate, locate and correct the leaks. Release the vacuum on the train by carefully removing the plug from the probe inlet, then turn off the pump. Place crushed ice around the impingers.

4.4 Sample collection.

4.4.1 Use the same sample train for all samples which are taken consecutively. The samples should be extracted at a rate proportional to the gas velocity at each point. The minimum sampling time and sample volume shall be, respectively, 1½ hours and 3.0 ft³ as measured by the gas meter.

4.4.2 Position the probe tip at the desired sampling point; record the initial reading on the dry gas meter, and additional data required. Start the pump. Establish the initial sampling rate at 2 scfm. Maintain constant flow rate and maintain the ice level in the impinger bath throughout the run. At the end of the run, turn off the pump and record the final reading on the dry gas meter. Place a plug in the probe inlet, and remove sampling train to sample recovery area.

4.5 Sample recovery. (All glass storage bottles must be precleaned as in section 4.3.1).

* Trade name.

4.5.1 This operation should be performed in an area free of possible mercury contamination. Disconnect the probe from the impinger train. Place the contents (measured to ±1ml) of the first three impingers into storage bottle No. 1. Rinse the probe and all glassware up to and including the third impinger with 50 ml of 0.1M ICI. Place this rinse portion in storage bottle No. 1. For a blank, place 80 ml of the 0.1M ICI in sample jar No. 2. Seal and secure both storage bottles for shipment. If an additional test is desired, the glassware can be rinsed with distilled water and reassembled. However, if the glassware is to be out of use more than 2 days, the initial acid wash procedure must be followed.

4.6 Analysis.

4.6.1 Apparatus preparation—Clean all glassware according to the procedure of section 4.3.1. Turn on the A.A.S. mercury lamp and allow to warm up for 30 minutes prior to analysis. Adjust the instrument settings according to the instrument manual, using an absorption wavelength of 253.7 nm.

4.6.2 Analysis preparation—Adjust the air delivery pressure and the needle valve to obtain an air flow of 1.3 l/min. The analysis tube should be bypassed at this time. Purge the equipment for 2 minutes. Prepare a sample of a mercury standard solution (3.4.2) according to section 4.6.3. Place the analysis tube in the line, and continue aerating until a maximum peak height is reached on the recorder. Remove the analysis tube, flush the lines and rinse the analysis tube with distilled water. Repeat with another sample of the same standard solution. This purge and analyses cycle is to be repeated until peak heights are reproducible.

4.6.3 Sample preparation—Just prior to analysis, transfer a sample aliquot of up to 50 ml to the cleaned 100 ml analysis tube. Adjust the volume to 50 ml with 0.1M ICI if required. Add 5 ml of 10N NaOH, cap tube with a clean glass stopper and shake vigorously. Add 5 ml of the reducing agent (reagent 3.3.2), cap tube with a clean glass stopper and shake vigorously and immediately place in sample line.

4.6.4 Mercury determination—After the system has been stabilized, prepare samples from each storage bottle according to section 4.6.3. The mercury content is read by comparing the sample peak heights to the peak heights for the calibration solutions. Prepare a blank from storage bottle No. 2 ac-

ording to section 4.6.3 and analyze to determine the reagent blank mercury level.

5. Calibration.

5.1 Sampling train.

5.1.1 Use standard methods and equipment as detailed in APTD-0576 to calibrate the rate meter and the dry gas meter.

5.2 Analysis train.

5.2.1 Prepare a calibration curve for the atomic absorption spectrophotometer by analyzing the standard mercury solutions. Plot the peak heights read on the recorder versus the weight of mercury in the standard solutions. Standards should be interspersed with the sample analyses since the calibration can change slightly with time.

6. Calculations.

6.1 Gas sample volume at standard conditions. Correct the sample volume measured by the dry gas meter to exit gas conditions by using equation 2-1.

$$V_{m_s} = V_m \frac{T_s}{T_m} \quad \text{eq. 2-1}$$

where:

V_{m_s} = Total volume of gas sampled at exit gas conditions, ft³.

V_m = Volume of gas sampled through the dry gas meter at meter conditions, ft³.

T_m = Average absolute dry gas meter temperature, °R.

T_s = Average absolute exit gas temperature, °R.

6.2 Volume of water vapor.

$$V_{w_s} = V_{l_s} \frac{\rho_{H_2O}}{M_{H_2O}} \quad R = \frac{T_s}{P_{bar}} \quad \text{eq. 2-2}$$

where:

V_{w_s} = Volume of water vapor in gas sample (exit gas conditions), cu. ft.

V_{l_s} = Total volume of liquid collected in impingers and silica gel (see Figure 2-2), ml.

ρ_{H_2O} = Density of water, 1 g./ml.

M_{H_2O} = Molecular weight of water, 18 lb./lb. mol.

R = Ideal gas constant, 21.83 inches Hg. cu. ft./lb. mole.°R.

T_s = Average absolute exit gas temperature, °R.

P_{bar} = Barometric pressure, inches Hg.

6.3 Total gas volume.

$$V_{total} = V_{m_s} + V_{w_s}$$

where:

V_{total} = Total volume of gas sample (exit gas conditions), cu. ft.

V_{m_s} = Volume of gas through gas meter (exit gas conditions), cu. ft.

V_{w_s} = Volume of water vapor in gas sample (exit gas conditions), cu. ft.

6.4 Mercury collected. Calculate the total weight of mercury collected by using equation 2-3.

$$W_t = V_1 \frac{W_1}{V_1} - V_b(C_b) \quad \text{eq. 2-3}$$

where:

W_t = Total weight of mercury collected, µg.

V_1 = Total volume of absorbing solution and ICI wash in sample bottle No. 1, ml.

W_1 = Weight of mercury found in aliquot from sample bottle No. 1, µg.

v_1 = Aliquot size from sample bottle No. 1, ml.

V_b = Total volume of ICI used in sampling (impinger contents + all wash amounts) ml.

C_b = Concentration of mercury in 0.1M ICI solution from sample bottle No. 2, µg./ml.

6.5 Total mercury emission. Calculate the total amount of mercury emitted per day by equation 2-4.

$$R = 0.00019 \frac{W_t}{V_{total}} V_s A_s \quad \text{eq. 2-4}$$

where:

R = Rate of emission, lb./day.

W_t = Total weight of mercury collected, µg.

V_{total} = Total volume of gas sample (exit gas conditions), cu. ft.

V_s = Gas velocity at exit, feet per second.

A_s = Cross-sectional area through which emission occurs, ft².

7. References.

Hatch, W. R. and W. L. Ott, "Determination of Sub-Microgram Quantities of Mercury by Atomic Absorption Spectrophotometry," *Anal. Chem.*, 40: 2086-87, 1968.

Rom, Jerome J., Maintenance, Calibration and Operation of Isokinetic Source Sampling Equipment, Environmental Protection Agency, APTD-0576.

METHOD 3—DETERMINATION OF BERYLLIUM FROM STATIONARY SOURCES

1. Principle and applicability.

1.1 Principle. Beryllium laden gases are withdrawn isokinetically from the source, and the collected sample is digested in an acid solution and analyzed by the atomic absorption procedure.

1.2 Applicability. This method is applicable for the determination of beryllium emissions only when specified by the test procedures for determining compliance with the Clean Air Act.

2. Apparatus.

2.1 Sampling train. The design specifications of the particulate sampling train used by EPA (Figure 3-1) are described in APTD-0581. Commercial models of this train are available.

PROPOSED RULE MAKING

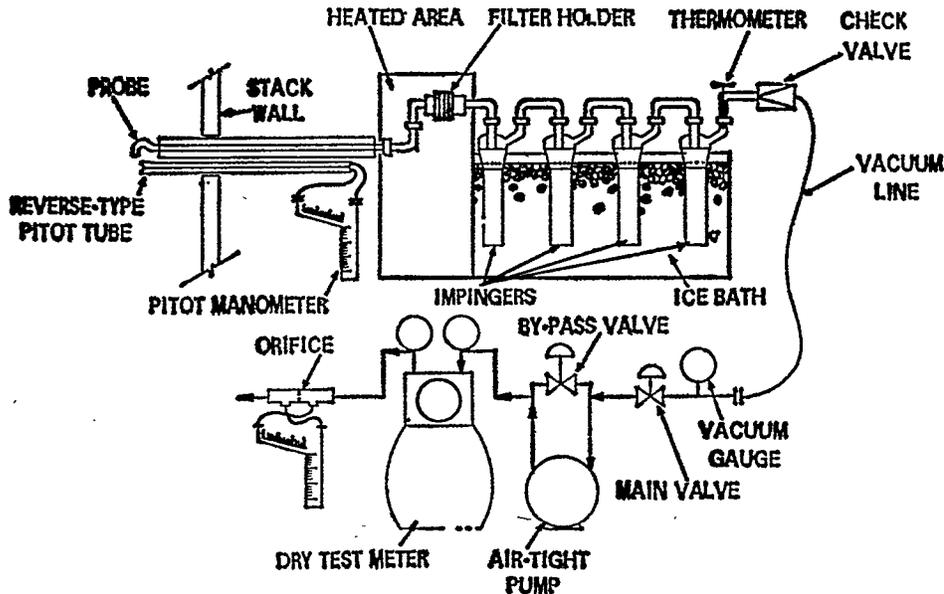


Figure 3-1. Particulate-sampling train.

2.1.1 Nozzle—Stainless steel (316) with sharp, tapered leading edge.

2.1.2 Probe—Pyrex* glass with a heating system capable of maintaining a minimum gas temperature of 250°F at the exit end during sampling to prevent condensation from occurring. When length limitations (greater than about 8 ft) are encountered at temperatures less than 600°F, Incology 825* or equivalent, may be used. Probes for sampling gas streams at temperatures in excess of 600°F are subject to approval by the Administrator.

2.1.3 Pitot tube—Type S, or equivalent, attached to probe to monitor stack gas velocity.

2.1.4 Filter holder—Pyrex* glass with heating system capable of maintaining a minimum temperature of 225°F.

2.1.5 Impingers—Four impingers connected in series with glass ball joint fittings. The first, third, and fourth impingers are of the Greenburg-Smith design, modified by replacing the tip with a ½-inch ID glass tube extending to ½ inch from the bottom of the flask. The second impinger is of the Greenburg-Smith design with the standard tip.

2.1.6 Metering system—Vacuum gauge, leak-free pump, thermometers capable of measuring temperature to within 5°F, dry gas meter with 2% accuracy, and related equipment, or equivalent, as required to maintain an isokinetic sampling rate and to determine sample volume.

2.1.7 Barometer—To measure atmospheric pressure to ±0.1 inch Hg.

2.2 Measurement of stack conditions (stack pressure, temperature, moisture and velocity).

2.2.1 Pitot tube—Type S (Figure 3-2), or equivalent, with a coefficient within ±5% over the working range.

* Trade name.

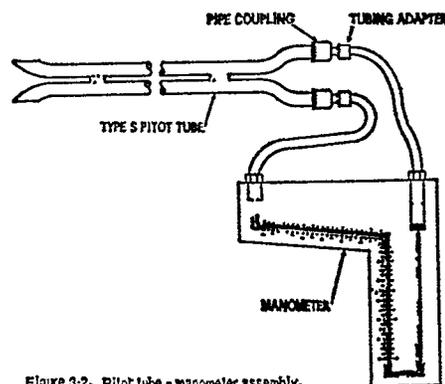


Figure 3-2. Pitot tube-manometer assembly.

2.2.2 Differential pressure gauge—Inclined manometer, or equivalent, to measure velocity head to within 10% of the minimum value.

2.2.3 Temperature gauge—Thermocouple or equivalent, attached to the pitot tube to measure stack temperature to within 1.5% of the minimum absolute stack temperature.

2.2.4 Pressure gauge—Mercury-filled U-tube manometer, or equivalent, to measure stack pressure to within 0.1 in. Hg.

2.2.5 Barometer—To measure atmospheric pressure to within 0.1 in. Hg.

2.2.6 Thermometers—Wet and dry bulb.

2.3 Sample recovery.

2.3.1 Probe brush—At least as long as probe.

2.3.2 Glass wash bottles—Two.

2.3.3 Glass sample storage containers.

2.3.4 Graduated cylinder—250 ml.

2.4 Analysis.

2.4.1 Atomic absorption spectrophotometer (A.A.S.), Perkin Elmer Model 303, or equivalent, with N₂O/acetylene burner.

2.4.2 Beakers—150 ml, 400 ml.

2.4.3 Pipette—Volumetric, 10 ml.

2.4.4 Volumetric flasks—1 liter.

2.4.5 Hot plate.

2.4.6 Perchloric acid fume hood.

3. Reagents.

3.1 Sampling.

3.1.1 Filters—Millipore AA*, or equivalent, numbered for identification and preweighted. It is suggested that a Whatman 41 filter be placed immediately against the back side of the Millipore filter as a guard against breaking the Millipore filter. In the analysis of the filter, the Whatman 41 filter should be included with the Millipore filter.

3.1.2 Silica gel—Indicating type, 6 to 18 mesh, dried at 175°C (350°F) for 2 hours.

3.1.3 Water—Deionized doubly distilled.

3.1.4 Crushed ice.

3.2 Sample recovery.

3.2.1 Water—Deionized, double distilled.

3.2.2 Acetone—Reagents grade.

3.3 Analysis.

3.3.1 Water—Deionized double distilled.

3.3.2 Hydrochloric acid (HCl)—Concentrated.

3.3.3 Perchloric acid—Concentrated, 70%.

3.3.4 Nitric acid (HNO₃)—Concentrated.

3.3.5 Sulfuric acid (H₂SO₄)—Concentrated.

3.3.6 Standard 1.0 ppm (by weight) beryllium solution. Dissolve 100.0 mg of beryllium in 700 ml of 50% (by weight) H₂SO₄ and dilute to a volume of 1,000 ml with double distilled water. Dilute a 10 ml aliquot to 1,000 ml with double distilled water, giving a concentration of 1.0 ppm.

3.3.7 Nitrous oxide (N₂O)—98% minimum purity.

3.3.8 Acetylene.

3.3.9 Compressed air.

4. Procedure.

4.1 Selection of a sampling site and minimum number of traverse points.

4.1.1 Select a sampling site that is at least eight stack or duct diameters downstream and two diameters upstream from

any flow disturbance such as a bend, expansion, contraction, or visible flame. For rectangular cross section, determine an equivalent diameter from the following equation:

$$\text{equivalent diameter} = 2 \left(\frac{\text{length}}{\text{length}} + \frac{\text{width}}{\text{width}} \right) \text{ eq. 3-1}$$

4.1.2 When the above sampling site criteria can be met, the minimum number of points.

traverse points is four (4) for stacks 1 foot in diameter or less, eight (8) for stacks above 1 foot but 2 feet in diameter or less and twelve (12) for stacks larger than 2 feet.

4.1.3 Some sampling situations render the above sampling site criteria impractical. When this is the case, choose a convenient sampling location and use Figure 3-3 to determine the minimum number of traverse points.

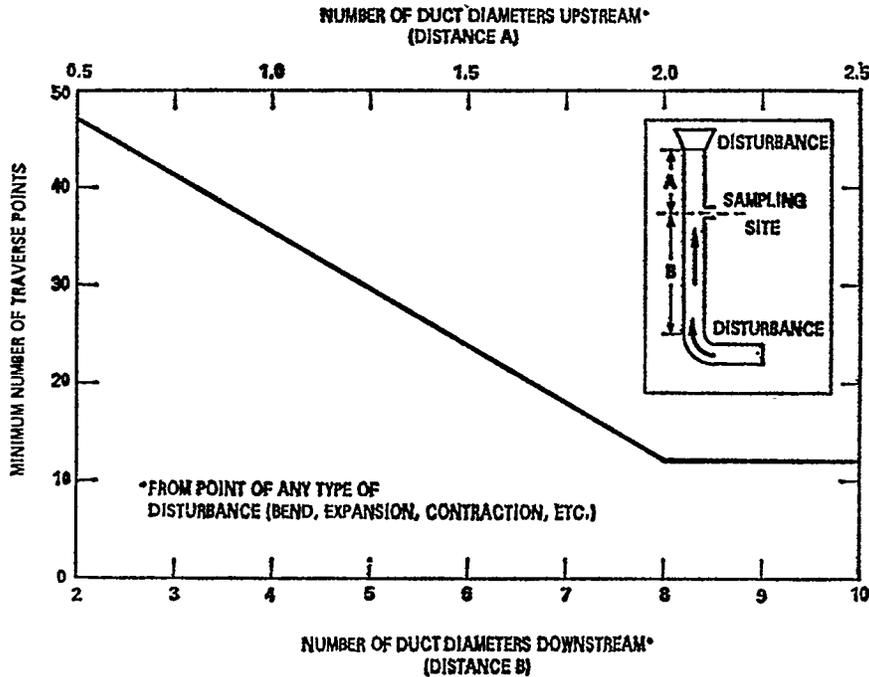


Figure 3-3. Minimum number of traverse points.

4.1.4 To use Figure 3-3, first measure the distance from the chosen sampling location to the nearest upstream and downstream disturbances. Determine the corresponding number of traverse points for each distance from Figure 3-3. Select the higher of the two numbers of traverse points, or a greater value, such that for circular stacks the number is a multiple of four, and for rectangular stacks the number follows the criteria of section 4.2.2.

4.1.5 Under no conditions should a sampling point be selected within one inch of the stack wall.

4.2 Cross-sectional layout and location of traverse points.

4.2.1 For circular stacks locate the traverse points on at least two diameters according to Figure 3-4 and Table 3-1. The traverse axes shall divide the stack cross section into equal parts.

4.2.2 For rectangular stacks divide the cross section into as many equal rectangular areas as traverse points, such that the ratio of the length to the width of the elemental areas is between one and two. Locate the

traverse points at the centroid of each equal area according to Figure 3-5.

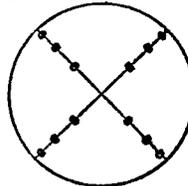


Figure 3-4. Cross section of circular stack showing location of traverse points on perpendicular diameters.

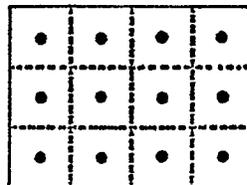


Figure 3-5. Cross section of rectangular stack divided into 12 equal areas, with traverse points at centroid of each area.

PROPOSED RULE MAKING

Table 3-1. Location of traverse points in circular stacks
(Percent of stack diameter from inside wall to traverse point)

Traverse point number on a diameter	Number of traverse points on a diameter											
	2	4	6	8	10	12	14	16	18	20	22	24
1	14.6	6.7	4.4	3.3	2.5	2.1	1.8	1.6	1.4	1.3	1.1	1.1
2	85.4	25.0	14.7	10.5	8.2	6.7	5.7	4.9	4.4	3.9	3.5	3.2
3		75.0	29.5	19.4	14.6	11.8	9.9	8.5	7.5	6.7	6.0	5.5
4		93.3	70.5	32.3	22.6	17.7	14.6	12.5	10.9	9.7	8.7	7.9
5			85.3	67.7	34.2	25.0	20.1	16.9	14.6	12.9	11.6	10.5
6			95.6	80.6	65.8	35.5	26.9	22.0	18.8	16.5	14.6	13.2
7				89.5	77.4	64.5	36.6	28.3	23.6	20.4	18.0	16.1
8				96.7	85.4	65.0	63.4	37.5	29.6	25.0	21.8	19.4
9					91.8	82.3	73.1	62.5	38.2	30.6	26.1	23.0
10					97.5	88.2	79.9	71.7	61.8	38.8	31.5	27.2
11						93.3	85.4	78.0	70.4	61.2	39.3	32.3
12						97.9	90.1	83.1	76.4	69.4	60.7	39.8
13							94.3	87.5	81.2	75.0	68.5	60.2
14							98.2	91.5	85.4	79.6	73.9	67.7
15								95.1	89.1	83.5	78.2	72.8
16								98.4	92.5	87.1	82.0	77.0
17									95.6	90.3	85.4	80.6
18									98.6	93.3	88.4	83.9
19										96.1	91.3	86.8
20										98.7	94.0	89.5
21											96.5	92.1
22											98.9	94.5
23												96.8
24												98.9

4.3 Measurement of stack conditions.

4.3.1 Set up the apparatus as shown in Figure 3-2. Make sure all connections are tight and leak free. Measure the velocity head and temperature at the traverse points specified by sections 4.1 and 4.2.

4.3.2 Measure the static pressure in the stack.

4.3.3 Determine the stack gas moisture using wet and dry bulb thermometers and available psychrometric charts.

4.3.4 Determine the stack gas molecular weight from the measured moisture content and knowledge of the expected gas stream composition.

4.4 Preparation of collection train.

4.4.1 Weigh to the nearest gram approximately 200 g. of silica gel. Label a filter proper diameter, desiccate* at least 24 hours and weigh to the nearest 0.5 mg in a room where the relative humidity is less than 50%. Place 100 ml of distilled water in each of the first two impingers, leave the third impinger empty, and place approximately 200 g. of preweighed silica gel in the fourth impinger. Save a portion of the distilled water for use as a blank in the sample analysis. Set up the train without the probe as in Figure 3-1.

4.4.2 Leak check the sampling train at the sampling site by plugging up the probe

tip and pulling a 15 in. Hg. vacuum. A leakage rate not in excess of 0.02 cfm at a vacuum of 15 in. Hg. is acceptable. Adjust the heater to provide a gas temperature of about 250°F at the probe outlet. Turn on the filter heating system. Place crushed ice around the impingers. Add more ice during the run to keep the temperature of the gases leaving the last impinger as low as possible and preferably at 70°F, or less.

4.5 Particulate train operation.

4.5.1 For each run, record the data required on the example sheet shown in Figure 3-6. Take readings at each sampling point at least every 5 minutes and when significant changes in stack conditions necessitate additional adjustments in flow rate. To begin sampling, position the nozzle at the first traverse point with the tip pointing directly into the gas stream. Immediately start the pump and adjust the flow to isokinetic conditions. Sample for at least 5 minutes at each traverse point; sampling time must be the same for each point. Maintain isokinetic sampling throughout the sampling period. Nomographs are available which aid in the rapid adjustment of the sampling rate without other computations. APTD-0576 details the procedure for using these nomographs. Turn off the pump at the conclusion of each run and record the final readings. Remove the probe and nozzle from the stack and handle in accordance with the sample recovery process described in section 4.6.

Dry using Drierite at 70°F ± 10°F.

under consideration certain amendments to Form S-16 (17 CFR 239.27) under the Securities Act of 1933. This is a special form which may be used for the registration of securities under the Act by issuers which meet the requirements for the use of another special form, Form S-7 (17 CFR 239.26). That form is available for use by companies which file reports with the Commission pursuant to the Securities Exchange Act of 1934 and which meet certain tests, including a record of earnings and continuity of management.

The chief purpose of the amendments to Form S-16 is to liberalize somewhat the provisions of the form with respect to the conditions under which it may be used, so that it may be used by a larger group of companies. It is also proposed to amend certain items of the form to require certain additional disclosure in the prospectus. A brief description of the proposed changes is set forth below.

The form may be used for the registration of securities which are to be offered for the account of persons, other than the issuer, in the regular way on a national securities exchange. It is the intent of the phrase "in the regular way" that the form is to be used only for unsolicited transactions. However, the use of the phrase "in the regular way" has proved to be ambiguous since it has been given a different meaning in the rules of certain exchanges. It is therefore proposed to omit the phrase from the rule as to the use of the form and to substitute therefor a requirement that the securities must be offered in unsolicited transactions. Until the form is amended the staff will continue to construe the phrase to refer to unsolicited transactions.

It is proposed to amend the rule as to the use of the form to provide that it may be used to register securities which are listed and registered on a na-

tional securities exchange whether the securities are to be offered on the exchange or in the so-called "third market". The form would also be amended to permit its use to register securities which are registered with the Commission pursuant to section 12(g) of the Securities Exchange Act of 1934, provided such securities are quoted on the automated quotation system of a national securities association. This would make the form available for securities of such issuers quoted on NASDAQ, the quotation system of the National Association of Securities Dealers, Inc.

A further amendment would make the form available for registration of securities of closed end management investment companies which are registered under the Investment Company Act of 1940, have complied with the reporting requirements of that Act for at least 3 years, and comply with certain provisions of Form S-7; provided securities of the same class as those to be registered are registered on a national securities exchange or are quoted on the automated quotation system of a national securities association.

The form may also be used for registration of securities to be offered upon the conversion of convertible securities of an affiliate of the issuer (i.e., a person in a control relationship with the issuer), provided no commission or other remuneration is paid for the solicitation of the conversion of such securities. It is proposed to amend the rule as to use of the form to provide that the convertible securities must be outstanding, since this is the intent of the present provision.

The form may also be used for registration of a third category of securities; namely, securities to be offered to the holders of outstanding warrants upon the exercise of such warrants, provided no commission or other remuneration is

paid for soliciting the exercise of such warrants. It is proposed to amend the general instruction as to use of the form to provide that it applies only to transferable warrants. Hence, the form could not be used for securities which are to be offered upon the exercise of nontransferable options or other rights.

Items 2 and 3 of the form would be amended to require certain additional information as to the offering of the securities, the transaction in which they were acquired if they were acquired within 2 years and the amount of other securities of the issuer owned by the seller. Since this information may not be readily available to the public, the Commission feels that it should be disclosed in the prospectus.

An instruction would be added to Item 6 of the form calling attention to the necessity of filing consents of accountants where certified statements are contained in reports or other documents incorporated by reference.

The text of the proposed amendments are set forth in the Release 33-5212, copies of which have been filed as part of this document with the Office of Federal Register. Additional copies of this release are available at the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to Charles J. Sheppe, Chief, Branch of Regulations and Legislative Matters, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, on or before January 3, 1972. All such communications will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

NOVEMBER 29, 1971.

[FR Doc.71-17802 Filed 12-6-71;8:47 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Sacramento Area Office Redelegation Order 1, Amdt. 2]

AREA FIELD REPRESENTATIVE, RIVERSIDE AREA FIELD OFFICE

Delegation of Authority Relating to Lands and Minerals

NOVEMBER 23, 1971.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Sacramento Area Office Redelegation Order 1 was published on page 14036 of the September 4, 1969, FEDERAL REGISTER (34 F.R. 14036) and subsequently amended on page 4142 of the March 5, 1970, FEDERAL REGISTER (35 F.R. 4142). Sacramento Area Office Redelegation Order 1 is being further amended to add a new subsection (d) to section 2.5, *Surface leases and permits*. This new subsection redelegates to the Riverside Area Field Representative the Area Director's authority relating to leases of tribal and allotted lands for homesite purposes.

As amended, section 2.5 reads as follows:

SEC. 2.5 *Surface leases and permits.*

(d) To the Area Field Representative, Riverside Area Field Office. The authority of the Area Director relating to leases of tribal and allotted lands for homesite purposes to members of the tribes under the jurisdiction of the Riverside Area Field Office or to housing authorities.

Effective date. The effective date of this delegation will be the date of signature by the Area Director.

WILLIAM E. FINALE,
Area Director.

Approved: November 29, 1971.

JOHN O. CROW,
Deputy Commissioner
of Indian Affairs.

[FR Doc.71-17806 Filed 12-6-71;8:47 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of February 20, 1971, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a

notice in the FEDERAL REGISTER of March 2 (pp. 3930-31), April 6 (pp. 6526-28), May 4 (pp. 8333-36), June 3 (pp. 10811-13), July 8 (pp. 12868-70), August 3 (pp. 14275-76), September 8 (pp. 18016-19), October 5 (pp. 19409-10), and November 2 (pp. 20995-96). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been demolished and are hereby removed from the Register:

ILLINOIS

Cook County

Chicago, *Chicago Stock Exchange*, 30 North La Salle Street.

OHIO

Franklin County

Columbus, *University Hall, The Oval*.

The property listed below has been removed from the National Register because it has lost its National Historic Landmark designation:

CALIFORNIA

Sonoma County

Fort Ross vicinity, *Fort Ross Chapel*.

The following properties have been added to the National Register since November 2 (an asterisk denotes a National Historic Landmark):

COLORADO

Glear Creek County

Silver Plume vicinity, *Lebanon and Everett Mine Tunnels*, northeast of Silver Plume, adjacent to Interstate 70 right-of-way.

CONNECTICUT

New Haven County

New Haven, **New Haven Green Historic District*, bounded by Chapel, College, Elm, and Church Street.

MASSACHUSETTS

Middlesex County

Arlington, *Old Schwamb Mill*, 17 Mill Lane and 29 Lowell Street.

Suffolk County

Boston, *African Meetinghouse*, 8 Smith Street.

NEW YORK

Otsego County

Springfield, *Hyde Hall*, Glimmerglass State Park, east of County Route 31.

OHIO

Columbiana County

East Liverpool, *East Liverpool Pottery*, southwest corner of Second and Market Streets.

RHODE ISLAND

Kent County

Anthony, *Greene, General Nathanael, Homestead*, 40 Taft Street.

ERNEST ALLEN CONNALLY,
Director, Office of Archeology
and Historic Preservation.

[FR Doc.71-17938 Filed 12-6-71;8:51 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEYS IN MANUFACTURING AREA

Notice of Determination

In conformity with title 13, United States Code, sections 181, 224, and 225 and due notice having been published on October 15, 1971 (36 F.R. 20119), I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other Government sources.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. The surveys have been arranged under major group headings shown in the revised Standard Industrial Classification Manual (1967 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS
Cotton and synthetic woven goods finished.
Narrow fabrics.

Knit cloth.
Yarn production.
Rugs, carpets, and carpeting.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood.
Lumber.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASSConsumer, scientific, technical, and industrial glassware.
Fibrous glass.**MAJOR GROUP 33—PRIMARY METAL INDUSTRIES**Commercial steel forgings.
Steel mill products.
Insulated wire and cable.
Magnesium mill products.**MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT**Steel power boilers.
Heating and cooking equipment.**MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL**Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.
Selected air pollution control equipment.**MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES**Radios, televisions and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.
Major household appliances.**MAJOR GROUP 37—TRANSPORTATION EQUIPMENT**

Aircraft propellers.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKSSelected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports except for construction machinery which will additionally call for data on shipments of power cranes and shovels, concrete mixers, and attachments for contractors' off-highway type tractors. Also, reports on man-made fiber, silk, woolen, and worsted fabrics, on finishing plants, and on piece goods inventories listed below will call for information relating to the monthly fluctuations of stocks and unfilled orders for woven fabrics in addition to the annual production data.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTSFlour milling products.
Confectionery products.**MAJOR GROUP 22—TEXTILE MILL PRODUCTS**Man-made fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broadwoven fabrics.
Piece goods inventories and orders.
Broadwoven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.**MAJOR GROUP 25—FURNITURE AND FIXTURES**

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTSConsumers of wood pulp.
Converted flexible packaging products.**MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS**Superphosphates.
Paint, varnish, and lacquer.**MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES**

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS**PLASTICS PRODUCTS**Plastics bottles.
Rubber.
Thermoplastics pipe, tube, and fittings.**MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS**

Shoes and slippers.

MAJOR GROUP 32—STONE, CLAY, AND GLASSFlat glass.
Glass containers.
Refractories.
Clay construction products.**MAJOR GROUP 33—PRIMARY METAL INDUSTRIES**Nonferrous castings.
Iron and steel foundries.**MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT**Plumbing fixtures.
Steel shipping barrels, drums, and pails.
Closures for containers.
Metal cans.**MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL**Construction machinery.
Metalworking machinery.
Typewriters.**MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES**Electric lamps.
Fluorescent lamp ballasts.**MAJOR GROUP 37—TRANSPORTATION EQUIPMENT**Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts.
Truck trailers.

The Annual Survey of Manufactures will be conducted and will call for general statistical data such as employment, payroll, man-hours, capital expenditures, cost of materials consumed, gross book value of fixed assets, rental payments, supplemental labor costs, etc., in addition to information on value of products shipped and quantity data for selected classes of products and quantity and cost of selected fuels used. This survey, while conducted on a sample basis, will cover all manufacturing industries. Data on employment, payrolls, and inventories for auxiliary establishments of manufacturing companies such as central administrative offices, manufacturers' sales branches, warehouses, etc. will be included, as well as data on plants under construction but not in operation.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. This survey has been conducted annually since 1966. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The report forms will be furnished to firms included in these surveys and additional copies are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that annual surveys be conducted for the purpose of collecting the data hereinabove described.

Dated: December 1, 1971.

GEORGE H. BROWN,
Director, Bureau of the Census.

[FR Doc.71-17829 Filed 12-6-71;8:49 am]

**Office of Import Programs
UNIVERSITY OF TEXAS ET AL.**

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14,

1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00146-00-46040. Applicant: The University of Texas at Austin, Purchasing Office, Box 7306, University Station, Austin, TX 78712. Article: High voltage cables for electron microscope. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72-00147-75-77000. Applicant: Princeton University, Princeton, N.J. 08540. Article: High dispersion magnetic spectrometer. Manufacturer: Scanditronix Instrument A.B., Sweden. Intended use of article: The article is intended to be used as an analyzer and detector of nuclear fragments produced from targets bombarded with ion beams accelerated by the Princeton Isochronous Cyclotron. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00148-33-90000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Rotating anode X-ray generator and attachment. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used in research involving cancer cell and membrane structure studies. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00149-33-90000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: X-ray diffraction camera. Manufacturer: Elliot Automation Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used in research involving cancer cell and membrane structure studies. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00151-01-78000. Applicant: Trenton State College, Department of Chemistry, Trenton, N.J. 08625. Article: Nuclear magnetic resonance spectrophotometer. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used as a research tool in teaching the fundamentals of research in advance topics and senior research in such experiments as determinations of chemical structures, chemical shifts as a function of metal organic bonding, liquid crystal structure variation as a function of temperature and kinetic rate of deuterium exchange in labile hydrogens of pyridinium salts. The article will also be used in teaching courses in organic chemistry, analytical chemistry, qualitative organic chemistry, and advanced organic chemistry. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00152-33-46500. Applicant: University of Hawaii, Department of Anatomy, 1960 East-West Road, Honolulu, HI 96822. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in a research study of the uterus and its decidual reaction at the time of pregnancy. Differences between pregnant and pseudopregnant uteri will be observed to determine: (1) Enzymatic differences employing ultracytochemistry, (2) relationships of hormonal control to enzyme systems using ultracytochemistry and autoradiography, (3) changes in cell morphology using routine electron microscopy morphological techniques. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00154-33-46070. Applicant: Columbia University, College of Physicians and Surgeons, 630 West 168th Street, New York, NY 10032. Article: Scanning electron microscope, JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article is intended to be used in conjunction with transmission electron microscopy and serum hormone determinations to study the cyclic changes which occur in the female genital tract including the ovary, oviduct, endometrium and cervix, and to relate these findings to the physiology of reproduction. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00155-33-01110. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Amino acid analyzer. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article is intended to be used in a research project involving the study of collagen, a protein which is characterized by the presence of a unique amino acid: hydroxyproline. Specifically the article will be used in the process of separating hydroxyproline from aspartic acid. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00156-33-46040. Applicant: Indiana University-Purdue University, 630 West New York Street, Indianapolis, IN 46202. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used in research for studies of the ultrastructure of human tumors, human neoplasms, and other lesions with the view of more precise delineation of the nature of neoplasms examined on the Surgical Pathology Service. Studies on the ultrastructure of melanosomes, premelanosomes and precursor cellular particulates as part of a study on the pathogenesis of melanoma will also be carried out. In addition the article will be used for ultrastructural studies of (a) a variety of cytoplasmic aggregates derived from a related degenerative etiology of which is obscure; (b) the kidney in an experimental study of mechanisms of hyper-

tension; and (c) lymphoid cells at different stages of differentiation of their immunologic functions. The article will also be used for teaching courses in General Pathology, Systemic Pathology; Surgical Pathology and Methods and Techniques of Electron Microscopy. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00157-50-02000. Applicant: University of Colorado, Regent Hall, Room 122, Boulder, Colo. 80302. Article: Anemometer, Mark II. Manufacturer: Rauchfuss Instrument & Staff Pty. Ltd., Australia. Intended use of article: The article will be used for weather measuring in connection with studies involving snow avalanches. Application received by Commissioner of Customs: September 24, 1971.

Docket No. 72-00159-01-07520. Applicant: Mount Sinai School of Medicine of the City University of New York, 100th Street and Fifth Avenue, New York, N.Y. 10029. Article: Microcalorimeter. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for the measurement of heat of reaction in the binding study of morphine to the brain membrane which is extremely important for the understanding of morphine addiction and possible treatment. The article will also be used in teaching advance courses in physical and chemical techniques and in biophysical sciences. Application received by Commissioner of Customs: September 27, 1971.

Docket No. 72-00160-00-14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Accessories for analyzing TV computer. Manufacturer: Metals Research Limited, United Kingdom. Intended use of article: The articles are accessories for an existing computer. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00161-00-46040. Applicant: Northeastern University, 360 Huntington Avenue, Boston, MA 02115. Article: Large angle goniometer stage. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00162-33-43780. Applicant: Veterans Administration Hospital, 1501 Perdido Street, New Orleans, LA 70140. Article: Resparameter, Mark 4. Manufacturer: P. K. Morgan, Ltd., United Kingdom. Intended use of article: The article is to be used for the purpose of measuring single-breath pulmonary diffusing capacity, an important part of pulmonary function testing. The article will also be used in the training of residents and fellows in the fields of internal medicine and pulmonary diseases. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00163-33-19000. Applicant: The Johns Hopkins University, Charles and 34th Streets, Baltimore, MD 21218. Article: Digital density meter. Manufacturer: Anton Parr K.G., Aus-

tria. Intended use of article: The article is intended to be used in research to give information on the partial specific volume of proteins, whose physical parameters are being studied. Studies on the size and shape of the proteins of muscle are also currently in process. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00164-99-64600. Applicant: University of Washington, Department of Civil Engineering FV-10, Room 304 More Hall, Seattle, WA 98105. Article: BCURA flue dust sampling apparatus. Manufacturer: Air Flow Development Ltd., Canada. Intended use of article: The article is to be used in engineering course CEWA 467: "Air Pollution Source Testing and Equipment Evaluation" and graduate student thesis research projects in industrial plants such as pulp mills, aluminium reduction plants, sewage sludge incinerators, coal-fired furnaces etc. The best features from various sampling trains will be adapted to the particular problems of the students. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00165-01-77000. Applicant: Northwestern University, 2145 Sheridan Road, Evanston, IL 60201. Article: Electron spectrometer, ES 100B. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used for X-ray excited photoelectron spectroscopy of solids, liquids, and gases with both polychromatic and monochromatic excitation and for ultraviolet radiation excited photoelectron spectroscopy of both solids and gases. The article will also be used in courses designed to familiarize graduate students with modern chemical synthesis and analysis technique. Application received by Commissioner of Customs: September 30, 1971.

Docket No. 72-00166-33-46040. Applicant: State University of New York at Buffalo, School of Medicine, Department of Anatomy, 317 Capen Hall, Buffalo, NY 14214. Article: Electron microscope, Model JEM 100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used to determine the origin and structure of pigment material in aging cells and morphological ultrastructural features of such cells as well as to study the pathogenesis of intracranial tumors. The article will also be used for the training of graduate and medical students who will be carrying on research projects in partial fulfillment of the requirements for graduate degrees. Application received by Commissioner of Customs: October 5, 1971.

Docket No. 72-00167-00-46040. Applicant: Indiana University-Indianapolis, 630 West New York Street, Indianapolis, IN 46202. Article: Magazine for Universal camera for electron microscope. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article is an accessory for an existing electron microscope ordered from the same manufacturer. Application received

by Commissioner of Customs: October 5, 1971.

Docket No. 72-00168-00-78050. Applicant: University of Arkansas Medical School, 4301 West Markham Street, Little Rock, AR 72201. Article: Circular dichroism attachment, Model CD-HC. Manufacturer: Rehovoth Instrument Ltd., Israel. Intended use of article: The article will be used as a mobile attachment to a recording spectrometer used by graduate students for studying the structure of proteins. Application received by Commission of Customs: October 5, 1971.

Docket No. 72-00169-33-46040. Applicant: The University of Texas Medical Branch, Office of the Purchasing Agent, Galveston, Tex. 77550. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics Instruments, The Netherlands. Intended use of article: The article will be used to examine the fine structure of cells of the endocrine organs, liver, carotid body and heart; to study, in detail, cytoplasmic crystals and myelin; to study the fine structure of sympathetic and parasympathetic parasympathetic ganglion cells together with the mechanism of release of their hormones; to study cytochemical localization of acetyl-CoA carboxylase in hepatocytes and cells of the mammary gland; to study the effects of drugs on motoneurons of the spinal cord; to analyze the effects of cholesterol inhibitors on the lens of the eye; as well as for several other studies. Application received by Commissioner of Customs: October 5, 1971.

Docket No. 72-00170-33-46095. Applicant: University of Chicago, Pathology Department, Billings Hospital, 950 East 59th Street, Chicago, IL 60637. Article: Computerized flying-spot microscope,

Mark II. Manufacturer: University of London, England. Intended use of article: The article will be used to obtain in a rapid and automatic fashion a quantifiable description of the structure of brain specimens and blood smears, which is important for the proper study of disease in these tissues, as well as to train Ph.D. students in the neurosciences and resident M.D.s working towards their specialty boards. Application received by Commissioner of Customs: October 5, 1971.

Docket No. 72-00171-91-46040. Applicant: University of Iowa, Department of Botany, Iowa City, Iowa 52240. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article will be used in several research projects including: (1) An investigation of chloroplast ultrastructure in order to correlate certain alterations found in chloroplast membrane structure with changes observed in the photosynthetic capacity of a line of cultured plant cells; (2) the study of viruslike particles found in the nuclei of a line of cultured plant cells that has lost the ability to differentiate in order to determine their location, origin and mode of transmission; and (3) the examination of isolated nucleic acids from chloroplasts and viruslike particles. The article will also be used in the Botany Department course 2:214, electron microscopy, a one-semester course with an average enrollment of eight graduate students. Application received by Commissioner of Customs: October 5, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17832 Filed 12-6-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

DAVIS RANCH HORSE SALE ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

<i>Original name of stockyard, location, and date of posting</i>	<i>Current name of stockyard and date of change in name</i>
COLORADO	
Davis Ranch Sale Pavilion, Ft. Morgan, Nov. 22, 1961.	Davis Ranch Horse Sale, Oct. 1, 1971.
GEORGIA	
Bulloch Stock Yard, Statesboro, May 14, 1959.....	Bulloch Stockyard, Inc., Nov. 1, 1971.
TEXAS	
Corsicana Livestock Co., Corsicana, Jan. 11, 1957...	Corsicana Livestock Market, Inc., May 1, 1971.
North Houston Livestock Auction, Houston, Sept. 30, 1968.	North Houston Livestock, Inc., Oct. 4, 1971.
Taylor Commission Company, Taylor, Feb. 27, 1957.	Taylor Livestock Auction, Inc., Oct. 1, 1971.

Done at Washington, D.C., this 1st day of December 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports
Branch, Livestock Marketing Division.

[FR Doc.71-17853 Filed 12-6-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MONTECANTINI EDISON, S.P.A.

Notice of Filing of Petition for Food Additive

Pursuant to the 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 2B2740) has been filed by Montecantini Edison, S.p.A.; P.za della Repubblica, 16; 20124—Milano; Repubblica Italiana, proposing that § 121.2527 *Antistatic and/or antifogging agents in food-packaging materials* and § 121.2569 *Resinous and polymeric coatings for polyolefin films* (21 CFR 121.2527, 121.2569) be amended to provide for the safe use of cetylpyridinium chloride as an antistatic agent in polypropylene food-packaging materials, and as an antistatic adjuvant substance in resinous and polymeric coatings for polyolefin films for food-contact use.

Dated: November 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17846 Filed 12-6-71;8:50 am]

[DESI 2666]

SOLVENT FOR EXTERNAL USE IN REMOVAL OF ADHESIVE TAPE FROM THE SKIN

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Adhesivease Solution containing oxyquinoline, cresol, and diethylene glycol monoethyl ether acetate in kerosene; S. F. Durst & Co., Inc., 5317 North Third Street, Philadelphia, PA 19120 (NDA 2-666).

Such drug is regarded as a new drug (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that in the absence of evidence showing the contribution made by oxyquinoline and cresol, the drug is regarded as probably effective for external use in removal of adhesive tape from the skin.

B. Marketing status. 1. Marketing of such drug with labeling which recommends or suggests its use for the indication for which it has been classified as probably effective may be continued for 12 months as described in paragraphs (c), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published

in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

2. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new drug application for such drug is requested to submit a supplement to his application to provide for revised labeling, as needed, which is in accord with this announcement.

3. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate directions and warnings under which a layman can use the drug safely and for the purpose for which it is intended.

4. The statement of identity which includes the general pharmacological category or the principal intended action required by § 1.102a (21 CFR 1.102a) shall appear in boldface type on the principal display panel.

5. The indications for use for the probably effective indication shall be:

For the removal of adhesive tape from the skin.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

6. After 60 days following publication hereof in the FEDERAL REGISTER, any such drug on the market without an approved new drug application and shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act should be labeled in accord with this notice.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 2666, 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):
Office of Scientific Evaluation (BD-100),
Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communication regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-17848 Filed 12-6-71;8:50 am]

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Composition and Functions

CROSS REFERENCE: For a document issued jointly by the Department of Health, Education, and Welfare and the Department of Labor regarding the composition and functions of the National Advisory Committee on Occupational Safety and Health, see F.R. Doc. 71-17836, Department of Labor, *infra*.

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-400, 50-401, 50-402, 50-403]

CAROLINA POWER AND LIGHT CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a report entitled "Applicant's Environmental Report—Construction Permit Stage" submitted by the Carolina Power and Light Co. is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Wake County Public Library, 104 Fayetteville Street, Raleigh, NC 27601. The report is also being made available to the public at the Clearinghouse and Information Center, Post Office Box 1351, Raleigh, NC 27602, and the Research Triangle Regional Planning Commission, Post Office Box 12255, Research Triangle Park, NC 27709.

This report discusses environmental considerations related to the proposed construction of the Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4 located in Wake and Chatham Counties, N.C. Comments on the report may be submitted by interested persons to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental environmental report to include information required by the Commission's regulations in Appendix D to 10 CFR Part 50 implementing the National Environmental Policy Act of 1969 is expected to be submitted by Carolina Power and Light Co.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the Applicant's Environmental Reports and the draft detailed statement. The summary notice will request, within seventy-five (75) days or such longer period as the Commission may determine to be practicable, comment from inter-

ested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,

Division of Reactor Licensing.

[FR Doc.71-17809 Filed 12-6-71;8:47 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Notice of Availability of Applicant's Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that reports entitled "Supplement No. 1 and Appendices Volumes No. 1 and 2" and "Supplement No. 2" to the "Applicant's Environmental Report—Indian Point Unit No. 2" submitted by the Consolidated Edison Company of New York, Inc., are being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the office of Dr. Eugene W. Booth, Hendrick Hudson High School Library, Albany Post Road, Montrose, N.Y. 10548. The reports are also being made available to the public at the New York State Office of Planning Coordination, 488 Broadway, Albany, NY 12207, and the Metropolitan District Review Coordinator, Office of Planning Coordination, 1841 Broadway, New York, NY 10023.

These reports discuss environmental considerations related to the proposed operation of the Indian Point Unit No. 2 located in the town of Buchanan, Westchester County, N.Y. Comments on the reports may be submitted by interested persons to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a supplemental draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the supplemental draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the Applicant's supplemental Environmental Report and the supplemental draft detailed statement. The summary notice will request, within thirty (30) days, comments from Federal agencies, State and local officials, and interested persons on the Applicant's supplemental Environmental Report and the supplemental draft statement. The summary notice will also contain a statement to

the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,

Division of Reactor Licensing.

[FR Doc.71-17810 Filed 12-6-71;8:48 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Notice of Availability of Applicant's Supplemental Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a report entitled "Supplemental Information on Environmental Impact of Palisades Plant" submitted by the Consumers Power Co. is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Kalamazoo City Hall, 241 West South Street, Kalamazoo, MI 49006. The report is also being made available to the public at the Office of Planning Coordination, Executive Office of the Governor, Lewis Cass Building, Lansing, Mich. 48913.

This report discusses environmental considerations related to the proposed operation of the Palisades Nuclear Plant located in Covert Township, Van Buren County, Mich. Comments on the report may be submitted by interested persons to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental environmental report to include information required by the Commission's regulations in Appendix D to 10 CFR Part 50 implementing the National Environmental Policy Act of 1969 is expected to be submitted by Consumers Power Co.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a supplemental draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the supplemental draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the applicant's supplemental Environmental Report and the supplemental draft detailed statement. The summary notice will request within thirty (30) days comments from Federal agencies, State and local officials, and interested persons on the applicant's supplemental Environmental Report and the supplemental draft detailed statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,

Division of Reactor Licensing.

[FR Doc.71-17811 Filed 12-6-71;8:48 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Iowa Electric Light and Power Co., the Corn Belt Power Cooperative, and the Central Iowa Power Cooperative (the licensees), are the holders of construction Permit No. CPPR-70 (the construction permit), issued by the Atomic Energy Commission on June 22, 1970. The construction permit authorizes the licensees to construct a boiling water nuclear power reactor designated as the Duane Arnold Energy Center, at a site near Cedar Rapids in Linn County, Iowa. The facility is designed for initial operation at approximately 1,593 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensees' submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Duane Arnold Energy Center authorized pursuant to CPPR-70 should not be suspended pending completion of the NEPA environmental review. In reaching this determination, consideration was given to IELP's commitment that construction of the recreation-storage lake would not begin until March 1973, and that any change in this schedule would be submitted for review by the AEC before being implemented.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Duane Arnold Energy Center." Docket No. 50-331."

Pending completion of the full NEPA review, the holders of Construction Permit No. CPPR-70 proceed with construction at their own risk. The deter-

mination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying, or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Duane Arnold Energy Center, Docket No. 50-331," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Cedar Rapids Public Library, 428 Third Avenue SE., Cedar Rapids, IA 52401. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17812 Filed 12-6-71; 8:48 am]

[Dockets Nos. 50-289, 50-320]

METROPOLITAN EDISON CO. AND JERSEY CENTRAL POWER & LIGHT CO.

Determination To Suspend Certain Construction Activities Pending Completion of NEPA Environmental Review

Metropolitan Edison Co. is the holder of Provisional Construction Permit No. CPPR-40 issued May 18, 1968 for Unit No. 1, and Metropolitan Edison Co. together with Jersey Central Power & Light Co. are the holders of Provisional Construction Permit No. CPPR-66 issued November 4, 1969 for Unit No. 2. The provisional construction permits authorize the construction of two pressurized water nuclear power reactors, designated as

the Three Mile Island Nuclear Generating Station Units 1 and 2, located on Three Mile Island, an island in the Susquehanna River, in Londonderry Township, Dauphin County, Pa., about 10 miles southeast of Harrisburg, Pa. Each reactor is designed to operate initially at 2,452 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the provisional construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensees' submissions in the light of the criteria set out in section E.2 of Appendix D and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities involving the offsite portions of the transmission lines for the Three Mile Island Nuclear Generating Station Unit No. 2 should be suspended pending completion of those portions of the NEPA environmental review. With respect to the construction of the onsite portions of the Three Mile Island Nuclear Generating Station, Units 1 and 2, we have balanced the environmental factors and concluded that these activities need not be suspended.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Three Mile Island Nuclear Generating Station Units 1 and 2, Metropolitan Edison Co., and Jersey Central Power & Light Co., Dockets Nos. 50-289 and 50-320, November 22, 1971."

In accordance with section E.4(a) of Appendix D, the Director of Regulation has served upon the licensees an order to show cause why the above-mentioned construction activities involving the offsite portions of the transmission lines for the Three Mile Island Nuclear Generating Station Unit 2 should not be suspended pending completion of the NEPA environmental review that relate to these matters. Among other things, the order to show cause provides that the licensees may, within thirty (30) days of the date of the order, file a written answer to the order under oath or affirmation, and informs the licensees of their right, within the same period, to demand a hearing.

Pending completion of the full NEPA review, the holders of Provisional Construction Permits Nos. CPPR-40 and CPPR-66 proceed with construction at their own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the provisional construction permits or from appropri-

ately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a suspension determination other than that made by the Director of Regulation and set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the provisional construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Three Mile Island Nuclear Generating Station Units 1 and 2, Metropolitan Edison Co., and Jersey Central Power & Light Co., Dockets Nos. 50-289 and 50-320, November 22, 1971," and the order to show cause are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Harrisburg, Pa. Copies of the "Discussion and Findings" document and the order to show cause may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17813 Filed 12-6-71; 8:48 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a report entitled "Applicant's Environmental Report—Operating License Stage" submitted by the Nebraska Public Power District is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Auburn Public Library, 1118 15th Street, Auburn, NE 68305. The report is also being made available to the public at the State Office of Planning and Programming, State Capitol, Box 94601, Lincoln, NE 68509, and the Southeastern Nebraska Joint

Planning Commission, Humboldt, Nebr. 68370.

This report discusses environmental considerations related to the proposed operation of the Cooper Nuclear Station located near the village of Brownville, Nemaha County, Nebr. Comments on the report may be submitted by interested persons to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental environmental report to include information required by the Commission's regulations in Appendix D to 10 CFR Part 50 implementing the National Environmental Policy Act of 1969 is expected to be submitted by Nebraska Public Power District.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the Applicant's Environmental Reports and the draft detailed statement. The summary notice will request, within seventy-five (75) days or such longer period as the Commission may determine to be practicable, comment from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,

Division of Reactor Licensing.

[FR Doc.71-17814 Filed 12-6-71;8:48 am]

[Dockets Nos. 50-275, 50-323]

PACIFIC GAS & ELECTRIC CO.

Determination To Suspend Certain Construction Activities Pending Completion of NEPA Environmental Review

The Pacific Gas and Electric Co. (the licensee) is the holder of Construction Permits Nos. CPPR-39 and CPPR-69 (the construction permits), issued by the Atomic Energy Commission on April 23, 1968 and December 9, 1970, respectively. The construction permits authorize the licensee to construct two pressurized water nuclear reactors, designated as the Diablo Canyon Nuclear Power Plant, Units 1 and 2, at the licensee's site in San Luis Obispo County, Calif. Each reactor is designed for initial operation at approximately 3,250 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has

furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities involving the off-site right-of-way and constructing the second Diablo-Midway transmission line for the Diablo Canyon Nuclear Plant should be suspended pending completion of those portions of the NEPA environmental review. With respect to the construction of the Diablo-Gates transmission line and the first Diablo-Midway transmission line, and the onsite portions of the Diablo Canyon Plant, we have balanced the environmental factors and concluded that these activities need not be suspended.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, Dockets Nos. 50-275 and 50-323."

In accordance with section E.4(a) of Appendix D, the Director of Regulation has served upon the licensee an order to show cause why the above-mentioned construction activities at the Diablo Canyon Plant should not be suspended pending completion of the NEPA environmental review that relate to these matters. Among other things, the order to show cause provides that the licensee may, within thirty (30) days of the date of the order, file a written answer to the order under oath or affirmation, and informs the licensee of his right, within the same period, to demand a hearing.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a suspension determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Diablo Canyon Nuclear

Power Plant, Units 1 and 2, Dockets Nos. 50-275 and 50-323" and the order to show cause are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the San Luis Obispo County Free Library, 1354 Bishop Street, San Luis Obispo, CA 93401. Copies of the "Discussion and Findings" document and the order to show cause may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17815 Filed 12-6-71;8:48 am]

[Dockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC AND POWER CO.

Determination To Suspend Certain Construction Activities Pending Completion of NEPA Environmental Review

The Virginia Electric and Power Co. (the licensee), is the holder of Construction Permits Nos. CPPR-77 and CPPR-78 (the construction permits), issued by the Atomic Energy Commission on February 19, 1971. The construction permits authorize the licensee to construct two pressurized water nuclear power reactors designated as the North Anna Power Station Units 1 and 2 at the licensee's site located in Louisa County, Va. Each reactor is designed for initial operation at approximately 2,652 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities involving the off-site portions of the transmission lines at the North Anna Power Station should be suspended pending completion of those portions of the NEPA environmental review. With respect to the construction of the onsite portions of the North Anna Power Station, we have balanced the environmental factors and concluded that these activities need not be suspended.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy

Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the North Anna Power Station, Units 1 and 2, Dockets Nos. 50-338 and 50-339."

In accordance with section E.4(a) of Appendix D, the Director of Regulation has served upon the licensee an order to show cause why the above-mentioned construction activities at the North Anna Power Station should not be suspended pending completion of the NEPA environmental review that relate to these matters. Among other things, the order to show cause provides that the licensee may, within thirty (30) days of the date of the order, file a written answer to the order under oath of affirmation, and informs the licensee of his right, within the same period, to demand a hearing.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a suspension determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the North Anna Power Station, Units 1 and 2, Dockets Nos. 50-338 and 50-339" and the order to show cause are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093. Copies of the "Discussion and Findings" document and the order to show cause may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17816 Filed 12-6-71; 8:48 am]

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a report entitled "Applicant's Environmental Report—Construction Permit Stage" submitted by the Washington Public Power Supply System is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352. The report is also being made available to the public at the Office of the Governor, State Planning Division and Community Assistance Division, 100 Insurance Building, Olympia, Wash. 98501.

This report discusses environmental considerations related to the proposed construction of Hanford Number Two, located in Benton County, Wash. Comments on the report may be submitted by interested persons to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental environmental report to include information required by the Commission's regulations in Appendix D to 10 CFR Part 50 implementing the National Environmental Policy Act of 1969 is expected to be submitted by Washington Public Power Supply System.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the Applicant's Environmental Reports and the draft detailed statement. The summary notice will request, within seventy-five (75) days or such longer period as the Commission may determine to be practicable, comment from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17817 Filed 12-6-71; 8:48 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Order Confirming Order for Resumption of Hearing

In accordance with the provisions made at the evidentiary hearing which recessed on November 17, 1971, and confirming the order as reflected in the transcript of that proceeding,

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the evidentiary hearing in this proceeding (Indian Point Station Unit No. 2) shall resume at 9 a.m. on Tuesday, December 14, 1971 in the All-Purpose Room of the Springvale Inn, 500 Albany Post Road, Croton-on-Hudson, NY.

Issued: December 3, 1971, Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71-17931 Filed 12-6-71; 8:51 am]

[Dockets Nos. 50-354, 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Notice of Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Public Service Electric and Gas Co. (the applicant), for construction permits for two boiling water nuclear reactors designated as the Newbold Island Nuclear Generating Station, Units 1 and 2 (the facilities), each of which is designed for initial operation at approximately 3,293 thermal megawatts. The proposed facilities are to be located at a site of approximately 530 acres located in Bordentown Township, Burlington County, N.J. The proposed site is situated on Newbold Island, which is in the Delaware River approximately 5 miles south of the city limits of Trenton, N.J., and approximately 11 miles northeast of the Philadelphia city limits. The hearing will be held in the vicinity of the site of the proposed facilities.

The Board will be designated by the Atomic Energy Commission (Commis-

sion). Notice as to its membership will be published in the FEDERAL REGISTER, prior to the convening of a prehearing conference in this matter on January 6, 1972. The time and place of the prehearing conference will be set by the Board and notice thereof will be published in the FEDERAL REGISTER.

The date and place of the hearing will be set at or after the prehearing conference. In setting such date due regard shall be had for the convenience and necessity of the parties or their representatives, as well as of the Board members. Notice as to the date and place of the hearing will be published in the FEDERAL REGISTER.

Upon completion of a favorable Safety Evaluation of the application by the AEC regulatory staff, the Director of Regulation will consider making affirmative findings on Items Nos. 1-3 and a negative finding on Item 4 specified below as a basis for the issuance of construction permits to the applicant.

1. Whether in accordance with the provision of 10 CFR 50.35 (a)

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated herein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application and completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4 of the Commission's rules of practice, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether

the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and to support, insofar as the Commission's licensing requirements under the Act are concerned, the construction permits proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Item Nos. 1 through 4 above as a basis for determining whether construction permits should be issued to the applicant.

The Commission has recently issued revised regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 in Appendix D to 10 CFR Part 50. The instant proceeding is covered by section D.1 of said Appendix D. (A draft detailed statement of environmental considerations has been circulated prior to the effective date of revised Appendix D but the requirements of section A.1 through 9 of that Appendix D have not yet been completed for this application.) In accordance with the provisions of section D.1, the Board will proceed expeditiously with consideration of the matters encompassed by items 1-4 above, pending compliance with the requirements specified in said Appendix D. The Commission will give further public notice regarding hearing consideration herein of matters covered by said Appendix D.

As they become available, the application, the proposed construction permits, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), and the Safety Evaluation by the Commission's regulatory staff, the applicant's Environment Report, the Commission's Detailed Statement on Environmental Considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will be sent to the Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608, for inspection by members or the public during regular business hours. Copies of the proposed construction permits, the ACRS report, the regulatory staff's Safety Evaluation, and the Commission's Detailed Statement on Environmental Considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. 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. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. 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 as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the

Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission.

The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a) (1) of this section. The Appeal Board is composed of Algie A. Wells, Esq., and Dr. John Buck, with a third member to be designated by the Commission.

Previous notices published in the FEDERAL REGISTER (on February 25, March 4, 11, 18, and September 4, 1971) afforded (a) an opportunity for any person wishing to have his views on the antitrust aspects of the application presented to the Attorney General for consideration to submit such views and (b) for any person whose interest may be affected to request a hearing on the antitrust aspects of the application. No such views or requests for hearing were received.

Dated at Germantown, Md., this 3d day of December 1971.

UNITED STATES ATOMIC
ENERGY COMMISSION,
W. B. McCool,
Secretary of the Commission.

[FR Doc.71-17932 Filed 12-6-71;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23105]

AIR CAICOS LTD.

Notice of Hearing

Notice is hereby given pursuant to the request of Air Caicos Limited that the hearing in the above-entitled proceeding presently scheduled for December 7, 1971, is hereby postponed to 10 a.m., local time, January 17, 1972, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Joseph L. Fitzmaurice.

The date for exchange of exhibits is postponed to January 7, 1972.

Dated at Washington, D.C., December 1, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-17847 Filed 12-6-71;8:50 am]

[Docket No. 23267]

AIRLINES INDUSTRIAL RELATIONS CONFERENCE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 18, 1972, at 10 a.m., local time, in Room 726, Universal Building, 1825 Con-

necticut Ave.ue NW., Washington, DC, before Examiner Milton H. Shapiro.

In order to facilitate the conduct of the conference parties are instructed to submit to the Examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before December 23, 1971, and the other parties on or before January 6, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., December 1, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-17848 Filed 12-6-71;8:50 am]

[Docket No. 24013; Order 71-12-13]

CONTINENTAL AIR LINES, INC.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 2d day of December 1971.

By application filed November 24, 1971, Continental Air Lines, Inc. (Continental), requests an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958 to permit Continental to provide free transportation to two groups of AMTRAK¹ passenger service representatives and passenger service supervisory training personnel on regularly scheduled flights between Los Angeles and various on-line points in conjunction with a training program conducted by Continental for AMTRAK.

In support of its application Continental states that it has entered into a contract with AMTRAK to train two groups of its passenger-handling personnel who will serve on board AMTRAK trains in much the same fashion as Continental's hostesses do on Continental flights. Under the terms of the contract the training will be conducted at the Continental Training Center in Los Angeles. There will be two classes of approximately 25 students each and two AMTRAK supervisory/training personnel. The first class will be conducted for a 2-week period beginning November 29, 1971, and the second for a 2-week period beginning January 10, 1972. Training flights would come at the end of the first week of the courses—on December 4-5, 1971, for the first and January 15-16, 1972, for the second.

Under the terms of the contract, during the course of the program the students will take part in observation and training while aboard regularly scheduled passenger flights of Continental operated between Los Angeles and cities served by Continental. In addition, it is

¹ AMTRAK is the National Railroad Passenger Corp. created by Congress (Rail Passenger Service Act of 1970, Public Law 91-518).

contemplated that the AMTRAK supervisory/training personnel will be observers on certain of the flights. While on these flights the students will travel as on-board trainees and will observe and assist with passenger-handling responsibilities. Students will return to the Continental Training Center in Los Angeles immediately following the outbound flight from Los Angeles on the next regularly scheduled Continental flight. Continental's exemption request relates only to the transportation of the trainees and the supervisory/training personnel on these flights, which will serve as training flights for them. The use of such flights is solely for the purpose of training.

We have concluded that the requested exemption is warranted by the public interest in the unusual circumstances described. Congress has found that efficient intercity railroad passenger service is a necessary part of a balanced transportation system. The training to be provided by Continental is of limited extent, will promote the Congressional policy, and is in the public interest.

The Board finds that the enforcement of section 403 of the Act under the circumstances here involved would be an undue burden upon Continental because of the limited extent of, and the unusual circumstances affecting, such operation and would not be in the public interest.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 416(b) thereof,

It is ordered, That:

Continental Air Lines, Inc., is hereby exempted from section 403 of the Act and Part 221 of the economic regulations insofar as necessary to permit it to provide the transportation described in its application in Docket 24013.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17849 Filed 12-6-71;8:51 am]

[Docket No. 23486; Order 71-12-10]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of December 1971.

There 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, agreements between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted at meetings held in Miami, Fla., in the fall of 1971.

The agreements, among other things, embrace fare resolutions to apply on North/Central Pacific routes effective

February 1, 1972,¹ and on South Pacific and Western Hemisphere routes effective April 1 and April 16, 1972, respectively. The attached table^{2a} sets forth a comparison of selected proposed fares with the current fare structure in the principal areas.

Based on West Coast-Tokyo, the proposed fares provide for increases, in a majority of the fares, ranging from \$30 to \$40. Group inclusive tour fares and the affinity fare for a group of 70 passengers are proposed to be reduced, with reductions ranging from \$30 to \$75. It would appear that the increases in fares to Japan are attributable to the problems associated with revaluation of the Japanese currency and new en route facility costs which apply to all operations involving Japan. To points other than Japan, the fares remain essentially at status quo; however, reductions of \$50 in the basic season group inclusive tour fares and affinity fares for groups of 70 or more are established. Other pertinent changes over the North/Central Pacific relate to the conditions attached to use of the group inclusive tour fare which provide for an extension of travel validity of from 30 to 35 days, a reduction to \$200 in the minimum tour price,³ and a reduction in the minimum number of passengers (from 15 to 10) during the off season. In addition, new short limit tours of 7 days to Hawaii and Alaska are proposed and CBIT fares will be retained for Japanese originating passengers.

First-class and economy fares between the West Coast and points in the South Pacific are proposed to be increased by 4 and 4.7 percent, respectively, with the exception of fares to Papeete which remain at status quo. All excursion fares are increased by approximately 4 percent. A new resolution establishing low group fares has been submitted which will replace the existing group-fare resolution. This new resolution provides for a round-trip fare between the West Coast and Sydney of \$585 (compared with \$706 presently in effect) and is available to affinity groups of 25 passengers (15 as presently constituted) with stopovers limited to two in addition to the point of turnaround. An additional resolution would establish a group inclusive tour fare to and from most points in the South Pacific for groups of 15 or more passengers for travel 14 through 35 days at \$585 between Los Angeles and Sydney plus a minimum tour price of \$140 for the minimum stay period and \$10 per day thereafter. Two stopovers are permitted plus the point of turnaround.

Long-haul fares in the Western Hemisphere remain generally at status quo with the exception of first-class and economy fares which are generally increased 4 percent and 1 percent each, respectively. In the short-haul markets,

¹ Effectiveness for certain off-peak fares is proposed for Jan. 1, 1972.

^{2a} Filed as part of the original document.

³ Presently the total tour package must equal the normal economy fare.

the fares were generally revalidated at present levels subject to some technical adjustments. In addition to establishing new short-limit group inclusive tour fares between the United States and Mexico, the Caribbean, and Central America, the agreements amend the existing group inclusive tour fares by generally liberalizing the conditions on the use of these fares such as minimum group size, duration of travel, stopover privileges, and the minimum price for ground accommodations.

It has been the Board's policy whenever possible to act on IATA fare agreements submitted for its approval prior to the intended effective dates thereof. The Board's ability to do so, however, is contingent upon the prompt filing by the affected U.S. carriers of the appropriate supporting documentation which remains incomplete at present. Consistent with the Board Order 71-11-97, dated November 24, 1971, which revokes prior Board orders² stabilizing fares, rates, and charges for passengers and property, submissions by the carriers should include a statement as to whether the Price Commission has been informed of the proposed increases and the basis it is contended that the increases are within the stabilization guidelines.

Since the agreements may contain controversial elements and are intended to become effective in a relatively short period of time, the Board believes it desirable to establish a schedule for receipt of comments and replies thereto. For those agreements to become effective on January 1, 1972, and February 1, 1972, concerning fares over the North/Central Pacific, comments will be received no later than December 15, 1971, and for those agreements scheduled to become effective April 1, 1972, and April 16, 1972, concerning fares in the South Pacific and the Western Hemisphere, comments will be received by January 14, 1972.

Accordingly, it is ordered, That:

Comments shall be submitted by interested persons in accordance with the following schedule:

For resolutions to be effective on January 1, 1972, and February 1, 1972—December 15, 1971.

For resolutions to be effective on April 1, 1972, and April 16, 1972—January 14, 1972.

Replies to comments shall be submitted as follows:

For resolutions to be effective on January 1, 1972, and February 1, 1972—December 29, 1971.

For resolutions to be effective on April 1, 1972, and April 16, 1972—January 28, 1972.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,

Secretary.

[FR Doc.71-17851 Filed 12-6-71; 8:51 am]

² 71-8-78, 8/17/71; 71-9-51, 9/13/71; 71-10-121, 10/27/71; and 71-11-36, 11/10/71.

[Docket No. 20754; Order 71-12-1]

NORTH CENTRAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of December 1971.

By petition in Docket 20754, North Central Airlines, Inc. (North Central), requested that the Board issue an order to show cause why its certificate of public convenience and necessity for route 86 should not be amended so as to consolidate service to Land O'Lakes and Rhinelander, Wis., with service to be provided through the Rhinelander airport. By Order 69-5-139, dated May 29, 1969, the Board denied without prejudice the requested certificate amendment but authorized North Central to temporarily suspend its seasonal service (June 1 through September 30) at Land O'Lakes for 3 years, conditioned on the continuation of substitute air taxi service. On May 7, 1971, North Central renewed its petition for an order to show cause.¹

No answers to North Central's petition have been filed.

Upon consideration of North Central's request and other relevant facts, we have decided to issue an order to show cause proposing to grant the requested consolidation.

We tentatively find and conclude that the public convenience and necessity require the amendment of North Central's route 86 so as to consolidate service to Land O'Lakes and Rhinelander, Wis., with service to be provided through the Rhinelander airport. In support of our ultimate conclusion, we tentatively find and conclude as follows:

The proposed hyphenation should add to the economy of North Central's operations. Since the Land O'Lakes airport will not accommodate North Central's Convair 580 or DC-9 aircraft, the carrier would have to acquire or lease small twin-engine aircraft to reinstitute service. North Central estimates—which estimate we find reasonable—that the operation of a two-daily round-trip Land O'Lakes-Rhinelander service, with small aircraft, during the 4-month seasonal period, would incur a \$53,000 annual operating loss. We further tentatively find that the proposed hyphenation will not unduly inconvenience the public. In the last year of certificated service, Land O'Lakes enplaned only about eight passengers a day. With the deletion of North Central, these passengers will have access to North Central's service at Rhinelander, 50 miles south.² Scheduled air taxi service between Land O'Lakes and Rhinelander has been provided during the summer sessions since 1969 and Land O'Lakes Flying Service has indicated that it will continue to provide the service. Land O'Lakes did not file an objection to the renewed petition of North

¹ By Order 71-6-80, dated June 15, 1971, the Board granted a concurrent request for modification of the suspension authority.

² In addition to the services of Land O'Lakes Flying Service, area passengers have scheduled air taxi service available at Eagle River, Wis., 18 miles south.

Central for a certificate amendment through show cause procedures.

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending North Central Airlines, Inc.'s certificate of public convenience and necessity for route 86 so as to consolidate the separate points Land O'Lakes and Rhinelander, Wis., as a single point, with service to be provided through the Rhinelander airport;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, or certificate amendment set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;²

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions, set forth herein;

5. A copy of this order shall be served upon North Central Airlines, Inc.; Mayor, city of Rhinelander, Chairman, Board of Supervisors, town of Land O'Lakes; and Governor, State of Wisconsin; and

6. This order may be amended or revoked at any time in the discretion of the Board without a hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71-17850 Filed 12-6-71; 8:50 am]

²All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests or petitions for reconsideration of this order will be entertained.

COUNCIL ON ENVIRONMENTAL QUALITY ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality November 22–November 26, 1971.

Note: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

FOREST SERVICE

Draft, November 22

FH-12, Rio las Vacas-Senorita Section, Santa Fe National Forest, Sandoval County, N. Mex. Upgrading 15-mile portion of dirt and gravel road to a paved road. Involves loss of estimated maximum of 85 acres of productive forest land. (ELR Order No. 1250, 14 pages) (NTIS Order No. PB-204 377-D)

SOIL CONSERVATION SERVICE

Final, November 15, 1970

Red Lick Creek Watershed, Ky. Acceleration of land treatment program and installation of four floodwater retarding structures and one multiple purpose structure. Will inundate 6 miles of intermittent stream channels, involve 244 acres of land in sediment pools and necessitate relocation of 10 families. Comments made by Army, HEW, DOI, and Appalachian Regional Commission. (ELR Order No. 1230, 14 pages) (NTIS Order No. PB-204 255-F)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, (202) 693-6329.

Draft, November 17

Supervision of the Harbor Permit Program for Waste Disposal in the Atlantic Ocean, New York. Continuation of issuance of permits for disposal of various types of wastes at designated dumping grounds in Outer New York Harbor. Contributes to pollution problems of New York Bight (over 13.5 million cubic yards disposed of in fiscal year 1970). (ELR Order No. 1225, 32 pages) (NTIS Order No. PB-204 264-D)

Draft, November 18

Crescent City Harbor Navigation Project, Del Norte County, Calif. Construction of a T-shaped basin from deepwater, 20 feet deep, 1,500 feet long, with a stem 1,000 feet long, extending 325 feet north of Citizens' Dock and a 400-foot extension of the inner harbor breakwater. (ELR Order No. 1251, 32 pages) (NTIS Order No. PB-204 380-D)

Final, November 19

Valcour Harbor, Lake Champlain, N.Y. Construction of a 700-foot long rubble-mound offshore breakwater to protect a 15.1-acre basin for recreational craft on

the lake about 5 miles south of Plattsburgh. Comments made by USDA, AEC, DOI, HUD, DOT, and N.Y. Office of Parks and Recreation. (ELR Order No. 1228, 35 pages) (NTIS Order No. PB-204 256-F)

Final, November 22

Buffalo Creek Channel Improvement project, Meadow Grove, Nebr. Enlarging and straightening 5,700 feet of natural channel to provide flood protection to village of Meadow Grove. Comments made by USDA, EPA, DOI, Nebraska Game and Parks Commission, Nebraska Wildlife Federation, Village of Meadow Grove, and Chicago and Northwestern Railway Co. (ELR Order No. 1259, 27 pages) (NTIS Order No. PB-202 081-F)

Loup River flood control project, Columbus, Nebr. Construction of a 28,480-foot levee averaging 8-foot height along the left bank. Comments made by USDA, HEW, DOI, four State agencies, the Governor, and the Mayor of Columbus. (ELR Order No. 1260, 31 pages) (NTIS Order No. PB-200 769-F)

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Deputy Administrator, General Services Administration-AD, Washington, DC 20405, (202) 343-8077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, General Services Administration-AD, (202) 343-4161.

Final, November 19

Disposal of the Niagara Falls Army Chemicals Plant, Niagara Falls, N.Y., by competitive bidding. Plant consists of 37 buildings and 5.7 acres. Comments made by Army COE, EPA, DOI, New York Department of Environmental Conservation, and Erie and Niagara Counties Regional Planning Board. (ELR Order No. 1237, 19 pages) (NTIS Order No. PB-200 395-F)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Contact: Robert Lanza, Office of the Assistant Secretary for Health & Scientific Affairs, Room 4062 HEWN, Washington, D.C. 20202, (202) 962-2241.

Final, November 24

Indian Health Service Hospital, Tuba City, Ariz. Construction of 125-bed hospital adjacent to existing hospital to provide a comprehensive health program for 16,000 Navajo and Hopi Indians. Comments made by DOC, DOD, EPA, HUD, DOI, and Arizona Department of Economic Planning and Development. (ELR Order No. 1267, 40 pages) (NTIS Order No. PB-200 199-F)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, DC 20410, (202) 755-6186.

Final, November 19

New Community of Riverton, Monroe County, N.Y. Commitment to guarantee up to \$12 million for development over 16 years of 2,350 acres, with planned ultimate population of about 25,600 residents in 8,010 dwelling units; 170 acres of commercial and community space will be provided. Comments made by USDA, AEC, FPC, GSA, HEW, DOI, DOT, New York Department of Environmental Conservation and Genesee Finger Lakes Regional Planning Board. (ELR Order No. 1271, 123 pages) (NTIS Order No. PB-201 391-F)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,¹ Director, Office of Program Co-ordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462-4357.

FEDERAL AVIATION ADMINISTRATION

Draft, November 18

Rockingham County Airport, N.C. Construction of runway, taxiway, apron, and lighting system with a VASI installed at each end of the runway. (ELR Order No. 1236, 18 pages) (NTIS Order No. PB-204 259-D)

FEDERAL HIGHWAY ADMINISTRATION

Draft, November 16

SR-101: Thurston County, Wash. Construction of interchange west of Mottman Road intersection to replace and permit closure of that intersection and the on-ramp near Ninth Avenue SR-101 runs along corporate limits of Olympia and Tumwater. (ELR Order No. 1224, 9 pages) (NTIS Order No. PB-204 258-D)

Draft, November 11

County State Aid Highways 24 and 45: Courtland, Minn. Construction of a bridge, construction of roadway embankment and rerouting of Minnesota River channel between Courtland and SH-68. State Project Nos. SP 07-645-03, SP 52-624-03, ER 71(38), and bridge No. 52504. (ELR Order No. 1227, 24 pages) (NTIS Order No. PB-204 265-D)

Draft, November 16

US-30: Benton and Linn Counties, Iowa. Construction of 14.4 miles of expressway on relocation beginning near intersection with US-218 and ending near future interchange with Iowa 148. Will disturb some wildlife habitat and displace one family and one business. (ELR Order No. 1232, 10 pages) (NTIS Order No. PB-204 263-D)

Draft, October 29

Trunk Highway 52: Olmsted County, Minn. New routing to provide bypass of South Rochester in three segments, one completed and one under construction. Last segment runs from TH-63 junction to county road junction. Will require use of 131 acres of agricultural land and will sever 13 farmsteads from remaining lands. Project S.P. 5507 (T.H. 52), F. 020-1(). (ELR Order No. 1233, 20 pages) (NTIS Order No. PB-204 262-D)

Draft, November 19

CR-204: Lorain County, Ohio. Upgrading to four lanes of 1 mile of road beginning near Griswold Road intersection and ending near Elyria Avenue. Will require taking of four residences and four business places. Project SU 1484(1) (ELR Order No. 1234, 6 pages) (NTIS Order No. PB-204 261-D)

Route 208 Freeway: Bergen and Sussex Counties, N.J. Construction of 21.4 miles of freeway from Oakland Borough to New York line. Will involve taking of 308 acres of watershed and recreational lands, 101 residences and three commercial structures. 4(f) determination required. (ELR Order No. 1235) (NTIS Order No. PB-204 260-D)

Draft, November 17

I-75 (SR-93): St. Petersburg, Pinellas County, Fla. Construction of 2-mile multilane highway and related facilities beginning near Sunshine Skyway North Toll Plaza and ending at 39th Avenue

¹ Mr. Convisser's office will refer you to the regional office from which the statement originated.

South. Use of Maximo Park land requires 4(f) determination. State job 15190-3422, Federal job I-75-7(42) 448. (ELR Order No. 1242, 66 pages) (NTIS Order No. PB-204 376-D)

Draft, November 18

US-250: Philippi, Barbour County, W. Va. Construction of 4-lane bridge over Tygart Valley River and relocation of US-250 beginning on US-119 to a point near Anglin Street, a length of 1.2 miles. Will involve acquisition of 43 homes, seven businesses and one church. Project F-117 (12). (ELR Order No. 1243, 34 pages) (NTIS Order No. PB-204 381-D)

Draft, November 19

SR 619: (State Street) Barberton, Summit County, Ohio. Construction of grade separation over railroad tracks beginning near Highland Avenue and ending 0.55 mile northwest along State Street. Will displace 17 families and three businesses. Project US-385 (7), SUM-619-063. (ELR Order No. 1248, 10 pages) (NTIS Order No. PB-204 378-D)

Tudor and Muldoon Roads: Anchorage, Alaska. Upgrading to four-lane, two-way facility from junction of Seward Highway and Tudor Road, east on Tudor Road and north on Muldoon Road to Glenn Highway, a distance of 7.2 miles. Project F-044-1 (5) and (6). (ELR Order No. 1249, 22 pages) (NTIS Order No. PB-204 379-D)

Final, November 15

I-670: Kansas City, Mo. Construction of 0.9 mile of six-lane freeway, mainly elevated, from intersection of I-29 and 35 to I-670 in Kansas. Will require 1.1 acres of West Terrace Park; 4(f) determination attached. Comments made by USDA, EPA, DOI, DOT, Missouri Department of Community Affairs, Metropolitan Planning Commission—Kansas City Region, and Kansas City Board of Park and Recreation Commissioners. Job No. 4-I-670-46; Project I-IG-670-1(52). (ELR Order No. 1229, 25 pages) (NTIS Order No. PB-204 254-F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.71-17830 Filed 12-6-71;8:49 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-88 (Supp. Order 1)]

ASSOCIATED LATIN AMERICAN
FREIGHT CONFERENCES AND AS-
SOCIATION OF WEST COAST
STEAMSHIP COMPANIESWharfage and Handling Charges;
Order of Investigation

On November 19, 1971, the Commission issued an order (Docket No. 71-88) to determine whether subject Conferences' concerted action in publishing the rules and charges at issue, is in violation of section 205, Merchant Marine Act, 1936; section 8, Merchant Marine Act, 1920; and sections 15, 16, and 17 of the Shipping Act, 1916, as advanced in the protests of the Governors of the States of New York, New Jersey, and Pennsylvania. Subsequently, on November 24, 1971, a protest has been received from the Governor of the State of Maryland which

is similar to the protests from each of the Governors of the above-named States.

In view of the foregoing, the Commission believes that a supplemental order should be issued to include the issues raised by the Governor of the State of Maryland in the proceeding.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, the Conferences and their member lines as shown in Appendix "A" to the Order of Investigation served November 19, 1971, be named respondents in this proceeding and that this proceeding is enlarged to include an investigation to determine whether the Conferences' concerted action in publishing the subject rules and charges is in violation of section 205, Merchant Marine Act, 1936, and section 15, Shipping Act, 1916, by preventing carrier members of such Conferences from serving the Port of Baltimore, at the same rates and charges which such carrier members charge at the nearest port already regularly served by them; whether the subject rules will subject the State of Maryland and its products moving in foreign commerce, as well as cargo normally moving in foreign commerce via their ports, to undue and unreasonable prejudice in violation of section 16 of the Shipping Act, 1916; whether the subject rules will result in the assessment of charges that will be unjustly discriminatory and unfair as between the Port of Baltimore and other ports in violation of sections 15 and 17 of the Shipping Act, 1916; whether the subject charges at the Port of Baltimore will result in the establishment of unjust and unreasonable regulations and practices relating to the handling of property at such ports, moving in foreign commerce, in violation of section 17 of the Shipping Act, 1916; whether the subject charges will be unjustly discriminatory or unfair as between shippers, exporters and importers engaged in foreign commerce via the Port of Baltimore and shippers, exporters and importers engaged in foreign commerce via other ports, in violation of sections 15 and 17 of the Shipping Act, 1916; and whether the subject charges will divert cargo from the natural direction of its flow through the Port of Baltimore in violation of section 8 of the Merchant Marine Act, 1920; It is further ordered, That, pursuant to section 16 First of the Shipping Act, 1916, respondents are ordered to show cause why the subject rules and charges should not be set aside for the reasons enumerated above as advanced in the protest of the Governor of the State of Maryland; It is further ordered, That the Governor of the State of Maryland is hereby named a party in this proceeding; It is further ordered, That in all other respects the order of November 19, 1971, herein shall remain in full force and effect.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17858 Filed 12-6-71;8:51 am]

NOTICES

CONSOLIDATED CARGO CORP. ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission, applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Consolidated Cargo Corp., 2511 Biscayne Boulevard, Miami, FL 33137.

Officers:

Mark R. Benson, President-Treasurer, Lawrence E. Benson, Sr., Vice President, Wallace N. Maer, Secretary.

Glen Ellyn Storage Corp., 384 Duane Street, Glen Ellyn, IL 60137.

Officers:

David Hennicke, President, Elizabeth Hennicke, Vice President, Charles Hennicke, Secretary-Treasurer.

Greyhound Van Lines International, Inc., 13 East Lake Street, Northlake, IL 60164.

Officers:

Robert L. Hall, Jr., President, Robert McClure, Vice President, Charles A. Porter, Assistant Secretary, James W. Healy, Comptroller, R. F. Shaffer, President, Greyhound Corp., G. T. Christie, Secretary, Greyhound Corp.

Arrow World, Inc., 621 South Pickett Street, Alexandria, VA 22304.

Officer and Directors:

J. H. Sills, President-Director, R. M. White, Director, L. A. Scott, Director, Vivian B. Runfola, Director.

Dated: December 2, 1971.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17859 Filed 12-8-71; 8:50 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p) (1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01014---	Robert Bornhofen Reederei: Coronado.
01033---	Britain Steamship Co., Ltd.: Lancashire.
01087---	Dampskibsselskabet Torm A/S: Gerd.
01255---	Skjælbreds Rederi A/S, Kristiansand S: M/S Nortrans Vision.

Certificate No.	Owner/operator and vessels	Certificate No.	Owner/operator and vessels
01421---	Bibby Line, Ltd.: Herefordshire. Lincolnshire.	05577---	Far-Eastern Shipping Co.: Moskalvo. Paramushir. Primorye. Anri Barbyus.
02041---	Dalmor Przedsiębiorstwo Polowow Dalekomorskich 1 Usług Rybackich: M/T Saturn.	05578---	Baltic Shipping Co.: Anatoly Lunacharskiy.
02242---	Dal Deutsche Afrika-Linien G.m.b.H. & Co.: Woermann Sanaga.	05579---	Black Sea Shipping Co.: Kosmonavt Yuriy Gagarin. Partizan Bonivur. Leninogorsk. Deputat Lutsky. Soinechnogorsk. Admiral Ushakov. Divnogorsk. Mednogorsk. Sidor Kovpak.
02292---	Pacific Marine Transport Co., Ltd.: Hongkong Evergreen. Hongkong Friendship.	05580---	Kamchatka Shipping Co.: Kozyrevsk.
02306---	Erling H. Samuelsen Rederi A/S: Anita.	05838---	Kabushiki Kaisha Ichimaru: Shoyu Maru No. 8.
02344---	Empresa Lineas Maritimas Argentinas: Rio Parana.	06061---	Siderurgica Sicula De Navigazione S.P.A.: Golfo Di Palermo.
02877---	Nippon Yusen Kabushiki Kaisha (The Japan Mail Steamship Co., Ltd.): Tsuruga Maru.	06183---	Lefka Naviera, S.A.: Theodohos.
02912---	R & W Marine, Inc.: Phyllis.	06197---	Toledo Compania Naviera S.A. Panama: Lingestroom.
02940---	J. S. Gissel & Co.: LTC-30.	06198---	De Soto Compania Naviera S.A. Panama: Grebbestroom.
02975---	Venture Shipping (Managers), Ltd.: Eastern Venture.	06257---	Montauk Oil Transportation Corp.: Vito Cirillo. Costantino. Cirillo Bros. 162.
02977---	J. Ray McDermott & Co., Inc.: LBR-104A. McDermott No. 161. McDermott No. 162. McDermott No. 163. McDermott No. 164.	06360---	Garland Transports, Inc.: Garland.
02980---	Rederi A/S Mimer & A/S Norfart: Anmaj.	06374---	Dalei Maritime Co., Ltd.: M/V Ta Fong. M/V Ta Fu.
03077---	Bulk Food Carriers, Inc.: Mary Ormston.	06384---	Mercury Shipping Co., Ltd.: Mercury Bay. Mercury Lake.
03137---	The Cunard Steam-Ship Co., Ltd.: Lumen. Luminetta. Lumiere.	06385---	Regency Transportation Co., Ltd.: Cedros Regent.
03171---	Saint Maria Maritime Co., Ltd.: St. Maria.	06386---	Panbalco Shipping Co. S/A Panama: Neotis.
03483---	Sankyo Kaiun Kabushiki Kaisha: Kyosei Maru.	06387---	Grand Betelgeuse, Inc.: Grand Betelgeuse.
03917---	Mobil Shipping Co., Ltd.: Mobil Pegasus.	06390---	Enterprise Compania Naviera S.A.: Leste.
04184---	M/G Transport Services, Inc.: M/G 23. M/G 24. M/G 25.	06392---	Sofamar-Sociedade De Fainas De Mar E Rio S.A.R.L.: Rio Zaire.
04289---	Dixie Carriers, Inc.: DXE-231-DC. DXE-232-DC.	06394---	Naviera Iberimex, S.A.: Lau.
04410---	Tenneco Oil Co.: Z-100.	06395---	Kommanditgesellschaft Leonx Gesellschaft Fur Schifffahrt U. Aussenhandel MBG & Co.: I. G. Nicholson. Papenburg.
04640---	McAllister Lighterage Line, Inc.: McAllister No. 10.	06396---	Shetland Marine Panama S.A.: Albarosa.
04674---	Pescanova, S.A.: Noguerosa.	06398---	The B. F. Goodrich Chemical Co. a division of the B. F. Goodrich Co.: BFGC 101. BFGC 102. BFGC 103. BFGC 104. BFGC 105.
04933---	The Revilo Corp.: Barge No. 6.	06399---	Tokumaru Kaiun K. K.: Daitoku Maru No. 8.
05273---	Compania Maritima Rio Gulf, S.A.: Munatones.	06402---	Regina Shipping Corp.: Maria Voyazides.
05537---	Empresa Navegacion Mambisa: M/V Ignacio Agramonte.	06404---	Ichizan Kinkai Kisen K. K.: Ichizanunzen.
05575---	J. Rich Steers, Inc.: S 101. S 102. SE 103. SE 104. Concrete Mixer No. 67. Derrick Barge No. 1. Derrick Barge No. 3. Derrick Barge No. 4. Whirley Derrick No. 2. Whirley Derrick No. 5. Derrick Barge No. 6. Derrick Barge No. 7. Whirley Derrick No. 8. Whirley Derrick No. 9. Whirley Derrick No. 10. A. Frame Derrick No. 11.	06405---	Daito Kaiun Kabushike Kaisha: Kensen Maru.
		06408---	Thalassios Ploutos Shipping Co. S.A. Panama: Niris.

Certificate No.	Owner/operator and vessels
06409	India Steamship Co., Ltd.: Indian Splendour. Indian Trust. Indian Triumph. Indian Strength. Indian Splendour. Indian Tradition. Indian Security. Indian Tribune.
06412	Yokkaichi Enyo Gyogyo Kabushiki Kaisha: Sankaku Maru.
06413	Nanayo Kisen Kabushiki Kaisha: Daishowa Maru.
06414	Taygetos Shipping Co. S.A.: Agenor.
06418	Carosini Dott. Giovanni: Capo Miseno.
06426	Bernuth Tankers, Inc.: Jeane Hancock.
06427	Josefina Shipping Corp. S.A. Panama: Kokel.
06428	Tuna Societa Per La Pesca Oceanaica S.P.A. Tuna Prima.
06431	Toda Kisen Kabushiki Kaisha: Osha Maru.
06444	Stonehaven Tankers, Ltd.: Stonehaven.
06445	Aichiba Shipping Corp., Monrovia: Aichiba.
06446	Nike International Ocean Co. S.A.: Nike 1.
06447	Twopark Shipping Co., Ltd.: Troll Lake.
06448	Campeon Navegacion S.A.: Taxiarchis.
06449	A/S Dione: Diskos. Dianet. Dinar. Dimona. Diagara.
06450	Hoover Shipping Co., Inc.: Anna Trader.

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17860 Filed 12-6-71;8:50 am]

[Docket No. 71-94]

EQUALITY PLASTICS, INC., AND LEADING FORWARDERS, INC.

Order of Investigation and Hearing

The Commission has become aware that certain shipments consigned to Equality Plastics, Inc. (Equality), during the period of August 11, 1969, through October 13, 1969, see Attachment A for a list of the shipments, appear to have been misclassified resulting in the assessment of incorrect ocean freight charges. The bills of lading involved described the five shipments as "Toys" or "Bags", whereas the custom papers, shippers invoices, packing lists and inspections disclosed that the shipments consisted of battery operated liquid mixers, battery operated automobile vacuum cleaners, electric immersion heaters, and plastic garment bags which were subject to higher freight rates. The difference between the rate for the actual items shipped and the rate for "Toys" or "Bags" for each shipment is also set forth below.

Leading Forwarders, Inc. (Leading), acted as the customhouse broker for the inbound shipments to Equality. Leading Forwarders, Inc., is a licensed ocean freight forwarder holding FMC License No. 437. The Commission is continuously concerned with any and all activities of a licensed ocean freight forwarder which may detract from its fitness, willingness, and/or ability to carry on the business of forwarding as required by the Shipping Act. If a customhouse broker were found to have acted illegally on behalf of import clients it may not be "fit" to assume the fiduciary responsibilities required of a freight forwarder. The firm handled various documents which properly identified the commodities, and in at least three instances paid the ocean freight charges for Equality.

Section 16 of the Shipping Act of 1916 provides in part: "That it shall be unlawful for any shipper, consignee, consignee, forwarder, broker, or other person or other officer, agent, or employee thereof, knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable."

Therefore it is ordered, Pursuant to section 22 of the Shipping Act, 1916, that a proceeding is hereby instituted to determine whether Equality Plastics, Inc., and/or Leading Forwarders, Inc., violated section 16 of the Shipping Act, 1916, by knowingly and willfully, directly or indirectly, by means of false classification, or by any other unjust or unfair

device or means obtained or attempted to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

It is further ordered, That it be determined whether, because of the alleged activities of Respondent, Leading Forwarders, Inc., said Respondent continues to qualify to be licensed as an ocean freight forwarder or whether its license should be revoked or suspended pursuant to section 44 of the Shipping Act, 1916 and §§ 510.9 (a) and (e) of the Commission's rules of practice and procedure, 46 CFR 510.9.

It is further ordered, That Equality Plastics, Inc., and Leading Forwarders, Inc., be made respondents in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Presiding Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents.

It is further ordered, That any person, other than respondents, who desire to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573 with copies to respondents.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or pre-hearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

Bill of Lading Nos.	Date	Unit	Declared description	Rate	Actual items shipped	Rate	Attempted savings
955-453374	Aug. 11, 1969	176 cartons	Plastic toys	34.75/40	Battery operated mixers.	51.50/40	290.20
955-453375	do	do	do	do	do	do	272.19
955-453788	Aug. 31, 1969	225 cartons	do	do	do	do	384.00
955-453555	Aug. 20, 1969	648 cartons	do	do	do	do	1040.17
905-401494	Oct. 13, 1969	203 cartons	Bags	35.50/40	Battery operated automobile vacuum cleaners.	51.25/40	22.11
905-401313	Oct. 2, 1969	84 cartons	Toys	36.00/40	Plastic garment bags. Electric immersion heaters.	51.25/40	43.23

[FR Doc.71-17760 Filed 12-6-71;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of August 24, 1971

Correction

In F.R. Doc. 71-17330 appearing at page 22697 in the issue for Saturday, November 27, 1971, the word "ships" in the next to last line on page 22697 should read "shifts".

LINCOLN FIRST BANKS, INC.

Proposed Acquisition of Lincoln First/Baer Corp.; Correction

In the notice regarding the application of Lincoln First Banks, Inc., Rochester, N.Y., for permission to acquire voting shares of Lincoln/Baer Corp., New York, N.Y., published in the FEDERAL REGISTER November 24, 1971 (36 F.R. 22335), the second paragraph should be corrected to read:

"Applicant states that the proposed subsidiary would engage in domestic and foreign commercial financing activities.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).¹

Board of Governors of the Federal Reserve System, December 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.
[FR Doc.71-17805 Filed 12-6-71;8:47 am]

GENERAL SERVICES ADMINISTRATION

ENVIRONMENTAL STATEMENTS

Procedures for Preparation

Notice is hereby given of the procedures to be followed by the Transportation and Communications Service in preparing environmental statements.

Dated: November 26, 1971.

ELMER D. JONES,
Acting Commissioner, Transportation and Communications Service.

1. *Purpose.* This order prescribes the procedures to be followed in implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190), hereinafter referred to as the Act, Executive Order 11514 of March 5, 1970, entitled Protection and Enhancement of Environmental Quality, section 309 of the Clean Air Act, as amended, and the Guidelines issued by the Council on Environmental Quality (CEQ), for preparing environmental statements, hereinafter referred to as the Guidelines, published in the FEDERAL REGISTER on April 23, 1971, Volume 36, Page 7724, et seq.

2. *Background.* a. Section 102 of the Act directs all Federal agencies (1) to develop methods and procedures which will insure that environmental amenities and values are given appropriate consideration in decision-making along with economic and technical considerations and (2) to prepare a detailed statement on major Federal actions and recommendations or favorable reports on proposals for legislation that would significantly affect the quality of the human environment. Executive Order 11514 of March 5, 1970, Protection and Enhancement of Environmental Quality, effectuates the purpose and policy of this Act, and Guidelines implementing the Act have been issued by the CEQ. A copy of these Guidelines is included as Attachment 2.¹

b. Section 309 of the Clean Air Act, as amended, provides that the Administrator of the Environmental Protection Agency (EPA) shall review and comment in writing on the environmental impact of major Federal actions to which section 102(2)(C) of the Act applies when areas of EPA responsibility are significantly affected. Further, section 309 requires that all proposed legislation and regulations related or touching upon areas of EPA responsibility must be submitted to the Administrator of EPA for review and comment whether or not section 102(2)(C) applies. (See also paragraph 10, Attachment 1). EPA responsibilities include

air and water quality, noise abatement and control, pesticide regulation, solid waste disposal, and radiation criteria and standards.

3. *Responsible officials.* The official initially responsible (1) for determining whether an action is "major" and will "significantly affect the quality of the human environment" and (2) for preparation and submission of environmental statements will be the Assistant Commissioner or the Regional Director, TCS, for those projects and actions within their jurisdiction. Staff support and assistance will be furnished by the Office of Program Management.

4. *Procedures.* Implementation procedures are contained in the attachment to this order.

5. *Reports.* The report required by this order is exempt from the reports control program.

WILLIAM B. FOOTE,
Acting Commissioner, Transportation and Communications Service.

ATTACHMENT 1

1. *Determination of what is a "major Federal action significantly affecting the quality of the human environment."* This is in large part a judgment based on the circumstances of the proposed action, and the determination shall be included as a normal part of the decisionmaking process.

a. Types of major Federal actions requiring environmental statements include:

(1) Recommendations or reports relating to legislation with a significant environmental impact;

(2) Administrative actions such as projects and continuing activities with a significant environmental impact supported in whole or in part by a Federal agency through contracts, grants, subsidies, loans, lease permit, license, certificate, or other entitlement for use;

(3) Establishment of environmental policy including regulations and procedure making;

(4) Actions with significant environmental impact initiated as a result of projects or programs started prior to January 1, 1970, the date of enactment of the Act; and

(5) Any proposed action which is likely to be environmentally controversial.

b. Actions significantly affecting the human environment can be construed to be those that:

(1) Degrade environmental quality even if beneficial effects outweigh the detrimental ones;

(2) Curtail range of possible beneficial uses of the environment including irreversible and irretrievable commitments of resources;

(3) Serve short-term rather than long-term environmental goals;

(4) May be localized in their effect, but nevertheless, have a harmful environmental impact; and

(5) Are attributable to many small actions, possibly taken over a period of time, that collectively have an adverse impact on the environment.

c. Environmental subject areas include, but are not limited to:

(1) Ecological systems such as wildlife, fish, and other marine life;

(2) Human population distribution changes and its effect upon urban congestion (including vehicular traffic), water supply, sewage treatment facilities, other public services, and threats to health;

(3) Actions which directly and indirectly affect human beings through water, air, noise pollution and undesirable land use patterns; and

(4) Actions which impact upon the historic, cultural, and natural aspects of our national heritage.

2. *Actions having no environmental impact.* If a proposed action is determined not to be "a major Federal action significantly affecting the quality of the human environment" so as to warrant the preparation of an environmental statement, the responsible TCS official shall immediately notify the Office of Program Management, TCS, Central Office, in writing, and that office will so advise the Office of Environmental Affairs (ADF). The Central Office, TCS, upon concurrence from the Office of Environmental Affairs, will notify the TCS official when to proceed with the action.

3. *Actions having an environmental impact.* If the responsible TCS official determines that the action constitutes a "major Federal action significantly affecting the quality of the human environment," an environmental statement shall be prepared.

4. *Responsibility for environmental statement preparation in multiagency actions.* When two or more agencies are involved in an action, the "lead agency" (the one having primary authority for committing the Federal Government to a course of action) shall prepare the statement. Where there is a question as to primary authority, the Commissioner, TCS, will report the conflict to the Office of Environmental Affairs, for resolution. In cases where GSA is the "lead agency" but one or more other agencies have partial responsibility for an action, the other agencies shall be requested to provide such information to the responsible TCS official as may be necessary to prepare a suitable and complete environmental statements as described below.

5. *Preparation of draft environmental statements.* a. Each environmental statement shall be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment."

b. It is advisable, in the early stages of draft environmental statement preparation, for the responsible TCS official to consult with those Federal, State, and local agencies possessing environmental expertise on potential impacts of a proposed action. This will assist in providing the necessary data and guidance for the analyses required to be included in environmental statements as described below.

c. *Technical content:*

(1) A description of the proposed action and/or a reasonable number of alternatives including the information and technical data adequate to permit a careful assessment of the environmental impact of proposed action(s) by commenting agencies. If appropriate, three copies of site maps and/or topographic maps at suitable scales shall be provided;

(2) The probable impact of the proposed action(s) on the environment, including impact on ecological systems such as wildlife, fish, and marine life. Consequences of direct and indirect impacts on the environment shall be included in the analysis. For example, any effect of the action(s) on population distribution or concentration shall be estimated and an assessment made of the effect of any possible change in population patterns upon the resources of the area including land use, water supply, public services, and traffic patterns;

(3) Any probable adverse environmental effects that cannot be avoided, such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other conse-

¹ Attachment 2 is filed with the original document.

quences adverse to the environmental goals set out in section 101(b) of the Act:

(4) Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

A rigorous exploration and objective evaluation of possible alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment shall accompany the proposed action(s) through the agency review process so as not to prematurely foreclose consideration of options which might have less detrimental effects;

(5) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity shall be discussed. This in essence requires assessment of the action(s) for cumulative and long term effects from the perspective that each generation is trustee of the environment for succeeding generations;

(6) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action(s) should it be implemented. Identify the extent to which the action(s) curtails the range of beneficial use of the environment; and

(7) When prepared, a cost benefit analysis on the proposed action(s) shall be included.

d. Format requirements:

(1) A summary sheet shall be prepared in accordance with the format prescribed in Appendix 1 of the Guidelines and shall be attached to the environmental statement as the second page; and

(2) A top sheet or title sheet shall also be prepared for each environmental statement. (See Attachment 3.)

6. *Submission and distribution of draft environmental statements.* a. The copies of the draft environmental statement shall be transmitted to the Commissioner, TCS. The Commissioner, TCS, after review and approval, will submit the necessary copies of the draft environmental statement first to the General Counsel and then to the Office of Environmental Affairs for their concurrences prior to transmittal of the statement to the Deputy Administrator. After being signed by the Deputy Administrator, the statement shall be submitted to CEQ, the appropriate Congressmen, and governor. The draft environmental statement will automatically be made available to the public by the National Technical Information Service of the Department of Commerce.

b. Upon receipt of the signed copy of the transmittal letter to CEQ the responsible TCS official shall immediately send copies of the draft environmental statement to the appropriate city mayor and to Federal, State, and local agencies for comments. (See also subpars. c, d, and e below.) In addition, the comments of appropriate State, regional, or metropolitan clearinghouses (using the procedures in the Office of Management and Budget Circular A-95 Revised) shall be solicited unless the governor of the state involved has designated some other point for obtaining this review. The allowable commenting period for draft environmental statements shall be 30 calendar days, except that EPA shall have a 45-day commenting period. All commenting parties shall be advised that if no reply is received within the appropriate period it will be presumed that they have no comment to offer. However, if requests for extensions are made, a maximum period of 15 calendar days may be granted whenever practicable, except for EPA which is held to its 45-day review period. The transmittal letters sent to commenting par-

ties shall indicate that the draft environmental statement is based on the best information currently available.

c. The Federal agencies that shall be asked to comment on draft environmental statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards." These Federal agencies (depending on the aspect or aspects of the environment involved) include components of the:

- (1) Advisory Council on Historic Preservation;
 - (2) Department of Agriculture;
 - (3) Department of Commerce;
 - (4) Department of Defense;
 - (5) Department of Health, Education, and Welfare;
 - (6) Department of Housing and Urban Development;
 - (7) Department of the Interior;
 - (8) Department of State;
 - (9) Department of Transportation;
 - (10) Atomic Energy Commission;
 - (11) Federal Power Commission;
 - (12) Environmental Protection Agency;
- and
- (13) Office of Economic Opportunity.

For actions specifically affecting the environment of their geographic jurisdictions, the following Federal and Federal-State agencies are also to be consulted:

- (1) Tennessee Valley Authority;
- (2) Appalachian Regional Commission;
- (3) National Capital Planning Commission;
- (4) Delaware River Basin Commission;

and

- (5) Susquehanna River Basin Commission.

d. TCS officials circulating draft environmental statements for comment shall have determined which of the above-listed agencies are appropriate to consult on the basis of the areas of expertise identified in Appendix 2 of the Guidelines. Draft environmental statements shall be submitted for comment to the regional contact points of agencies being consulted when such offices have been established pursuant to section 7 of the Guidelines.

e. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official will submit to the appropriate regional office of EPA for review and comment seven (7) copies of all draft environmental statements related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, and radiation criteria and standards.

7. *Preparation of final environmental statements.* Whenever a draft environmental statement is prepared, a final statement must also be prepared by TCS before the proposed action can be initiated. Preparation of the final statement entails attaching all comments received on the draft statement from Federal, State, and local agencies and officials, and a revision of the text of the draft to take these comments into consideration.

Copies of comments received by the Central Office, TCS, shall be referred to the responsible TCS official for use in final environmental statement preparation.

8. *Submission and distribution of final environmental statements.* The responsible TCS official shall transmit 10 copies of the final environmental statement as soon as practicable, together with the original and two copies of each agency's comments, to the Commissioner, TCS. The Commissioner, TCS, after review and approval will transmit the necessary copies of final text of the environmental statement to the Office of the General Counsel and to the Office of Environmental Affairs for their concurrences.

Upon concurrence the final statement will be sent to the Deputy Administrator for submission to CEQ. Public availability is provided automatically by the National Technical Information Service of the Department of Commerce.

9. *Time requirements for preparation and submission of draft and final environmental statements.* a. To the maximum extent practicable, no action is to be taken sooner than 90 calendar days after a draft environmental statement has been circulated for comment, and furnished to CEQ. Action also is not to be taken sooner than 30 calendar days after the final text of the environmental statement has been made available to CEQ and the public. If the final text of an environmental statement is filed at least 60 days after a draft statement has been furnished to CEQ and made public, the 30-day period and 90-day period may run concurrently to the extent that they overlap.

b. Time requirements prescribed in this order shall be followed to the maximum practicable extent, except where (1) advanced public disclosure of a proposed action will result in significantly increased costs to the Government; (2) emergency circumstances make it necessary to proceed without conforming to time requirements; and (3) there would be impaired program effectiveness if such time requirements were followed. Any deviation from standard procedures must be approved by the Office of Environmental Affairs.

10. *Preparation and submission of other reports under section 309 of the Clean Air Act, as amended.* The Commissioner, TCS, shall prepare reports for all proposed legislation and regulations impacting on environmental areas under the purview of EPA (See subparagraph 2(b), GSA Order TCS 1095.1). These reports shall be sent to the Office of Environmental Affairs for concurrence and, as appropriate, to the General Counsel and/or the Assistant Administrator for their concurrence. The Deputy Administrator after signing the transmittal letter shall provide the Administrator of EPA seven copies of the report. EPA shall have 45 calendar days in which to comment on the reports.

ATTACHMENT 3

DRAFT

Environmental Statement for the (Short Title of the Proposed Action) as required by section 102(2)(C) of the National Environmental Policy Act of 1969 prepared by The General Services Administration (date).

[FR Doc.71-17780 Filed 12-6-71;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5114]

DELMARVA POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper by Holding Company and Exception From Competitive Bidding

DECEMBER 1, 1971.

Notice is hereby given that Delmarva Power & Light Co. (Delmarva), 600 Market Street, Wilmington, DE 19899, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Com-

pany Act of 1935 (Act), designating sections 6 and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Delmarva requests that, for the period commencing January 1, 1972, and ending December 31, 1973, the exemptions from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased from 5 percent to approximately 9 percent of the principal amount and par value of the other securities of Delmarva at the time outstanding. Delmarva proposes, under said exemption, to issue and sell short-term notes (including commercial paper) in an aggregate face amount not to exceed \$40 million to be outstanding at any one time. The proceeds from the issue and sale of the short-term notes, including the commercial paper, are to be utilized by Delmarva to finance its 1972 and 1973 construction programs, which are estimated at approximately \$188,819,000.

The notes to be issued to banks will aggregate not in excess of \$16,500,000 outstanding at any one time, and will mature not more than 180 days from the date of issue and in any event not later than December 31, 1973. The bank notes will bear interest at the prime commercial bank rate, in effect as of the dates the notes are executed and will be subject to prepayment at any time without penalty except that the notes may not be prepaid in whole or in part from the proceeds of any subsequent bank loan at a lower rate of interest. The company has maintained balances with these banks averaging approximately \$2 million or 12 percent of its maximum authorized borrowings. If such balances were maintained solely to satisfy compensating balance requirements, the effective interest cost on such loans, assuming a 5¼ percent prime rate, would be 6.5 percent. The proposed borrowings will be effected from among banks in maximum amounts as set forth below:

Wilmington Trust Co., Wilmington, Del.....	\$5,000,000
Bank of Delaware, Wilmington, Del.	3,000,000
Farmers Bank of the State of Delaware, Wilmington, Del.....	1,800,000
Delaware Trust Co., Wilmington, Del.	1,600,000
First National Bank of Maryland, Salisbury and Baltimore, Md....	5,100,000
Total	16,500,000

Delmarva also proposes to issue and sell, from time to time to mature not later than December 31, 1973, commercial paper in the form of short-term promissory notes to an investment banker and dealer in commercial paper, A. G. Becker & Co., Inc. (dealer), of up to \$40 million face amount to be outstanding at one time. The total amount of commercial paper and bank loans outstanding at any one time will not exceed \$40 million. The commercial

paper notes will be of varying maturities, with no such notes maturing more than 270 days after the date of issue. Such notes, in denominations of not less than \$50,000 and not more than \$1 million, will be issued and sold by Delmarva directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by issuers thereof to commercial paper dealers. The application states that no commercial paper notes will be issued having a maturity of more than 90 days, at an effective interest cost which exceeds that at which Delmarva could borrow from banks.

It is stated that no commission or fee will be payable in connection with the issue and sale of the commercial paper notes. The dealer, as principal, will reoffer such notes at a discount of one-eighth of 1 percent per annum less than the prevailing discount rate to Delmarva. The notes will be reoffered in a manner which will not constitute a public offering to no more than 200 identified and designated customers in a list (non-public) prepared in advance by the dealer.

The application states that Delmarva expects to retire the bank notes and commercial paper from the net proceeds of the sale of first mortgage bonds and/or equity securities prior to December 31, 1973.

Delmarva requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof. Delmarva also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper within 30 days after the end of each calendar quarter.

The application states that fees and expenses related to the proposed transactions are estimated at \$10,400, including legal fees of \$2,000. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 23, 1971, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the

general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17818 Filed 12-6-71;8:48 am]

[811-2165]

MML INVESTMENT CO., INC.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 30, 1971.

Notice is hereby given that MML Investment Co., Inc., a Massachusetts corporation (Massachusetts Fund), c/o Massachusetts Mutual Life Insurance Co., 1295 State Street, Springfield, MA 01101, registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order declaring that Massachusetts Fund has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

The application asserts, among other things, that on July 28, 1971, a corporation was incorporated in Maryland under the name of MML Corp. (MML-Maryland), and that on August 24, 1971, Massachusetts Fund was merged into MML-Maryland. MML-Maryland, the surviving corporation, then changed its name to MML Investment Co., Inc. The application further represents that Massachusetts Fund has not engaged in any business, has no securities outstanding, and has ceased to have a corporate existence through its merger with and into MML-Maryland.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 21, 1971 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such com-

munication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc 71-17801 Filed 12-6-71; 8:46 am]

[70-5120]

LOUISIANA POWER & LIGHT CO.

Notice of Proposed Transfer From Retained Earnings Account to Common Capital Stock Account

NOVEMBER 30, 1971.

Notice is hereby given that Louisiana Power & Light Co. (LP&L), 142 Delaronde Street, New Orleans, LA 70114, an electric utility subsidiary company of Middle South Utilities, Inc. (Middle South), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

LP&L proposes to transfer from the Retained Earnings Account to the Common Capital Stock Account the sum of \$3,775,000. At August 31, 1971, after giving effect to the issue and sale of 1,852,000 shares of common stock to Middle South for \$10 million (Holding Company Act Release No. 17304), LP&L had outstanding 22 million shares of common stock stated at \$135,925,000 and retained earnings in the amount of \$36,119,808. The proposed transaction would increase the Common Capital Stock Account by \$3,775,000 and reduce the Retained Earnings Account by a like amount. The declaration states that the transaction is proposed for the purpose of strengthening LP&L's capital structure for the benefit of holders of all classes of its securities.

It is further stated that there will be no special or separate fees and expenses in connection with the proposed transaction and that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is hereby given that any interested person may, not later than December 22, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17819 Filed 12-6-71; 8:48 am]

DEPARTMENT OF LABOR

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Composition and Functions

1. *Purpose.* The purpose of this document is to describe the composition and the functions of the National Advisory Committee on Occupational Safety and Health, and to regulate its operations.

2. *Authority.* This document is issued jointly by the Secretary of Labor and the Secretary of Health, Education, and Welfare, pursuant to sections 7(a) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1597, 1600), and 5 U.S.C. 301 and 552.

3. *Background.* Section 7(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 establishes a National Advisory Committee on Occupa-

tional Safety and Health, hereinafter referred to as the Committee, to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee consists of 12 members to be appointed by the Secretary of Labor, four of whom are to be designated by the Secretary of Health, Education, and Welfare.

4. *National Advisory Committee on Occupational Safety and Health—Membership.* The Committee is a continuing advisory body of 12 members. Two members will represent management, two members will represent labor, two members will represent the occupational health professions, two members will represent the occupational safety professions, and four members will represent the public. The Secretary of Health, Education, and Welfare will designate the two members representative of the occupational health professions and two of the members representative of the public. All the members will be selected upon the basis of their experience and competence in the field of occupational safety and health. All the members will be appointed by the Secretary of Labor, who will designate one of the public members as Chairman.

b. *Terms of membership.* The present term of the members is 2 years. Upon conclusion of the present term, the terms of membership shall be divided into four classes, each consisting of three members. Members of the first class shall be appointed for a term of 1 year; members of the second class shall be appointed for a term of 2 years; members of the third class shall be appointed for a term of 3 years; and members of the fourth class shall be appointed for a term of 4 years. Thereafter, members shall be appointed for regular terms of 4 years. At all times the Committee shall be composed of representatives of management, labor, and occupational safety and health professions, and of the public. Each member of the Committee shall serve his full term unless he resigns or becomes unable to serve in the judgment of the Secretary of Labor because of disability or because he ceases to be qualified to serve on the Committee because he is found no longer to meet the representational requirements of the Act. In such cases, the Secretary of Labor may appoint for the remainder of the unexpired term a new member who meets the same representational requirements, and is designated in the manner, of his predecessor.

c. *Functions.* The Committee shall advise, consult with, and make recommendations to the Secretary of Labor, the Assistant Secretary of Labor for Occupational Safety and Health, the Secretary of Health, Education, and Welfare, and any of their duly authorized representatives, on matters relating to the administration of the Act.

d. *Meetings.* (1) The Committee shall hold no fewer than two meetings during each calendar year. No meeting shall be held except at the call of, or with the advance approval of: (i) The Secre-

tary of Labor, or the Assistant Secretary of Labor for Occupational Safety and Health, or a duly authorized representative; or (ii) the Secretary of Health, Education, and Welfare, or a duly authorized representative. An agenda shall be formulated or approved in advance by the person calling or approving the meeting, in consultation with the Chairman. No particular form for the agenda is prescribed. Members of the Committee may propose items for the agenda to the Chairman between meetings.

(2) Every meeting shall be conducted in the presence of a duly authorized full-time salaried officer or employee of the agency calling or approving the meeting.

(3) A written record shall be made of each meeting of the Committee, including the names of all members present, their affiliation, and the capacity in which they attend. The minutes or transcript of the meeting shall be available for public inspection.

(4) A copy of the agenda and the record at each meeting shall be forwarded to the office of the Special Assistant for Legislative Affairs of the Department of Labor, and to the Department Committee Management Officer, Department of Health, Education, and Welfare.

(5) *Notice.* Notice of any Committee meeting shall be published in the FEDERAL REGISTER. Meetings of the Committee shall be open to the public.

e. *Quorum.* A majority of the members of the Committee shall constitute a quorum, except that at least one management representative-member, one labor representative-member and one member representing the public must be included in the majority which constitutes the quorum.

5. *Robert's Rules of Order.* The Chairman may, to the extent he deems appropriate, adopt Robert's Rules of Order, Newly Revised, for the orderly procedure of the meetings of the Committee.

6. *Advice and recommendations.* Any advice or recommendations of the Committee shall be given or made with the approval of a majority of all Committee members present. The Chairman shall include in the report of such advice or recommendations any concurring or dissenting views. Any member may submit his own advice and recommendations in the form of individual views with respect to any matter which has been considered by the Committee.

7. *Subcommittees.* The Chairman may appoint from among the members of the Committee any number of subcommittees for the purpose of assisting the Committee in carrying out its functions under this Act and this document. All the provisions of this document regarding the powers and duties of the Chairman and regarding the conduct of Committee meetings are applicable to the Subcommittee Chairmen and the conduct of subcommittee meetings unless in the judgment of the Chairman the application of any such provisions would be

inappropriate. The purpose of any subcommittee is to give advice and make recommendations solely to the full Committee and under no circumstances may any subcommittee act outside this purpose. The Chairman may appoint any member of a Subcommittee to act as Chairman. Meeting of subcommittees shall be open to the public, and notice of subcommittee meetings shall be published in the FEDERAL REGISTER

8. *Assistance to the Committee.* The Secretary of Labor or his duly authorized representative shall furnish the Committee an executive secretary. He shall also furnish such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

9. *Consultation.* The Secretary of Labor and the Secretary of Health, Education, and Welfare, or their respective authorized representatives, will consult with each other, as necessary, concerning the proper and effective utilization of the Committee.

10. *Effective date.* This document is effective immediately.

Signed at Washington, D.C., this 14th day of October 1971.

J. D. HODGSON,
Secretary of Labor.

ELLIOT RICHARDSON,
Secretary of Health,
Education, and Welfare.

NOVEMBER 22, 1971.

[FR Doc.71-17836 Filed 12-6-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

DECEMBER 2, 1971.

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 72442 Sub 35, Akers Motor Lines, Inc., assigned February 14, 1972, at Atlanta, Ga., is canceled and transferred to Modified Procedure.

MC 107496 Sub 813, Ruan Transport Corp., now being assigned February 8, 1972, at Minneapolis, Minn., in a hearing room to be later designated.

MC 108119 Sub 32, E. L. Murphy Trucking Co., now being assigned February 14, 1972, at Minneapolis, Minn., in a hearing room to be later designated.

MC 113855 Sub 239, International Transport, Inc., now being assigned February 7, 1972, at Minneapolis, Minn., in a hearing room to be later designated.

MC 126196 Sub 6, Luverne S. Christensen, doing business as Christensen Truck Line, now being assigned February 9, 1972, at Minneapolis, Minn., in a hearing room to be later designated.

MC-F 11240, Nestor, Inc.—Purchase (Portion)—Thruway Freight Lines, Inc., now being assigned hearing January 14, 1972, in New York, N.Y., in a hearing room to be later designated.

MC-C 7166, Travel Center of Waterbury, Inc. v. Continental Trailways, Inc., et al., now being assigned hearing January 10, 1972, at New York, N.Y., in a hearing room to be later designated.

MC-C 7174 Sub 1, Greenville Bus Co., Revocation of certificate now being assigned hearing January 12, 1972, at New York, N.Y., in a hearing to be designated later.

MC 133240 Sub 21, West End Trucking Co., Inc., now being assigned hearing January 13, 1972, at New York, N.Y., in a hearing room to be later designated.

MC 134356, Gale Delivery, now assigned December 8, 1971, at New York, N.Y., postponed to February 2, 1972, at New York, N.Y., in a hearing room to be designated later.

No. 34543, Increased Suburban Fares—New Jersey and New York Railroad Co. and Erie Lackawanna Railroad Co., now assigned December 6, 1971, at New York, N.Y., is postponed indefinitely.

MC 134947, Masao Yamashiro, Contract Carrier Application, assigned March 2, 1972, at Los Angeles, Calif., canceled and application dismissed.

MC 133633 Sub 8, Highway Express, Inc., now assigned January 10, 1972, at Jackson, Miss., is postponed indefinitely.

MC-F-11200, The Mason & Dixon Lines, Inc.—Purchase Econ, Inc., now assigned February 23, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC-F-11218, Home Transportation Co.—Purchase (Portion)—Machinery Transports, MC-F-11235, Machinery Transports—Purchase (Portion)—L. J. Willenhofer Transfer, now assigned February 28, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC-FC-72950 K & B Mounting, Transferee & Geo. F. Burnett Transferor, now assigned February 22, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC-107295 (Sub-No. 519), Pre-Fab Transit, now assigned March 3, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC 111812 Sub 424, Midwest Coast Transport, now assigned March 2, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC 124947 Sub 12, Machinery Transports, now assigned February 28, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC 121399 Sub 1, Econ, Inc., now assigned February 23, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC 12426 Sub 1, Groups Unlimited, Inc., assigned December 6, 1971, at New York, N.Y., is canceled and reassigned for hearing on January 31, 1972, at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17857 Filed 12-6-71;8:50 am]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR		7 CFR—Continued	Page	14 CFR—Continued	Page
10865 (see EO 11633)	23198	PROPOSED RULES—Continued		214	23145
11633	23197	1101	23222	217	23050, 23146
5 CFR		1102	23222	218	23146
213	22899, 23135	1103	23222	241	23051
6 CFR		1104	23222	243	23051
201	23219	1106	23222	PROPOSED RULES:	
7 CFR		1108	23222	39	23237
500	22807	1120	23222	71	22846-22848, 23076, 23238
722	22966	1121	23222	75	22848, 23238
845	23047	1124	23222	16 CFR	
907	22975	1125	23222	1	22814
910	22808, 23135	1126	23222	13	22815-22825
912	23048, 23135	1127	23222	502	23056
913	22808	1128	23222	503	23058
929	22808	1129	23222	17 CFR	
944	23136	1130	23222	1	22810
971	23199	1131	23222	270	22900
987	23137	1132	23222	PROPOSED RULES:	
PROPOSED RULES:		1133	23222	239	23256
724	23221	1134	23222	240	22994
818	23069	1136	23222	249	22994
846	23071	1137	23222	18 CFR	
928	22985	1138	23222	304	22901
929	23072	9 CFR		PROPOSED RULES:	
932	23072, 23222	76	23139	11	22854
966	22831	78	23199	101	22855
987	22831	201	23139	104	22855
1001	23222	445	22810, 23112	105	22855
1002	23222	446	22810, 23112	141	22855, 23163
1004	22831, 23222	447	22810, 23112	154	22855
1006	23222	PROPOSED RULES:		201	22855
1007	23222, 23223	11	23072	204	22855
1011	23222	301	23161	205	22855
1012	23222	312	23161	260	22855
1013	23222	327	23161	19 CFR	
1015	23222	10 CFR		19	23149
1030	23222	20	23138	24	23150
1032	23222	PROPOSED RULES:		20 CFR	
1033	23222	30	22848	614	22975
1036	23222	40	22848	PROPOSED RULES:	
1040	23161, 23222	50	22848, 22851	405	22987
1043	23222	70	22848	21 CFR	
1044	23222	115	22848	2	22826
1046	23222	12 CFR		14	23150
1049	23222	2	22979	17	23202
1050	23222	226	22809	121	22827, 22900, 23150, 23202
1060	23222	524	22979	135	22829
1061	23222	525	22979	135a	22829
1062	23222	701	23140	135c	23203
1063	23222	703	23048	1135g	22827, 23203
1064	23222	PROPOSED RULES:		141	23204
1065	23222	207	22855	141a	22827
1068	23222	220	22855	145	23205
1069	23222	221	22855	146	23205
1070	23222	222	23256	146a	22827
1071	23222	545	22992	146b	22829
1073	23222	14 CFR		146c	22827
1075	23222	39	22809, 23048, 23140, 23200	146e	22827
1076	23222	71	22809, 22810, 23049, 23201, 23202	147	23205
1078	23222	73	23049, 23202	148k	23152
1079	23222	75	23202	150g	23205
1090	23222	97	23141	308	22830
1094	23222	121	23050		
1096	23222	212	23141		
1097	23222				
1098	23222				
1099	23222				

21 CFR—Continued	Page	32A CFR	Page	45 CFR	Page
PROPOSED RULES:		PROPOSED RULES:		1068.....	23065
15.....	23074	Ch. X.....	23158	46 CFR	
17.....	23074	36 CFR		146.....	23218
141.....	23236	272.....	23220	PROPOSED RULES:	
141a.....	23236	39 CFR		283.....	22839
141w.....	23236	156.....	23216	542.....	23069
24 CFR		601.....	23216	47 CFR	
1914.....	23214	619.....	22811	PROPOSED RULES:	
1915.....	23215	40 CFR		73.....	23077, 23078
25 CFR		2.....	23058	49 CFR	
PROPOSED RULES:		PROPOSED RULES:		7.....	22812
221.....	23221	2.....	23077	571.....	22902, 23067, 23220
26 CFR		61.....	23239	1270.....	23068
25.....	22899	41 CFR		1271.....	23068
PROPOSED RULES:		3-1.....	22979	PROPOSED RULES:	
1.....	23163	3-16.....	23060	1243.....	23078
29 CFR		50-204.....	23217	50 CFR	
520.....	22976	60-2.....	23152	17.....	22813
541.....	22976	114-25.....	22812	32.....	22814
1518.....	23207	114-26.....	22812	33.....	22814, 22983, 22984, 23157, 23220
1910.....	23207	114-47.....	22812	PROPOSED RULES:	
PROPOSED RULES:		43 CFR		240.....	22841
525.....	23235	PUBLIC LAND ORDERS:		261.....	22986
31 CFR		4582 (modified by PLO 5145) ..	23157	276.....	22986
PROPOSED RULES:		4962 (see PLO 5145) ..	23157		
223.....	22985	5081 (see PLO 5145) ..	23157		
32 CFR		5145.....	23157		
44.....	23209				
888e.....	23209				

LIST OF FEDERAL REGISTER PAGES AND DATES—DECEMBER

<i>Pages</i>	<i>Date</i>
22801-22894.....	Dec. 1
22895-23040.....	2
23041-23128.....	3
23129-23189.....	4
23191-23280.....	7