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FRIDAY, MAY 27, 1977

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

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

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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

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

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

federal register
Area Code 202 Phone 523-5240

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

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rules and regulations

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

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

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Miscellaneous Technical Amendments; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Amendment of a final rule.

SUMMARY: On April 20, 1976, the Office of Foreign Assets Control published amendments to the Foreign Assets Control Regulations (31 CFR Part 500) in FR Doc. 76–11339 at 41 FR 16553. In the amendment to paragraph (a)(4) of § 500.322 which appeared on page 16554, "Finland" was inadvertently excluded. This error is being corrected by the addition in paragraph (a)(4) of § 500.322 of "Finland" immediately after "the Federal Republic of Germany and the Western Sector of Berlin" and immediately before "France (including Monaco)."

EFFECTIVE DATE: April 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this amendment is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this amendment is David J. Dir.

Accordingly, 31 CFR Part 500 is amended by the addition in paragraph (a)(4) of § 500.322 of "Finland" immediately after "the Federal Republic of Germany and the Western Sector of Berlin" and immediately before "France (including Monaco)."

(50 U.S.C. App. 5(b); Executive Order 9193, 3 CFR 1943 Cum. Supp.; Treasury Department Order No. 128, 32 FR 3472.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15096 Filed 5–24–77;11:00 am]

PART 505—TRANSACTION CONTROL REGULATIONS

Miscellaneous Technical Amendments; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Amendment of a final rule.

SUMMARY: On April 20, 1976, the Office of Foreign Assets Control published amendments to the Transaction Control Regulations (31 CFR Part 505) in FR Doc. 76–11338 at 41 FR 16556. In the amendment of the schedule to § 505.10 which appeared on page 16556 "Poland and Danzig" were inadvertently excluded. This error is being corrected by the addition in the schedule to § 505.10 of "Poland and Danzig" immediately after "Peoples Republic of China" and immediately before "Rumania".

EFFECTIVE DATE: April 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this amendment is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this amendment is David J. Dir.

Accordingly, 31 CFR Part 505 is amended by the addition in the schedule to § 505.10 of "Poland and Danzig" immediately after "Peoples Republic of China" and immediately before "Rumania".

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15097 Filed 5–24–77;11:00 am]

PART 530—RHODESIAN SANCTIONS REGULATIONS

Prohibitions Against Imports of Strategic and Critical Materials of Southern Rhodesian Origin and of Ferrochromium and Chromium Steel Products From Any Country, Except as Authorized; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Correction of a final rule.

SUMMARY: On April 5, 1977, the Office of Foreign Assets Control published amendments to the Rhodesian Sanctions Regulations (31 CFR Part 530) in FR Doc. 77–10108 at 42 FR 18073. In the amendment of § 530.808 which appeared on page 18075 a sentence in paragraph (c)(2) reads: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 500.808(c)(2) of the Foreign Assets Control Regulations." This sentence should have referred to the Rhodesian Sanctions Regulations instead of the Foreign Assets Control Regulations. This correction substitutes the correct reference.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this change is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this correction is David J. Dir.

31 CFR Part 530 is corrected by the deletion from § 530.808(c)(2) of the sentence: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 500.808(c)(2) of the Foreign Assets Control Regulations," and the substitution therefor of: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 530.808(c)(2) of the Rhodesian Sanctions Regulations."

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15098 Filed 5–24–77;11:00 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the Commission's Rules to bring up-to-date the List of Treaties and Other International Agreements, relating to telecommunications, which are in force with respect to the United States. These are editorial changes to add treaties and agreements which have entered into force since the last amendment and to delete those which have been superseded.

EFFECTIVE DATE: May 31, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Neva Bell Perry, Office of Chief Engineer (202–632–7055).

SUPPLEMENTARY INFORMATION:

Adopted: May 13, 1977.

Released: May 19, 1977.

1. The Commission has before it the desirability of making certain editorial changes in Part 2 of its Rules and Regulations.

2. The authority for the amendments is contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's Rules. Because the amendments are editorial in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

3. *It is ordered,* effective May 31, 1977, That Part 2 of the Rules and Regulations is amended as set forth below.

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

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

In subpart G §§ 2.601, 2.602, and 2.603 are revised to read as follows:

§ 2.601 General.

This subpart is corrected to May 31, 1977. The Commission does not distribute copies of these documents. Inquiry may be made to the U.S. Government Printing Office concerning availability for purchase.

§ 2.602 Citation abbreviations used in this subpart.

Trenwith—Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1923–1937 compiled under S. Res. No. 132, 75th Cong., 1st Sess.).

LNTS—League of Nations Treaty Series.
Stat.—United States Statutes at Large.
UST—United States Treaties and Other International Agreements.
TS—Treaty Series.
EAS—Executive Agreement Series.
TIAS—Treaties and Other International Acts Series.
Bevans—Treaties and Other International Agreements of the United States of America 1776–1949.

§ 2.603 Treaties and other international agreements relating to radio.

(a) The applicable treaties and other international agreements in force relating to radio and to which the United States of America is a party (other than reciprocal operating agreements for radio amateurs) are listed below:

Date	Citations	Subject
1925	IV Trenwith 4248, 4250 and 4251; TS 724–A; 6 Bevans 22; 12 Bevans 451.	U.S.-U.K. (also for Canada and Newfoundland) Bilateral Arrangements providing for the Prevention of Interference by Ships off the Coasts of these Countries with Radio Broadcasting. Effected by exchange of notes September and October 1925. Entered into force Oct. 1, 1925.
1928 and 1929	102 LNTS 143; TS 767–A; 6 Bevans 26.	U.S.-Canada Arrangement governing Radio Communications between Private Experimental Stations. Effected by exchange of notes at Washington Oct. 2 and Dec. 29, 1928, and Jan. 12, 1929. Entered into force Jan. 1, 1929. Continued by the arrangement contained in EAS 62.
1929	IV Trenwith 4787; TS 777–A; 2 Bevans 775.	U.S.-Canada (including Newfoundland) Arrangement relating to Assignment of High Frequencies on the North American Continent. Effected by exchange of notes at Ottawa Feb. 26 and 28, 1929. Entered into force Mar. 1, 1929. (Originally, Cuba was also a party to this arrangement, but by virtue of notice to the Canadian Government, it ceased to be a party effective Oct. 5, 1933.)
1934	49 Stat. 3555; EAS 66; 10 Bevans 1103.	U.S.-Peru Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Lima Feb. 16, and May 23, 1934. Entered into force May 23, 1934.
1934	48 Stat. 1876; EAS 62; 6 Bevans 26.	U.S.-Canada Arrangement relative to Radio Communications between Private Experimental Stations and between Amateur Stations. Continues the arrangement contained in TS 767–A. Effected by exchange of notes at Ottawa Apr. 23, and May 2 and 4, 1934. Entered into force May 4, 1934.
1934	49 Stat. 3667; EAS 72; 6 Bevans 564.	U.S.-Chile Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santiago Aug. 2 and 17, 1934. Entered into force Aug. 17, 1934.
1937	53 Stat. 1576; TS 938; 3 Bevans 462.	Inter-American Radio Communications Convention between the United States and Other Powers. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 21, 1938, for Parts I, III and IV; Apr. 17, 1939 for Part II. Part II of the Convention (Inter-American Radio Office) terminated for all parties Dec. 29, 1958 (TIAS 4070).
1938	54 Stat. 1675; TS 949; 3 Bevans 529.	Regional Radio Convention between the United States (in behalf of the Canal Zone) and Other Powers. Signed at Guatemala City Dec. 8, 1938. Entered into force Oct. 8, 1939.
1939	53 Stat. 2157; EAS 143; 6 Bevans 143.	U.S.-Canada Arrangement governing the Use of Radio for Civil Aeronautical Services. Effected by exchange of notes at Washington Feb. 20, 1939. Entered into force Feb. 20, 1939.
1946	60 Stat. 1696; TIAS 1527; 11 Bevans 1291.	U.S.-U.S.S.R. Agreement on Organization of Commercial Radio Teletype Communication Channels. Signed at Moscow May 24, 1946. Entered into force May 24, 1946.
1947	61 Stat. (4) 3809; TIAS 1726; 6 Bevans 447.	U.S.-Canada Agreement providing for Frequency Modulation Broadcasting in Channels in the Radio Frequency Band 88–108 Mc/s. Effected by exchange of notes at Washington Jan. 8 and Oct. 15, 1947. Entered into force Oct. 15, 1947.
1947	61 Stat. (4) 3416; TIAS 1676; 12 Bevans 956.	U.S.-UN Agreement relative to Headquarters of the United Nations. Signed at Lake Success June 26, 1947. Entered into force Nov. 21, 1947. Supplemented by the agreements contained in TIAS 5961 and TIAS 6750 signed Feb. 9, 1960, and Aug. 28, 1963, respectively.
1947	61 Stat. (3) 3131; TIAS 1652; 12 Bevans 824.	U.S.-UK Agreement regarding Standardization of Distance Measuring Equipment. Signed at Washington Oct. 13, 1947. Entered into force Oct. 13, 1947.
1948	9 UST 621; TIAS 4044; 4 Bevans 700.	Intergovernmental Maritime Consultative Organization (IMCO) Convention. Signed at Geneva Mar. 6, 1948. Entered into force Mar. 17, 1958. Modified by the amendments contained in TIAS 6285 and in TIAS 6490 adopted by the IMCO Assembly Sept. 15, 1964, and Sept. 28, 1965, respectively.
1949	3 UST (3) 3064; TIAS 2489, 4 Bevans 851.	Inter-American Radio Agreement between the United States and Canada and Other American Republics. Signed at Washington July 9, 1949. (Fourth Inter-American Radio Conference.) Entered into force Apr. 13, 1952, subject to the provisions of Article 13.
1949	3 UST (2) 2686; TIAS 2435; 4 Bevans 852.	London Telecommunications Agreement between the United States and Certain British Commonwealth Governments. Signed at London Aug. 12, 1949. Entered into force Feb. 21, 1950. Amended by the agreement contained in TIAS 2705 which was signed Oct. 1, 1952.
1950	3 UST (2) 2672; TIAS 2433	U.S.-Ecuador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Quito Mar. 10 and 17, 1950. Entered into force Mar. 17, 1950.
1950 and 1951	2 UST (1) 683; TIAS 2223	U.S.-Liberia Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Monrovia Nov. 9, 1950, and Jan. 8, 9, and 10, 1951. Entered into force Jan. 11, 1951.
1950	11 UST 413; TIAS 4460	North American Regional Broadcasting Agreement (NARBA) Signed at Washington Nov. 15, 1950. Entered into force Apr. 19, 1960. Effective between United States, Canada, Cuba, Dominican Republic, and the United Kingdom of Great Britain and Northern Ireland for the Bahama Islands. Ratification on behalf of Jamaica pending.
1951	3 UST (3) 3787, TIAS 2508	U.S.-Canada Convention relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country. Signed at Ottawa Feb. 8, 1951. Entered into force May 15, 1952.

Date	Citations	Subject
1951 and 1952	3 UST (3) 3892; TIAS 2520	U.S.-Cuba Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Havana Sept. 17, 1951, and Feb. 27, 1952. Entered into force Feb. 27, 1952.
1951	3 UST (2) 2860; TIAS 2459	U.S.-Cuba, Agreement concerning the Control of Electromagnetic Radiation. Effected by exchange of notes at Havana Dec. 10 and 18, 1951. Entered into force Dec. 18, 1951.
1952	3 UST (3) 4443; TIAS 2594	U.S.-Canada Agreement relating to the Assignment of Television Frequency Channels along United States-Canadian Border. Effected by exchange of notes at Ottawa Apr. 23 and June 23, 1952. Entered into force June 23, 1952.
1952	3 UST (4) 5140; TIAS 2705	London Revision (1952) of the London Telecommunications Agreement (1949) between the United States and Certain British Commonwealth Governments. Signed at London Oct. 1, 1952. Entered into force Oct. 1, 1952. This amends the agreement contained in TIAS 2435 signed Aug. 12, 1949.
1953	5 UST (3) 2840; TIAS 3138	U.S.-Canada Understanding relating to the Sealing of Mobile Radio Transmitting Equipment. Effected by exchange of notes at Washington Mar. 9 and 17, 1953. Entered into force Mar. 17, 1953.
1956	7 UST 2179; TIAS 3617	U.S.-Panama Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Panama July 19 and Aug. 1, 1956. Entered into force Sept. 1, 1956.
1956	7 UST 2839; TIAS 3665	U.S.-Costa Rica Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Aug. 13 and Oct. 19, 1956. Entered into force Oct. 19, 1956.
1956	7 UST 3159; TIAS 3694	U.S.-Nicaragua Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Managua Oct. 8 and 16, 1956. Entered into force Oct. 16, 1956.
1957	9 UST 1037; TIAS 4079	Multilateral Declaration between the United States and Other Powers terminating Part II (Inter-American Radio Office) of the Inter-American Radio Communications Convention of Dec. 13, 1937 (TS-986). Signed at Washington Dec. 20, 1957. Entered into force Dec. 20, 1957. Additionally, a Contract on the Exchange of Notifications of Radio Broadcasting Frequencies between the Pan American Union, the United States and Other Powers was signed at Washington Dec. 20, 1957. Entered into force Jan. 1, 1958.
1958	9 UST 1091; TIAS 4089	U.S.-Mexico Agreement regarding Allocation of Ultra High Frequency Channels to Land Border Television Stations. Effected by exchange of notes at Mexico July 16, 1958. Entered into force July 16, 1958.
1959	10 UST 1449; TIAS 4295	U.S.-Mexico Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Mexico July 31, 1959. Entered into force Aug. 30, 1959.
1959 and 1960	11 UST 257; TIAS 4442	U.S.-Honduras Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Tegucigalpa Oct. 26, 1959, and Feb. 17, 1960, and related note of Feb. 19, 1960. Entered into force Mar. 17, 1960.
1959	10 UST 3019; TIAS 4394	U.S.-Venezuela Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Caracas Nov. 12, 1959. Entered into force Dec 12, 1959.
1959	12 UST 2377; TIAS 4893	International Radio Regulations Annexed to the International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Revised by the Partial Revisions of the Radio Regulations, Geneva, 1959, contained in TIAS 5603, TIAS 6332, TIAS 6590, TIAS 7435, and TIAS . . . signed Nov. 8, 1963, Apr. 29, 1966, Nov. 3, 1967, July 17, 1971, and June 8, 1974 respectively.
1960	11 UST 1; TIAS 4399	U.S.-Haiti Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-au-Prince, Jan. 4 and 6, 1960. Entered into force Feb. 5, 1960.
1960	16 UST 185; TIAS 5780	International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London June 17, 1960. Entered into force May 26, 1965. Corrections to certain annexes contained in TIAS 6284 signed Feb. 15, 1966.
1960	11 UST 2229; TIAS 4596	U.S.-Paraguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Asuncion Aug. 31, and Oct. 6, 1960. Entered into force Nov. 5, 1960.
1961	17 UST 1574; TIAS 6115	U.S.-Uruguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Montevideo Sept. 12, 1961. Entered into force Sept. 26, 1960.
1961	12 UST 1695; TIAS 4888	U.S.-Bolivia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at La Paz Oct. 23, 1961. Entered into force Nov. 22, 1961.
1962	13 UST 411; TIAS 5001	U.S.-El Salvador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at San Salvador Apr. 5, 1962. Entered into force May 5, 1962.
1962	13 UST 997; TIAS 5043	U.S.-Mexico Agreement relating to the Assignment of VHF Television Channels along United States-Mexican Border. Effected by exchange of notes at Mexico Apr. 18, 1962. Entered into force Apr. 18, 1962. Amended by the agreement contained in TIAS 8185, signed Aug. 20, 1975.
1962	13 UST 2418; TIAS 5205	U.S.-Canada Agreement relating to the Coordination and Use of Radio Frequencies above 50 Mc/s. Effected by exchange of notes at Ottawa Oct. 24, 1962. Entered into force Oct. 24, 1962. The technical annex to this agreement was revised by the agreement contained in TIAS 6533 signed June 16 and 24, 1965.
1963	14 UST 817; TIAS 5360	U.S.-Dominican Republic Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santo Domingo Apr. 18 and 22, 1963. Entered into force May 22, 1963.

Date	Citations	Subject
1963	14 UST 825; TIAS 5362	U.S.-U.S.S.R. Memorandum of Understanding regarding the Direct Communication Link, with Annex. Signed at Geneva June 20, 1963. Entered into force June 20, 1963. This understanding was supplemented and modified by the agreements contained in TIAS 7187 and 8059, signed Sept. 30, 1971, and Mar. 20 and Apr. 29, 1975, respectively.
1963	15 UST 887; TIAS 5603	Partial Revision of the Radio Regulations Geneva, 1959, Final Acts of the EARC to Allocate Frequency Bands for Space Radio Communication Purposes. Signed at Geneva Nov. 8, 1963. Entered into force Jan. 1, 1965.
1963	14 UST 1754; TIAS 5483	U.S.-Colombia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Bogota Nov. 16 and 29, 1963. Entered into force Dec. 29, 1963.
1964	18 UST 1299; TIAS 6285	Amendments to Articles 17 and 18 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at London Sept. 15, 1964. Entered into force Oct. 6, 1967.
1965	16 UST 821; TIAS 5816	U.S.-Brazil Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington June 1, 1965. Entered into force June 1, 1965.
1965	16 UST 923; TIAS 5833	U.S.-Canada Agreement regarding Coordination and Use of Radio Frequencies above 30 Mc/s Revising the Technical Annex to the Agreement of Oct. 24, 1962 (TIAS 5205). Effected by exchange of notes at Ottawa June 18 and 24, 1965. Entered into force June 24, 1965.
1965	16 UST 883; TIAS 5827	U.S.-Israel Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington July 7, 1965. Entered into force Aug. 6, 1965.
1965	19 UST 4855; TIAS 6490	Amendment to Article 28 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at Paris, Sept. 28, 1965. Entered into force Nov. 3, 1968.
1966	17 UST 74; TIAS 5961	U.S.-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947 (TIAS 1676). Signed at New York Feb. 9, 1966. Entered into force Feb. 9, 1966. Amended by the agreement contained in TIAS 6176 signed Dec. 8, 1966.
1966	18 UST 1289; TIAS 6281	Proces-Verbal of Rectification to Certain Annexes to the International Convention for the Safety of Life at Sea of June 17, 1960 (TIAS 5780). Done at London Feb. 15, 1966.
1966	18 UST 2091; TIAS 6332	Partial Revision of the Radio Regulations, Geneva, 1959, Final Acts of the EARC for the Preparation of a Revised Allotment Plan for the Aeronautical Mobile (R) Service. Signed at Geneva Apr. 29, 1966. Entered into force for the United States Aug. 23, 1967, except for the frequency allotment plan contained in Appendix 27 which entered into force Apr. 10, 1970.
1966	17 UST 2319; TIAS 6176	U.S.-UN Agreement regarding Headquarters of the United Nations Amending the Supplemental Agreement of Feb. 9, 1966 (TIAS 5961). Effected by exchange of notes at New York Dec. 8, 1966. Entered into force Dec. 8, 1966.
1967	18 UST 365; TIAS 6244	U.S.-Argentina Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1201; TIAS 6268	U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations. Effected by exchange of notes at Ottawa Mar. 31 and June 12, 1967. Entered into force June 12, 1967. Amended by the agreement contained in TIAS 6626 signed Apr. 18, 1968, and Jan. 31, 1969.
1967	19 UST 6717; TIAS 6590	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC to Deal with Matters relating to the Maritime Mobile Service. Signed at Geneva Nov. 3, 1967. Entered into force Apr. 1, 1969.
1968 and 1969	20 UST 7; TIAS 6626	U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations Amending the Agreement of Mar. 31 and June 12, 1967 (TIAS 6268). Effected by exchange of notes at Ottawa Apr. 18, 1968, and Jan. 31, 1969. Entered into force Jan. 31, 1969.
1968	21 UST 2776; TIAS 7021	U.S.-Mexico Agreement concerning radio broadcasting in the standard band (535-1605 kHz), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1968	21 UST 2934; TIAS 7021	U.S.-Mexico Agreement concerning the operation of broadcasting stations in the standard broadcast band (535-1605 kHz) during a limited period prior to sunrise ("Pre-Sunrise") and after sunset ("Post-Sunset"), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1969	20 UST 2810; TIAS 6750	U.S.-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947, as Supplemented (TIAS 1676, 5961, 6176). Signed at New York Aug. 28, 1969. Entered into force Aug. 28, 1969.
1969	21 UST 1744; TIAS 6931	U.S.-Canada Agreement relating to the Operation of Radiotelephone Stations. Signed at Ottawa Nov. 19, 1969. Entered into force July 24, 1970.
1970	21 UST 2089; TIAS 6955	U.S.-NATO Agreement concerning North Atlantic Treaty Organization Satellite Communications Earth Terminal in the United States. Signed at Washington July 10 and at Mons, Belgium Aug. 20, 1970. Entered into force Aug. 20, 1970.
1971	23 UST 1527; TIAS 7435	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC for Space Telecommunications, with Annex. Signed at Geneva July 17, 1971. Entered into force January 1, 1973.
1971	23 UST 3813; TIAS 7532	Agreement relating to the International Telecommunications Satellite Organization (INTELSAT), with Annexes, and Operating Agreement. Done at Washington Aug. 20, 1971 Entered into force Feb. 12, 1973.
1971	22 UST 2053; TIAS 7239	U.S.-Trinidad & Tobago Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-of-Spain Oct. 26 and Nov. 18, 1971. Entered into force Dec. 18, 1971.
1971	24 UST 1120; TIAS 7636	U.S.-Guatemala Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Guatemala Oct. 21 and Nov. 19, 1971. Entered into force May 26, 1973.

Date	Citations	Subject
1971	22 UST 1593; TIAS 7187	U.S.-USSR Agreement on Measures to Improve the Direct Communications Link, with Annex. Signed at Washington Sept. 30, 1971. Entered into force Sept. 30, 1971. Amended by the agreement contained in TIAS 8039, signed Mar. 20 and April 29, 1975.
1972	23 UST 906; TIAS 7335	U.S.-Guyana Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Georgetown May 20 and June 6, 1972. Entered into force June 6, 1972.
1972	23 UST 3492; TIAS 7508	U.S.-Jordan Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Nov. 13 and 20, 1972. Entered into force Dec. 30, 1972.
1972	24 UST 1815; TIAS 7697	U.S.-Mexico Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band, with Annexes and Related Notes. Signed at Washington Nov. 9, 1972. Entered into force Aug. 9, 1973. Amended by the agreements contained in TIAS 8152, 8301 and 8412; signed Aug. 21, 1975, Nov. 21, 1975, and Sept. 9 and 15, 1976, respectively.
1973		Telegraph Regulations with appendices, annex and final protocol. Signed at Geneva Apr. 11, 1973. Entered into force for the United States Apr. 21, 1976.
1973		Telephone Regulations with appendices and final protocol. Signed at Geneva Apr. 11, 1973. Entered into force for the United States Apr. 21, 1976.
1973		International Telecommunication Convention with annexes and protocols. Signed at Malaga-Torremolinos Oct. 25, 1973. Entered into force for the United States Apr. 7, 1976.
1973	25 UST 935; TIAS 7837	U.S.-Canada Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, with technical regulations. Signed at Ottawa Feb. 20, 1973, with exchange of notes at Washington May 6, 1974. Entered into force May 6, 1974.
1974	25 UST 2478; TIAS 7929	U.S.-Bahamas Agreement relating to pre-sunrise operation of certain standard broadcasting stations. Effected by exchange of notes at Nassau Jan. 30 and Sept. 4, 1974. Entered into force Sept. 4, 1974.
1974		Partial Revision of the Radio Regulations, Geneva, 1959, as amended (TIAS 4893, 5603, 6332, 6590 and 7435) to establish a frequency allotment plan for high-frequency radiotelephone coast stations, with annexes and final protocol. Signed at Geneva June 8, 1974. Entered into force for the United States April 21, 1976.
1975	26 UST 564; TIAS 8059	U.S.-USSR Agreement regarding the Direct Communications Link. Effected by exchange of notes at Moscow March 20 and April 29, 1975. Entered into force April 29, 1975.
1975	26 UST 2120; TIAS 8152	U.S.-Mexico Agreement amending the Agreement of Nov. 9, 1972 (TIAS 7697) concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band. Effected by exchange of notes at Mexico Aug. 21, 1975. Entered into force Aug. 21, 1975. Further amended by TIAS 8301 and 8412, signed Nov. 21, 1975 and Sept. 9 & 15, 1976, respectively.
1975	TIAS 8301	U.S.-Mexico Agreement amending the Agreement of Nov. 9, 1972, as amended (TIAS 7697, 8152) concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band. Effected by exchange of notes at Mexico Nov. 21, 1975. Entered into force Nov. 21, 1975. Further amended by TIAS 8412, signed Sept. 9 & 15, 1976.
1975	TIAS 8185	U.S.-Mexico Agreement amending the Agreement of April 18, 1962 (TIAS 5043) relating to the Assignment and Use of Television Channels along the U.S.-Mexican Border. Effected by exchange of notes at Tlatelolco and Mexico Aug. 20, 1975. Entered into force Aug. 20, 1975.
1976		U.S.-ITU Special Arrangement Permitting Third Party Exchanges between the ITU Amateur Radio Station and Amateur Radio Stations under U.S. Jurisdiction. Effected by exchange of letters at Geneva and Washington April 23 and June 7, 1976. Entered into force June 7, 1976.
1976	TIAS 8412	U.S.-Mexico Agreement amending the Agreement of Nov. 1972 as amended (TIAS 7697, 8152, 8301) concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band. Effected by exchange of notes at Mexico Sept. 9 and 15, 1976. Entered into force Sept. 15, 1976.
1976		U.S.-INTELSAT Agreement regarding Headquarters of INTELSAT. Effected by exchange of notes at Washington Nov. 22 and 24, 1976. Entered into force Nov. 24, 1976.

(b) The applicable agreements in force between the United States and another country relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country are as follows:

Date	Citations	Subject
1964	15 UST 1787; TIAS 5649	U.S.-Costa Rica Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at San Jose Aug. 17 and 24, 1964. Entered into force Aug. 24, 1964.
1965	16 UST 93; TIAS 5760	U.S.-Dominican Republic Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Santo Domingo Jan. 28 and Feb. 2, 1965. Entered into force Feb. 2, 1965.
1965	16 UST 165; TIAS 5777	U.S.-Bolivia Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at La Paz Mar. 19, 1965. Entered into force Apr. 15, 1965.
1965	16 UST 181; TIAS 5779	U.S.-Ecuador Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Quito Mar. 25, 1965. Entered into force Mar. 25, 1965.
1965	16 UST 817; TIAS 5815	U.S.-Portugal Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Lisbon May 17 and 26, 1965. Entered into force May 26, 1965.

Date	Citations	Subject
1965	16 UST 869; TIAS 5824	U.S.-Belgium Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Brussels June 15 and 18, 1965. Entered into force June 18, 1965.
1965	16 UST 973; TIAS 5836	U.S.-Australia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Canberra June 25, 1965. Entered into force June 25, 1965.
1965	16 UST 1160; TIAS 5860	U.S-Peru Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lima June 28 and Aug. 11, 1965. Entered into force Aug. 11, 1965.
1965	16 UST 1746; TIAS 5900	U.S-Luxembourg Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Luxembourg July 7 and 29, 1965. Entered into force July 29, 1965.
1965	16 UST 1131; TIAS 5856	U.S-Sierra Leone Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Freetown Aug. 14 and 16, 1965. Entered into force Aug. 16, 1965.
1965	16 UST 1742; TIAS 5899	U.S.-Colombia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bogota Oct. 19 and 28, 1965. Entered into force Nov. 28, 1965.
1965	16 UST 2047; TIAS 5941	U.S.-UK Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at London Nov. 26, 1965. Entered into force Nov. 26, 1965. Supplemented by the amendment contained in TIAS 6800 which was signed Dec. 11, 1969.
1966	17 UST 328; TIAS 5978	U.S.-Paraguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Asuncion Mar. 18, 1966. Entered into force Mar. 18, 1966.
1966	17 UST 719; TIAS 6022	U.S-France Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Paris May 5, 1966, with related notes of June 29 and July 6, 1966. Entered into force July 1, 1966. Modified by the amendment contained in TIAS 6711 which was signed Oct. 3, 1969.
1966	17 UST 813; TIAS 6038	U.S.-India Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at New Delhi May 16 and 25, 1966. Entered into force May 25, 1966.
1966	17 UST 760; TIAS 6028	U.S.-Israel Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington June 15, 1966. Entered into force June 15, 1966.
1966	17 UST 2426; TIAS 6189	U.S.-Netherlands Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at The Hague June 22, 1966. Entered into force Dec. 21, 1966. (Extended to Netherlands Antilles and Surinam.)
1966	17 UST 1120; TIAS 6068	U.S.-Federal Republic of Germany Arrangement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bonn June 23 and 30, 1966. Entered into force June 30, 1966.
1966	17 UST 1039; TIAS 6061	U.S.-Kuwait Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kuwait July 19 and 24, 1966. Entered into force July 19, 1966.
1966	17 UST 1560; TIAS 6112	U.S.-Nicaragua Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Managua Sept. 3 and 20, 1966. Entered into force Sept. 20, 1966.
1966	17 UST 2215; TIAS 6159	U.S.-Panama Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Panama Nov. 16, 1966. Entered into force Nov. 16, 1966.
1966 and 1967	18 UST 525; TIAS 6259	U.S.-Hondures Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Tegucigalpa Dec. 29, 1966, Jan. 24 and Apr. 17, 1967. Entered into force Apr. 17, 1967.
1967	18 UST 554; TIAS 6264	U.S.-Switzerland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bern Jan. 12 and May 16, 1967. Entered into force May 16, 1967.
1967	18 UST 543; TIAS 6261	U.S.-Trinidad and Tobago Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at St. Ann's and Port of Spain Jan. 14 and Mar. 16, 1967. Entered into force Mar. 16, 1967.
1967	18 UST 361; TIAS 6243	U.S.-Argentina Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1661; TIAS 6309	U.S.-El Salvador Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at San Salvador May 24 and June 5, 1967. Entered into force June 5, 1967.
1967	18 UST 1241; TIAS 6273	U.S.-Norway Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Oslo May 27 and June 1, 1967. Entered into force June 1, 1967.
1967	18 UST 1272; TIAS 6281	U.S.-New Zealand Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Wellington June 21, 1967. Entered into force June 21, 1967.
1967	18 UST 2499; TIAS 6348	U.S.-Venezuela Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Caracas Sept. 18, 1967. Entered into force Oct. 3, 1967.
1967	18 UST 2878; TIAS 6378	U.S.-Austria Agreement regarding Alien Amateur Radio Operators. Done at Vienna Nov. 21, 1967. Entered into force Dec. 21, 1967.
1967	18 UST 2882; TIAS 6380	U.S.-Chile Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington Nov. 30, 1967. Entered into force Dec. 30, 1967.
1967	20 UST 2883; TIAS 6766	U.S.-Guatemala Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Guatemala Nov. 30 and Dec. 11, 1967. Entered into force Oct. 2, 1969.
1967	18 UST 3153; TIAS 6406	U.S.-Finland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Helsinki Dec. 15 and 27, 1967. Entered into force Dec. 27, 1967.
1968	19 UST 7852; TIAS 6622	U.S.-Monaco Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Nice and Paris Mar. 29, and Oct. 16, 1968. Entered into force Dec. 1, 1968.
1968	19 UST 4892; TIAS 6494	U.S.-Guyana Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Georgetown May 6 and 13, 1968. Entered into force May 13, 1968.
1968	19 UST 5994; TIAS 6553	U.S.-Barbados Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bridgetown Sept. 10 and 12, 1968. Entered into force Sept. 12, 1968.
1968	19 UST 6057; TIAS 6566	U.S.-Ireland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Dublin Oct. 10, 1968. Entered into force Oct. 10, 1968.

Date	Citations	Subject
1968	20 UST 490; TIAS 6654	U.S.-Indonesia Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Djakarta Dec. 10, 1968. Entered into force Dec. 10, 1968.
1969	20 UST 773; TIAS 6690	U.S.-Sweden Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Stockholm May 27 and June 2, 1969. Entered into force June 2, 1969.
1969	20 UST 2398; TIAS 6711	U.S.-France Agreement regarding Allen Amateur Radio Operators Amending the Agreement of May 5, 1966 (TIAS 6022). Effected by exchange of notes at Paris Oct. 3, 1969. Entered into force Oct. 3, 1969.
1969	20 UST 4089; TIAS 6800	U.S.-U.K. Agreement regarding Allen Amateur Radio Operators Supplementing the Agreement of Nov. 20, 1965 (TIAS 5941). Effected by exchange of notes at London Dec. 11, 1969. Entered into force Dec. 11, 1969.
1970	21 UST 1960; TIAS 6936	U.S.-Brazil Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Rio de Janeiro and Brasilia Jan. 29, June 19 and July 29, 1970. Entered into force June 19, 1970.
1971	22 UST 694; TIAS 7127	U.S.-Jamaica Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Kingston March 4 and April 23, 1971. Entered into force April 23, 1971.
1971	22 UST 701; TIAS 7129	U.S.-Uruguay Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Montevideo May 23, 1971. Entered into force May 23, 1971.
1972	23 UST 1334; TIAS 7417	U.S.-Fiji Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Suva and Washington July 19 and Aug. 14, 1972. Entered into force Aug. 14, 1972.
1973	24 UST 2156; TIAS 7730	U.S.-Denmark Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Copenhagen Oct. 11, 1973. Entered into force Oct. 11, 1973.
1976	TIAS 8415	U.S.-Philippines Agreement regarding Allen Amateur Radio Operators. Effected by exchange of notes at Manila Oct. 25, 1976. Entered into force Oct. 25, 1976.

(c) With respect to its relations with several countries, the United States is bound by certain superseded treaties and agreements because some of the contracting countries other than the United States did not become a party to subsequent treaties and agreements. These include the following:

Date	Citations	Subject
1912	38 Stat. 1672; TS 581; 1 Bevans 853	International Radiotelegraph Convention. Signed at London July 5, 1912. Entered into force July 1, 1913. Superseded by the International Radiotelegraph Convention and General Regulations. Washington, 1927 (TS 767).
1927	45 Stat. 2760; TS 767; 2 Bevans 683	International Radiotelegraph Convention and General Regulations. Signed at Washington Nov. 25, 1927. Entered into force Jan. 1, 1929. Superseded by the International Telecommunication Convention and General Radio Regulations, Madrid, 1932 (TS 867).
1932	49 Stat. 2391; TS 867; 3 Bevans 65	International Telecommunication Convention. Signed at Madrid Dec. 9, 1932. Entered into force for the United States June 12, 1934. Superseded by the International Telecommunication Convention, Atlantic City, 1947 (TIAS 1901).
1937	54 Stat. 2514; EAS 200; 3 Bevans 480.	Inter-American Arrangement concerning Radiocommunications and Annex. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 18, 1938. This arrangement was replaced by the Inter-American Agreement concerning Radiocommunications, Santiago, 1940 (EAS 231).
1940	55 Stat. 1482; EAS 231; 3 Bevans 611.	Inter-American Radiocommunications Agreement between the United States, Canada and Other American Republics. Signed at Santiago Jan. 23, 1940. (Second Inter-American Radio Conference.) Entered into force with respect to the United States Feb. 25, 1942. Replaced by the Inter-American Radio Agreement, Washington, 1949 (TIAS 2489).
1947	63 Stat. (2) 1399; TIAS 1901; 4 Bevans 570.	International Telecommunication Convention and Radio Regulations. Signed at Atlantic City Oct. 2, 1947. Entered into force Jan. 1, 1949. The Convention was superseded by the International Telecommunication Convention, Buenos Aires, 1952 (TIAS 3255). The Radio Regulations were superseded by the International Radio Regulations, Geneva, 1959 (TIAS 4893).
1949	2 UST (1) 47; TIAS 2175; 4 Bevans 852.	Telegraph Regulations (Paris Revision, 1949) Annexed to the International Telecommunication Convention. Signed at Paris August 5, 1949. Entered into force with respect to the United States Sept. 20, 1950. Superseded by the Telegraph Regulations, Geneva Revisions, 1958 (TIAS 4390).
1952	6 UST 1213; TIAS 3266	International Telecommunication Convention Signed at Buenos Aires Dec. 22, 1952. Entered into force with respect to the United States June 27, 1955. Superseded by the International Telecommunication Convention, Geneva, 1959 (TIAS 4892).
1958	10 UST 2423; TIAS 4390	Telegraph Regulations (Geneva Revision, 1958) Annexed to the International Telecommunication Convention. Signed at Geneva Nov. 29, 1958. Entered into force Jan. 1, 1960. Superseded by the Telegraph Regulations, Geneva, 1973.
1959	12 UST 1761; TIAS 4892	International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Superseded by the International Telecommunication Convention, Montreux, 1965 (TIAS 6267).
1965	18 UST 575; TIAS 6267	International Telecommunication Convention. Signed at Montreux Nov. 12, 1965. Entered into force with respect to the United States May 23, 1967. Superseded by the International Telecommunication Convention, Malaga-Torremolinos, 1973.

(d) There are certain treaties and agreements primarily concerned with matters other than the use of radio but which affect the work of the Federal Communications Commission insofar as they involve communications. Among the most important of these are the following which are available from the Secretary General, International Civil Aviation Organization (ICAO), P.O. Box 400, Succursale: Place de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal H3A 2R2, Canada:

Date	Citations	Subject
1944	61 Stat. (2) 1180; TIAS 1591; 3 Bevans 944.	International Civil Aviation Convention. Signed at Chicago Dec. 7, 1944. Entered into force Apr. 4, 1947. Amended by the protocols contained in TIAS 3756, 5170, 8162, 7616 and 8092.
1954	8 UST 179; TIAS 3756	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 14, 1954. Entered into force Dec. 12, 1956.
1961	13 UST 2105; TIAS 5170	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 21, 1961. Entered into force July 17, 1962.
1962	TIAS 8162	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Rome Sept. 7, 1962. Entered into force Sept. 11, 1975.
1968	19 UST 7963; TIAS 6605	Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (TIAS 1591). Done at Buenos Aires Sept. 24, 1968. Entered into force Oct. 24, 1968.
1969	20 UST 718; TIAS 6681	Process-Verbal of Rectification to the Protocol of Sept. 24, 1968, on the Authentic Text of the Convetion on International Civil Aviation (Chicago, 1944). Done at Washington April 8, 1969. Entered into force April 8, 1969.
1971	24 UST 1019; TIAS 7616	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at New York March 12, 1971. Entered into force Jan. 16, 1973.
1971	26 UST 1061; TIAS 8092	Protocol Amending Article 56 of the International Civil Aviation Convention (TIAS 1591). Done at Vienna July 7, 1971. Entered into force Dec. 19, 1974.

[FR Doc.77-14890 Filed 5-26-77;8:45 am]

[Docket No. 20909]

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Reallocation of Land Mobile Channels in the 470–512 MHz Band; Correction

AGENCY: Federal Communications Commission.

ACTION: Errata to Report and Order, Docket 20909.

SUMMARY: In the Report and Order in Docket 20909, published in the FEDERAL REGISTER of April 18, 1977, the name of one city (Philadelphia) was omitted from a list of frequencies available for assignment at that place. Also, in the same listing, two frequencies were omitted at the bottom of one column due to inaccurate positioning when the sheet was photo-copied. This errata corrects those omissions.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Safety and Special Radio Services Bureau, 632–6497.

SUPPLEMENTARY INFORMATION:

Released: May 24, 1977.

In the matter of amendment of Parts 89, 91, and 93 of the rules to reallocate land mobile channels in the 470–512 MHz band in the Boston, Chicago, Cleveland, Detroit, Los Angeles, New York, Philadelphia, Pittsburgh, San Francisco, and Washington, D.C. urbanized areas, Docket No. 20909.

Appendix B of the Commission's Report and Order, FCC 77–226, released March 31, 1977, and published as 42 FR 20257 is corrected by amending the tables in paragraph (c) of §§ 89.123, 91.114, and 93.114 as follows:

1. In the column titled "Urbanized Area (Channel Assignment)." page 20261 of the Table, immediately above "Channel 19" entry add: Philadelphia.

2. In the Table in § 89.123(c) in the column titled "Public Safety Pool" at the bottom of page 20261 in the Channel 19 section, add:

501.1125/504.1125.
501.1375/504.1375.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-15262 Filed 5-26-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President; Office of the Special Representative for Trade Negotiations

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Motor Vehicle Operator (Chauffeur to the Special Representative) is excepted under Schedule C because it is confidential in nature. This section is further amended to show that one position of Confidential Assistant to the Special Representative was revoked in error in the FEDERAL REGISTER of June 25, 1975 (FR Doc. 75–16535, page 26669).

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3303(d) is amended to read as follows:

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(2) Confidential Assistant to the Special Representative.

(3) One Motor Vehicle Operator (Chauffeur to the Special Representative).

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15014 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Deputy Under Secretary for Management because the position is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3304(a)(5) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(5) One Special Assistant to the Deputy Under Secretary for Management.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15015 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Special Assistant to the U.S. Representative to the United Na-

tions because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3304(h)(5) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(h) *Bureau of International Organization Affairs.* * * *

(5) One Special Assistant to the U.S. Representative to the United Nations.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15016 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Assistant Secretary (Economic Policy) because the position is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3305(a)(18) is amended to read as follows:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(18) One Confidential Secretary and one Executive Assistant to the Assistant Secretary (Economic Policy).

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15017 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reflects a title change from one Private Secretary to the Under Secretary of Interior, to one Confidential Assistant to the Under Secretary of Interior, because this title more appropriately reflects the duties of this position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(a)(8) is amended to read as follows:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(8) One Confidential Assistant to the Under Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–10512 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Private Secretary to the Deputy Assistant Secretary for Conservation, Research, and Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3313(a)(39) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(39) One Private Secretary to the Deputy Assistant Secretary for Conservation, Research, and Education.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15010 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Interstate Commerce Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Writer for the Chairman because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3322(b) is added as set out below:

§ 213.3322 Interstate Commerce Commission.

* * * * *

(b) One Writer for the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15013 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C the following positions because they are confidential in nature: (1) Private Secretary to the General Counsel; (2) two positions of Staff Assistant to the Executive Assistant to the Secretary; (3) one position of Special Assistant to the Assistant Secretary for Administration; and (4) one position of Special Assistant to the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3384 (a)(6) is reestablished; (a)(65), (a)(66) and (b)(22) are added as follows:

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(6) One Private Secretary to the General Counsel. * * *

(65) One Staff Assistant to each of two Executive Assistants to the Secretary.

(66) One Special Assistant to the Assistant Secretary for Administration.

(b) *Office of the Assistant Secretary for Housing-Federal Housing Commissioner.* * * *

(22) One Special Assistant to the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

(5 U.S.C. 3301; 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15011 Filed 5–26–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reestablishes under Schedule C one position of Special Assistant to the Assistant Attorney General, Civil Rights Division, because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3310(q)(2) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(q) *Civil Rights Division.* * * *

(2) One Special Assistant to the Assistant Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15206 Filed 5-26-77;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE[1]

SUBCHAPTER—REGULATONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 53—LIVESTOCK, MEAT, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations are being changed to reflect an increase in fees for the voluntary Federal meat grading service to cover increased program operating costs. Under recent interpretations of the Fair Labor Standards Act of 1974 (FLSA), the cost of paying graders for all types of travel time allowable under the Act will substantially increase operating costs. Since meat grading services are provided on a fee-for-service basis, the hourly fee rate must be raised to cover the increased travel costs.

[1] Food Safety and Quality Service intends to establish a new Chapter XXVIII in Title 7 of the Code of Federal Regulations. Part 53 will be recodified in Part 2853 of Title 7, Chapter XXVIII.

EFFECTIVE DATE: June 5, 1977.

FOR FURTHER INFORMATION CONTACT:

David K. Hallett, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-2210)

SUPPLEMENTARY INFORMATION: A significant portion of the fee increase is required to cover increased costs associated with grader travel for transportation of meat grading equipment from residence to worksite and return. Such travel is now considered work under provisions of the FLSA. To avoid a substantially higher fee rate than currently planned and thereby minimize the financial impact of the FLSA on users of meat grading services, the Department is proposing to utilize in-plant storage and other centralized storage to significantly reduce travel associated with transporting equipment. The hourly fee increase of $2 will cover the cost of payment to graders for transporting equipment until the proposed plan for equipment storage can be fully implemented, payment for other grader travel compensable under FLSA, and related costs.

Accordingly, the provisions of 7 CFR 53.29(a) prescribing fees for Federal meat grading services are hereby amended by changing the phrases "$17 per hour," "$20 per hour," and "$34 per hour" to "$19 per hour," "$23 per hour," and "$38 per hour," respectively.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, 1090, (7 U.S.C. 1622, 1624).)

Public participation in this rulemaking proceeding would not provide additional relevant information to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found that notice and other procedures are impracticable.

Done at Washington, D.C., on this 24th day of May 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operations.

[FR Doc.77-15257 Filed 5-26-77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

TOBACCO REFERENDUM RESULTS

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule announces the results of the Maryland (type 32), cigar filler (type 41), Virginia sun-cured (type 37), and burley (type 31) tobacco marketing quota referendums. Producers of burley and Virginia tobacco approved national marketing quotas for the marketing years 1977-78, 1978-79 and 1979-80. Therefore, quotas will be in effect and producers will be entitled to participate in the tobacco price support program. Producers of Maryland and cigar-filler tobacco disapproved national marketing quotas for the same three year period. Therefore, quotas will not be in effect and producers will not be entitled to participate in the tobacco price support program. The need for this rule is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended.

The rule also establishes a procedure whereby the Secretary of Agriculture may be petitioned prior to November 10, 1977 or prior to November 10, 1978 to proclaim quotas for cigar-filler (type 41), or for Maryland (type 32) tobacco for the next three marketing years.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William L. Lanier, Director, Tobacco and Peanut Division, ASCS, USDA, 5750 South Building, P.O. Box 2415, Washington, D.C. 20013 (202-447-7413).

SUPPLEMENTARY INFORMATION: The Secretary announced that separate referendums would be held by mail during the period February 22-25, 1977, inclusive, to determine whether producers of each of the previously identified kinds of tobacco were in favor of marketing quotas for the three marketing years beginning October 1, 1977 (42 FR 7962). Since the only purpose of these regulations is to proclaim the results of referendums and to provide a petition procedure, it is hereby found and determined that compliance with the procedure for notice of proposed rule making and public participation is unnecessary. Therefore, these regulations are issued without compliance with procedure. Accordingly, 7 CFR Part 723, 7 CFR Part 724, and 7 CFR Part 726 are hereby amended by revising §§ 723.21, 724.21 and 726.21 to read as set forth below, effective with the 1977 crops of the respective tobaccos.

PART 723—CIGAR-FILLER (TYPE 41) AND MARYLAND (TYPE 32) TOBACCO

§ 723.21 Referendum results for cigar-filler (Type 41) and Maryland (Type 32) tobaccos for the 1977-78, 1978-79 and 1979-80 marketing years.

(a) *Cigar-filler (Type 41).* Of the 806 eligible cigar-filler (Type 41) tobacco farmers who voted in the February 22-25, 1977 referendum, 104 or 12.9 percent favored national marketing quotas for the three marketing years 1977-78, 1978-79, and 1979-80; and 702, or 87.1 percent,

were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for cigar-filler (Type 41) tobacco of 27.6 million pounds for the marketing year beginning October 1, 1977, proclaimed on February 1, 1977 (42 FR 6817) will not be in effect. Likewise, as national marketing quotas have been disapproved in three successive years since 1952 (18 FR 8474) (19 FR 9365) (21 FR 667), quotas will not be in effect for the marketing years beginning October 1, 1978 and October 1, 1979 respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1977, or prior to November 10, 1978, by one-fourth or more eligible farmers to proclaim national marketing quotas for the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(b) *Maryland* (Type 32). Of the 2,543 eligible Maryland tobacco farmers who voted in the February 22–25, 1977 referendum, 797 or 31.3 percent, favored national marketing quotas for the three marketing years 1977–78, 1978–79, and 1979–80; and 1,746 or 68.7 percent, were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for Maryland (Type 32) tobacco of 27.6 million pounds for the marketing year beginning October 1, 1977, proclaimed on February 1, 1977 (42 FR 6817), will not be in effect. Likewise, as national marketing quotas have been disapproved in three successive years since 1952 (18 FR 8474) (19 FR 9365) (21 FR 667), quotas will not be in effect for the marketing years beginning October 1, 1978 and October 1, 1979, respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1977, or prior to November 10, 1978, by one-fourth or more eligible farmers to proclaim national marketing quotas for each of the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(c) *Petition Procedure.* Any petition under paragraph (a) of Section 312 of the Act shall be in writing and submitted to the Secretary, or if mailed shall be postmarked, prior to November 10, 1977, in the case of a petition for marketing quotas for the marketing years 1978–79, 1979–80, and 1980–81, or prior to November 10, 1978, in the case of a petition for marketing quotas for the marketing years 1979–80, 1980–81, and 1981–82. Any such petition shall include the address of each petitioner; shall state that such persons favor the proclamation of national marketing quotas for cigar-filler (type 41) or for Maryland (type 32) tobacco, as the case may be, for the years stated in the petition and the holding of a referendum; and shall show that such persons are producers engaged in the production of the crop of cigar-filler (Type 41) tobacco, or Maryland (Type 32) tobacco, as the case may be, harvested in the calendar year preceding the first of the marketing years stated in the petition, and constitute one-fourth or more of the producers so engaged.

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52) AND CIGAR-FILLER AND BINDER (TYPES 42–44, 53–55) TOBACCO

§ 724.21 Referendum results for Virginia sun-cured tobacco for the 1977–78, 1978–79 and 1979–80 marketing years.

Of the 403 eligible Virginia sun-cured tobacco farmers who voted in the February 22–25, 1977 referendum 386 or 95.8 percent, favored quotas for a period of three years beginning October 1, 1977; and 17 or 4.2 percent were opposed to quotas. Therefore, the national marketing quota of 1,779,000 pounds proclaimed February 1, 1977 (42 FR 6819) for Virginia sun-cured tobacco for the 1977–78 marketing year will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979.

PART 726—BURLEY TOBACCO

§ 726.21 Referendum results for burley tobacco for the 1977–78, 1978–79, and 1979–80 marketing years.

Of the 245,986 eligible burley tobacco farmers who voted in the February 22–25, 1977 referendum 243,457 or 99.0 percent, favored quotas for a period of three years beginning October 1, 1977; and 2,529 or 1.0 percent opposed quotas. Therefore, the national marketing quota of 637 million pounds proclaimed February 1, 1977 (42 FR 6823) for burley tobacco for the marketing year beginning October 1, 1977 will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979.

(Secs. 301, 312, 319, 375, 52 Stat. 38, as amended; 46, as amended, 85 Stat. 23, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1312, 1314e, 1375.)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on May 18, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-14828 Filed 5-26-77;8:45 am]

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

[Lemon Regulation 94]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 29–June 4, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 29, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues steady this week. Average f.o.b. price was $6.37 per carton the week endedMay 21, 1977 compared to $6.23 per carton the previous week. Track and rolling supplies at 180 cars were up to 30 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the

quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 24, 1977

§ 910.394 Lemon Regulation 94.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 29, 1977, through June 4, 1977, is established at 320,508 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

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

Dated: May 25, 1977.

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

[FR Doc.77-15384 Filed 5-26-77;8:45 am]

[Avocado Reg. 19]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Quality and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: Avocado Regulation 19 prescribes during the period May 30, 1977 through April 30, 1978, the following grade and maturity requirements for fresh avocados grown in South Florida: Avocados shipped to destinations outside the production area shall grade at least U.S. No. 3 and individual fruit for specified types of avocados must be at least the prescribed minimum weights or diameters by specified dates (maturity requirements). Avocados shipped to destinations within the production area are exempted from all grade requirements, if packed in containers other than those authorized for shipments outside such area, but such avocados must meet maturity requirements. The requirements are issued in the interest of producers and consumers and are designed to keep immature and defective fruit off the market. Immature avocados will not ripen satisfactorily and would be unacceptable in taste.

EFFECTIVE DATE: May 30, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 10, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 23607), regarding a proposed regulation to be made effective on May 30, 1977, pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The proposed regulation was recommended by the Avocado Administrative Committee established pursuant to the marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice allowed interested persons until May 20, 1977, to submit written comments in connection with the proposed regulation. None were received.

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

The regulation is based upon an appraisal of current and prospective crop and market conditions. Total 1977–78 season fresh shipments of Florida avocados is estimated at 350,000 bushels, as compared with fresh shipments of about 818,000 bushels in the 1976–77 season. The regulation is designed to assure shipment of fruit of a quality and maturity acceptable to consumers in the respective distribution areas in the interest of consumers and producers consistent with the objectives of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give further notice and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinafter set forth in that (1) shipments of the current crop of avocados are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) the recommendations upon which this regulation is based were developed by the committee at an open meeting on April 13, 1977, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) a notice of proposed regulation for Florida avocados was published in the FEDERAL REGISTER (42 FR 23607); (4) the regulation herein specified is essentially the same as the proposed regulation.

§ 915.319 Avocado Regulation 19.

(a) *Order.* (1) During the period May 30, 1977, through April 30, 1978, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided,* That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective date of this regulation, except as otherwise provided in subparagraphs (10) and (11) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraph (3), (4), (4), (6), (7), (8), and (9) hereof.

TABLE I

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kosol	5-30-77	16 oz.	6-13-77	13 oz.	6-27-77	10 oz.	7-11-77
Arue	5-30-77	16 oz.	6-13-77	14 oz. 3-3/16 in	7-18-77		
Roland 22	6-13-77	22 oz.	6-27-77	20 oz.	7-18-77		
J.M. Poropat	6-20-77	20 oz.	6-27-77	18 oz.	7-18-77	16 oz.	8-1-77
Fuchs	6-20-77	14 oz. 3-3/16 in.	7-4-77	12 oz. 3-0/16 in.	7-18-77	10 oz. 2-14/16 in.	8-8-77
K-5	6-27-77	18 oz. 3-5/16 in.	7-11-77	14 oz. 3-3/16 in.	7-25-77		
Dr. DuPuis #2	6-20-77	16 oz. 3-9/16 in.	7-4-77	14 oz. 3-7/16 in.	7-18-77	12 oz. 3-2/16 in.	8-1-77
Hardee	7-4-77	16 oz. 3-2/16 in.	7-11-77	14 oz. 2-14/16 in.	8-1-77		
Pollock	7-4-77	18 oz. 3-11/16 in.	7-18-77	16 oz. 3-7/16 in.	8-1-77	14 oz. 3-4/16 in.	8-15-77
Simmonds	7-4/77	16 oz. 3-9/16 in.	7-18-77	14 oz. 3-7/16 in.	8-1-77	12 oz. 3-1/16 in.	8-15-77
Nadir	7-4-77	14 oz. 3-3/16 in.	7-11-77	12 oz. 3-1/16 in.	7-18-77	10 oz. 2-14/16 in.	8-1-77
Katherine	7-4-77	16 oz.	7-18-77	14 oz.	8-1-77		
Haile	7-4-77	20 oz.	7-18-77	16 oz.	7-25-77	14 oz.	8-15-77
Ruehle	7-18-77	18 oz. 3-11/16 in.	7-25-77	16 oz. 3-9/16 in.	8-1-77	14 oz. 3-7/16 in.	
Ruehle (Continued)					8-15-77	12 oz. 3-5/16 in.	8-29-77
Alpha	7-25-77	16 oz. 3-9/16 in	8-15-77				
Donnie	7-11-77	16 oz. 3-5/16 in.	7-25-77	14 oz. 3-4/16 in.	8-22-77		

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Dawn	7-18-77	12 oz. 3-4/16 in.	8-1-77	10 oz. 3-0/16 in.	8-15-77		
Webb	7-18-77	18 oz.	8-1-77	16 oz.	8-15-77		
Biondo	8-1-77	15 oz.	8-15-77	12 oz.	10-3-77		
Cash	7-18-77	16 oz.	10-3-77				
Peterson	7-25-77	14 oz. 3-8/16 in	8-8-77	10 oz. 3-2/16 in.	8-22-77	8 oz. 2-14/16 in.	9-5-77
232	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Gretchen	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Trapp	8-15-77	14 oz. 3-10/16 in.	8-29-77	12 oz. 3-7/16 in.	9-12-77		
B&B	8-1-77	16 oz. 3-8/16 in.	9-5-77				
Waldin	8-15-77	16 oz. 3-9/16 in.	8-29-77	14 oz. 3-7/16 in.	9-12-77	12 oz. 3-4/16 in.	9-26-77
Pinelli	8-1-77	18 oz. 3-12/16 in.	8-15-77	16 oz. 3-10/16 in.	8-29-77		
Miguel	8-1-77	22 oz. 3-13/16 in.	8-15-77	20 oz. 3-12/16 in.	8-29-77	18 oz. 3-10/16 in.	9-12-77
Nesbitt	8-1-77	22 oz. 3-12/16 in.	8-15-77	18 oz. 3-8/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77
Beta	8-15-77	18 oz. 3-8/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77		
K-9	8-15-77	16 oz.	9-5-77				
Tower 2	8-15-77	14 oz.	8-29-77	12 oz.	9-26-77		
Shula	8-15-77	22 oz.	9-5-77				
Tonnage	8-29-77	14 oz. 3-4/16 in.	9-5-77	12 oz. 3-0/16 in.	9-12-77	10 oz. 2-13/16 in.	9-19-77

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Fairchild	8-29-77	16 oz. 3-10/16 in.	9-12-77	14 oz. 3-7/16 in.	9-26-77	12 oz. 3-4/16 in.	10-3-77
Nirody	8-29-77	18 oz. 3-15/16 in.	9-12-77	16 oz. 3-12/16 in.	9-26-77		
Loretta	8-29-77	28 oz. 4-1/16 in.	12-19-77				
Black Prince	9-12/77	23 oz.	9-26-77	16 oz.	10-17-77		
Catalina	9-12-77	24 oz.	9-19-77	22 oz.	10-3-77		
Csonka	9-19-77	22 oz.	10-17-77				
Blair	9-12-77	16 oz.	9-26-77	14 oz. 3-9/16 in.	10-17-77		
Collinson	9-26-77	16 oz. 3-10/16 in.	10-24-77				
Chica	9-26-77	12 oz. 3-7/16 in.	10-10-77	10 oz. 3-4/16 in.	10-24-77		
Rue	9-26-77	30 oz. 4-3/16	10-3-77	24 oz. 3-15/16 in.	10-17-77	18 oz. 3-9/16 in.	10-31-7
Brooks 1978	10-10-77	10 oz.	10-17-77	8 oz.	11-14-77		
Booth 5	10-3-77	14 oz. 3-9/16 in	10-17-77	12 oz. 3-6/16 in.	10-31-77		
Hickson	10-3-77	15 oz. 3-5/16 in.	10-17-77	12 oz. 3-1/16 in.	10-31-77	10 oz. 3-0/16 in.	11-14-77
Simpson	10-3-77	16 oz. 3-9/16 in.	10-24-77				
Vaca	10-3-77	16 oz. 3-9/16 in.	10-24-77				

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sherman	10-3-77	16 oz.	10-17-77	14 oz.	10-31-77	10 oz.	11-21-77
Marcus	10-3-77	32 oz. 4-12/16 in.	11-14-77				
Booth 10	10-10-77	16 oz. 3-10/16 in	11-7-77				
Booth 7	9-26-77	18 oz. 3-13/16 in.	10-10-77	16 oz. 3-10/16 in.	10-24-77	14 oz. 3-8/16 in.	11-7-77
Avon	10-10-77	15 oz. 3-11/16 in.	10-31-77				
Booth 11	10-10-77	16 oz. 3-12/16 in.	10-31-77				
Leona	10-10-77	18 oz. 3-10/16 in.	10-24-77				
Winslowson	10-10-77	18 oz. 3-14/16 in.	10-31-77				
Nelson	10-10-77	14 oz. 3-8/16 in.	10-24-77	12 oz. 3-5/16 in.	11-7-77	10 oz. 3-1/16 in.	11-28-77
Hall	10-10-77	26 oz. 3-14/16 in.	10-24-77	20 oz. 3-9/16 in.	11-7-77	18 oz. 3-8/16 in.	11-21-77
Lula	10-17-77	18 oz. 3-11/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77	12 oz. 3-5/16 in.	11-28-77
Choquette	10-17-77	24 oz. 4-1/16 in.	10-31-77	20 oz. 3-14/16 in.	11-14-77	16 oz. 3-9/16 in.	11-21-77
Monroe	11-14-77	24 oz. 4-1/16 in.	11-28-77	20 oz. 3-14/16 in.	12-12-77	16 oz. 3-9/16 in.	12-26-77
Herman	10-17-77	16 oz. 3-9/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77		
Murphy	10-17-77	16 oz.	10-31-77	14 oz.	11-14-77	11 oz.	12-5-77

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ajax (B-7-E)	10-24-77	18 oz. 3-14/16 in.	11-14-77				
Booth 1	11-21-77	16 oz. 3-12/16 in.	12-5-77	14 oz. 3-10/16 in.	12-19-77	12 oz. 3-6/16 in.	1-2-78
Booth 3	10-24-77	16 oz. 3-10/16 in.	11-14-77				
Taylor	10-24-77	14 oz. 3-5/16 in.	11-7-77	12 oz. 3-2/16 in.	11-21-77		
Dunedin	11-7-77	16 oz. 3-10/16 in.	11-21-77	14 oz. 3-8/16 in.	12-5-77	10 oz. 3-1/16 in.	12-26-77
Byars	11-14-77	16 oz. 3-14/16 in.	12-5-77				
Linda	11-14-77	18 oz. 3-12/16 in.	12-5-77				
Nabal	11-14-77	14 oz. 3-9/16 in.	12-5-77				
Zio	11-28-77	12 oz.	12-12-77	10 oz.	12-26-77		
Wagner	12-5-77	12 oz. 3-5/16 in.	12-19-77	10 oz. 3-2/16 in.	1-2-78		
Maya	12-26-77	13 oz.	1-9-78	11 oz.	1-23-78		
Brookslate	1-9-78	14 oz.	1-23-78	12 oz.	2-6-78	10 oz.	2-20-78
Schmidt	1-16-78						
Itzamna	2-13-78						

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocado of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) No handler shall handle (i) prior to August 22, 1977, any Lisa variety avocados, (ii) during the period August 22, 1977, through August 28, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period August 29, 1977, through September 4, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 11 ounces, (iv) during the period September 5, 1977, through September 11, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 12, 1977, through September 18, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces;

(7) No handler shall handle (i) prior to September 12, 1977, any Booth 8 variety avocados, (ii) during the period September 12, 1977, through October 2, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 9/16 inches in diameter, or (iii) during the period October 3, 1977, through October 16, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 9/16 inches in diameter, or (iv) during the period October 17, 1977, through October 30, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least 3 9/16 inches in diameter, or (v) during the period October 31, 1977, through November 13, 1977, any Booth 8 variety avocados unless the individual fruit in each of such avocados weighs at least 10 ounces or is at least 3 1/16 inches in diameter.

(8) Except as otherwise provided in subparagraphs (10) and (11) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 4, 1977.

(ii) From July 4, 1977, through July 31, 1977, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 1, 1977, through September 4, 1977, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 5, 1977, through October 2, 1977, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(9) Except as otherwise provided in subparagraphs (10 and 11) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (8) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 19, 1977.

(ii) From September 19, 1977, through October 16, 1977, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 17, 1977, through December 18, 1977, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(10) Notwithstanding the provisions of subparagraphs (2) through (9) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided,* That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (6), (7), (8), and (9). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(11) The provisions of subparagraphs (2) through (10) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth

in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069).

(c) The provisions of this regulation shall become effective May 30, 1977.

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

Dated, May 24, 1977, to become effective May 30, 1977.

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

[FR Doc.77–15258 Filed 5–26–77;8:45 am]

[Avocado Regulation 25]

Part 944—Fruits; Import Regulations

AVOCADOS

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Avocado Regulation 25 prescribes during the period May 30, 1977, through April 30, 1978, the same grade requirement for imported avocados as that applicable, pursuant to Order No. 915, to avocados grown in South Florida. The maturity regulation applies the same minimum size or weight requirements to imported avocados of the Pollock, Catalina, and Trapp varieties as are applicable to Florida avocados of the same varieties. All other imported avocados are required to meet minimum size or weight requirements comparable to those for similar types grown in Florida as variations in characteristics make application of identical requirements impractical. The regulation is required by Federal law.

EFFECTIVE DATE: May 30, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 9, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 23514) inviting written comments for consideration in connection with a proposed regulation which would establish requirements for importation of avocados into the United States, during the period May 30, 1977, through April 30, 1978, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). None were received.

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of the regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) such regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Avocado Regulation 19, which becomes effective May 30, 1977; (c) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; (d) three days notice hereof, the minimum prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade, size, and maturity requirements that are the same as or are comparable to those to be in effect pursuant to the said amended marketing order shall apply to avocados to be imported.

§ 944.17 Avocado Regulation 25.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period May 30, 1977, through April 30, 1978, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 17, 1977, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least $3\frac{11}{16}$ inches in diameter; (iii) from July 18, 1977, through July 31, 1977, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least $3\frac{7}{16}$ inches in diameter; and (iv) from August 1, 1977, through August 14, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least $3\frac{3}{16}$ inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 12, 1977; (ii) from September 12, 1977, through September 18, 1977, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 19, 1977, through October 2, 1977, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 15, 1977; (ii) from August 15, 1977, through August 28, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least $3\frac{10}{16}$ inches in diameter; and (iii) from August 29, 1977, through September 11, 1977, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least $3\frac{7}{16}$ inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 31, 1977, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 1, 1977, through September 4, 1977, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 5, 1977, through October 2, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 19, 1977; (ii) from September 19, 1977, through October 16, 1977, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 17, 1977, through December 18, 1977, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service. Fruit and Vegetable Division. Agricultural Market Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Port, Office, and Advance Notice

All Texas points.—Leo M. Denbo, 506 S. Nebraska Ave., San Juan, Texas 78598, Phone (512) 787-4091, 1 day, or Charles E. Paragon, 724 E. Overland, El Paso, Texas 79901, Phone (915) 543-7723, 1 day.

All New York points.—Carmine J. Cavallo, Room 28A Hunts Point Market, Bronx, New York 10474, Phone (212) 991-7668 and 7669, 1 day, or Charles D. Renick, 176 Niagara Frontier Food, Terminal—Room 8, Buffalo, New York 14206, Phone (716) 824-1585, 1 day.

All Arizona points.—B. O. Morgan, 225 Terrace Avenue, Nogales, Arizona 85621, Phone (602) 287-2902, 1 day.

All Florida points.—Bennie C. Tiner, 1350 NW., 12th Ave.—Room 530, Miami, Florida 33136, Phone (305) 324-6116, 1 day, or Cecil Brantley, 550 3rd Street NW., Winter Haven, Florida 33880, Phone (813) 294-3511, 1 day, or Bobby E. Stafford, Unit 46, 3335 North Edgewood, Jacksonville, Florida 32205, Phone (904) 354-5983, 1 day.

All California points.—T. A. Trombatore, 784 S. Central Ave.—Room 266, Los Angeles, California 90021, Phone (213) 622-8756, 3 days.

All Louisiana points.—Leonard E. Mixon, 5027 Federal Office Bldg., 701 Loyola Avenue, New Orleans, Louisiana 70113, Phone (504) 589-6741 and 6742, 1 day.

All other points.—M. A. Castille, F&V Div.—AMS-USDA, Washington, D.C. 20250, Phone (202) 447-5870, 3 days.

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in south Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic and imported avocados; and the maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 51.3050-51.3069). "Diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit. "Importation" means release from custody of the United States Bureau of Customs.

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

Dated, May 24, 1977, to become effective May 30, 1977.

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

[FR Doc.77-15259 Filed 5-26-77;8:45 am]

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

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

Correction to Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction of final rule.

SUMMARY: This action corrects an error in the language of a final rule that was issued on April 29, 1974, with respect to the Eastern South Dakota Federal milk marketing order.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: This action corrects an order amending the order regulating the handling of milk in the Eastern South Dakota marketing area which was issued April 29, 1974 (39 FR 16312) and which became effective August 1, 1974. Due to a clerical error, the words "of other handlers" were inadvertently included in § 1076.7 (c) of the amended order. These words had been specifically terminated in an earlier rule-making action (39 FR 2597).

Accordingly, § 1076.7(c) is corrected to read as follows:

§ 1076.7 Pool plant.

* * * * *

(c) A plant, other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer members of such cooperative association is shipped to pool distributing plants during the month, either directly from the farm or by transfer from the plant of the cooperative association.

Signed at Washington, D.C., on May 24, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77-15256 Filed 5-26-77;8:45 am]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA is amending its regulations to include revisions since August 10, 1976, to the listing and summary description of REA bulletins and supplements that provide the program policies and requirements of the Rural Electrification Administration. The revision reflects both new and revised REA bulletins issued after publication in the FEDERAL REGISTER under proposed rule making procedures to secure public comment and participation.

DATE: REA bulletins become effective on date of final issuance.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert H. Robinson, Director, Management Services Division, Rural Electrification Administration, Room 4024, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4512.

SUPPLEMENTARY INFORMATION: Public comments were received on four of the REA bulletins issued in this period: 20-22, Guarantee of Loans for Bulk Power Facilities; 44-2:345-1, REA Specification for Wood Poles, Stubs, and Anchor Logs, and for Preservative Treatment of These Materials; 345-45, Field Trial of Telephone Construction Materials and Equipment; and 345-67, REA Specification for Filled Telephone Cables. There were no public comments or suggestions received on any other proposed

revisions of REA bulletins included in this update of Appendix A.

Several comments were received on the proposed revision of REA Bulletin 20–22, Guarantee of Loans for Bulk Power Facilities. The revision of the bulletin adds provisions with respect to the guaranteeing by REA of certain loan arrangements involving variable interest rates. Some of the public comments received were supportive of the acceptance of variable interest rates while others took objection to this change. After giving very careful consideration to all the comments and suggestions received, REA believes it is in the general interest of its borrowers and their members to make large amounts of additional capital available for power supply facilities by accepting for consideration of REA loan guarantee, certain loan arrangements involving variable interest rates. In each case, as provided by the bulletin, a very careful assessment will be made of the variable interest rate proposal to determine its effect on feasability and the protection afforded against the lenders control of the rate variations.

The only comment received on Bulletin 44–2:345–1 took exception to the preservative retention requirements for LPG-treated poles stated in Table 10 of the proposed specification. In the revision of the specification, REA proposed an assay of two zones (outer and inner), rather than an assay of only an inner zone for LPG-treated poles. The comment did not object to the two assay zone requirement, but did recommend that REA specify the same retentions for both the LPG treatment and the penta in heavy solvent treatment. The exception was based essentially on the proposed retention requirement in the outer assay zone (zero to 0.5 inch for Douglas fir and the pine species, and zero to 0.6 inch for western larch and the cedar species for which only the outer assay zone will be required). The proposed zone assays and retentions are intended to improve the quality of LPG-treated poles and are considered necessary because of field experience. The proposed retention in the outer assay zone is based on the requirements of Federal Specification TT-W-00571J. The Federal specification requires an assey of only one zone, which in the thin sapwood species is a narrow zone near the pole surface. This narrow assay zone near the pole surface is comparable to REA's proposed cuter assay zone, and for the outer zone we have proposed the same retention value as that in the Federal specification for the narrow zone near the pole surface. After careful consideration of the exception and supporting statements, and after an extensive review of available field data and published information including a comparison of the proposed specification requirements with Federal Specification TT-W-00571J, REA determined that the specification, as proposed, should be retained.

Eight changes were suggested through public comment on the proposed revision of REA Bulletin 345–45, Field Trial of Telephone Construction Materials and Equipment.

The first suggestion was for more definitive guidelines as to when modified material or equipment would require a field trial. REA agreed and substituted for the second sentence in paragraph II, the sentence that was suggested, with the exception of a few words.

The second suggested change also dealt with the field trial of modified material and equipment. We accepted a part of this suggestion. The first sentence of paragraph III.A.1 was changed to the lines that were suggested. The second sentence of the suggestion was not accepted because field trials are for the benefit of all the REA borrowers and should be conducted under REA's conditions and not those proposed by the manufacturer and a specific borrower.

Suggestion No. 3, dealing with the need for field trials, was adopted and the second sentence in paragraph III.A.1 was revised accordingly.

The fourth suggestion referred to paragraph III.B.1 and REA's intent in its conduct of field trials with respect to extreme climatic conditions. The wording of this paragraph was modified to clarify REA's intent.

The fifth suggestion proposed to limit the quantity of field trials for the specific items to the minimum number reasonably necessary for adequate evaluation. We agree with the concept, but in actual practice manufacturers desire many field trials as it permits marketing of the products to REA borrowers using loan funds prior to formal listing of the equipment. This suggestion was not adopted.

Suggestion No. 6, dealing with the location of field trials, was not adopted. It was felt that the present wording under paragraph III.B.4 is fully descriptive of the operating conditions under which a field trial should be made.

Suggestion No. 7 referred to the duration of the field trial. Here again it was felt that the description in paragraph III.B.5 with respect to duration of field trials was satisfactory and could see no reason for changing it.

The eighth suggestion made reference to field trials of materials and equipment on the REA List of Materials Acceptable for Use on Telephone Systems of REA Borrowers. Field trials are conducted on materials and equipment that have not been accepted by REA and therefore would not be on the List of Materials. The purpose for having field trials is to allow REA and its borrowers to obtain information necessary to justify placing the items of material or equipment on the List of Materials following the procedures of REA Bulletin 44–7:345–3. For these reasons, REA considers the field trials essential and this suggestion was not adopted.

Public comments were received when the proposed revision of REA Specification PE–39 for Filled Telephone Cables (Bulletin 345–67) was published in the FEDERAL REGISTER on October 5, 1976. The following actions were taken on the comments received:

1. Suggestions to change the references in the bulletin to the most recent editions of the ASTM specifications were adopted where the new edition did not alter the PE–39 requirement.

2. A recommendation to adopt the PE–39 spark test requirement to the Underwriters Laboratories Standard UL83, "Alternative Spark Testing" and make reference to this standard was not adopted. The UL83 test would not be appropriate for the PE–39 specification.

3. In response to several requests, metric equivalents were provided throughout the PE–39 specification.

4. The suggestion was made to follow the ASTM method of rounding off measurements and computed values. This was not adopted because the ASTM method refers to odd and even significant digits which are not employed in PE–39.

5. In addition to the thermal wrap protection supplied on each reel of cable, it was suggested that a mechanical protection be required. The thermal wrap offers a small amount of mechanical protection. Additional mechanical protection is left to the discretion of each individual cable manufacturer. As an additional protection, all manufacturers are required to stencil on each reel "TRUCK FROM SIDE."

6. The reason for the change in the "shrinkback" requirement in the specification was questioned. In the past, the requirement was not cause for rejection, but was a marginal noncompliance. "Shrinkback," or lack of it, is a very important parameter in the telecommunications technology and therefore shrinkback is retained in the specification as a firm requirement.

7. Several comments were received concerning the inclusion of a test for residual antioxidant activity after processing. REA believes that such a test is needed to provide assurance that an adequate amount of antioxidant remains in the insulation of the conductors after extrusion. The presence of the antioxidant is necessary to prevent deterioration (cracking) of the insulation as it ages. The test specified in PE–39 is a result of discussions with the producers of the raw material used in making the insulation. The final specification states that other methods of testing may be used if acceptable to REA.

The following listings of revised REA bulletins and the summary descriptions of bulletins add to or replace existing listings in Appendix A to Part 1701 (40 FR 16074).

APPENDIX A—REA BULLETINS

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

REA Bulletin Number and Date of Last Issuance	*Description of content*
1-3:300-2; October 1976 (Replacing October 1973).	Rural Electrification Act of 1936 with Amendments to October 20, 1976, providing the statutory basis for the rural electrification and telephone loan programs of REA and the Rural Telephone Bank.
20-9:320-12; October 1976 (Replacing December 1969).	Policy and procedure for the computation of interest on REA loans and loan account statements sent to borrowers.
44-2:345-1; November 1976 (Replacing January 1968).	REA specification for wood poles, stubs, and anchor logs, and for preservative treatment of these materials to be purchased by REA electric and telephone borrowers.
44-2:345-1; January 1977 (Additional Supplement).	A supplement dated February 1977 containing revised Drawing M-20, Pole Framing Guide.
44-4:345-9; November 1976 (Replacing November 1970).	REA standards and procedures for the inspection of wood poles, stubs and anchor logs, wood crossarms, construction lumber and pole keys and the preservatives and preservative treatment in REA-financed construction.
44-5:345-2; June 1976 (Replacing July 1974).	Inspection agencies authorized by REA for inspection of timber products and their preservative treatment for installation on REA borrowers' electric or telephone systems.

RURAL ELECTRIFICATION PROGRAM BULLETINS

20-3; July 1956 (Supplement)---	A supplement dated October 14, 1976, providing for an increase in the minimum investment in realty for which REA requires title insurance.
20-22; April 1977 (Replacing February 1975).	REA's policies and requirements concerning the guarantee by REA of loans made by legally organized lending agencies for bulk power supply facilities.
40-6; August 1970 (Supplements).	Supplements dated March and June 1976. The March supplement specifies the dollar amount of contracts associated with the procurement of equipment for the construction of generation facilities not requiring REA approval, and modifies the REA equipment contract Form 198 as required by the change. The June supplement reflects the change to $25,000 as the contract limit above which contractors are required to secure a contractor's bond on a form approved by REA.
43-5; July 1976 (Replacing July 1975).	List of Materials acceptable for use in the construction of borrowers' electric systems.
43-5; July 1976 (Supplements)---	Supplements 1, 2, and 3 dated October 1976, January 1977, and April 1977, respectively, updating the basic July 1976 bulletin on REA's approved List of Materials.
43-6; December 1976 (Replacing February 1957).	REA policy and requirements for the selection of materials and equipment by electric borrowers and their inspection upon delivery.
65-1; July 1970 (Supplement)---	A supplement dated June 1976 providing a revised substation drawing relating to chain link fence grounding.
83-1; March 1977 (Replacing October 1958).	REA guidelines and requirements for the adequate grounding of primary distribution lines.
108-1; October 1974 (Supplement)	A supplement dated October 1976 prescribing the procedure for reporting customer service and informational expenses on the distribution borrowers' operating report.
108-2; January 1971 (Supplement).	A supplement dated October 1976 prescribing the procedure for reporting customer service and informational expenses.
140-1; January 1977 (New)------	REA policy and general guidelines with respect to borrowers' load management programs.
145-1; January 1977 (New)------	REA recommendations, procedures, and guidelines for developing estimated irrigation power requirements.
181-1; January 1972 (Supplement).	A supplement dated August 1976 providing amendments to the Uniform System of Accounts prescribed for REA electric borrowers.

RURAL TELEPHONE PROGRAM BULLETINS

344–2; January 1977 (Replacing January 1975).	List of Materials acceptable to REA for use in the construction of borrowers' telephone systems.
345–26; July 1976 (Replacing September 1974).	REA specification for buried plant housings.
345–45; October 1976 (Replacing December 1964).	REA specification for field trials of telephone construction materials and equipment.
345–50; May 1975 (Supplement).	A revised page 13 to the bulletin dated September 1976 providing new requirements to cover low density trunk carrier equipment.
345–52; September 1975 (Supplement).	A supplement dated January 1977 concerning station installation on mobile homes or trailers, and the accessibility of pay stations to the handicapped.
345–67; November 1976 (Replacing December 1972).	REA specification for filled telephone cables.
345–73; November 1976 (New)	REA specification for all-weather pressure sensitive vinyl tape.
345–74; February 1977 (New)	REA specification for type A telephone sets.
345–75; February 1977 (New)	REA specification for electronic trunk circuits.
380–1; July 1956 (Supplement)	A supplement dated January 1977 modifying REA requirements concerning title insurance.

Dated: May 19, 1977.

DAVID A. HAMIL,
Administrator.

[FR Doc.77-1514 Filed 5-26-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. E. R. Mackery, USDA, APHIS, Veterinary Service, Room 868, Federal Building, Hyattsville, Md. 20782 (301–436–8685).

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1976 ed.), as amended January 21, 1976 (41 FR 3074), April 16, 1976 (41 FR 16145), July 23, 1976 (41 FR 30321), November 30, 1976 (41 FR 52433), and April 26, 1977 (42 FR 21269), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

§ 97.2 Administrative instructions prescribing the commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add: Oakfield, Wisconsin (served from Madison or Markesan, Wisconsin).

THREE HOURS

Add: Harrisburg, Pennsylvania (served from Shippensburg, Pennsylvania).

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C., it is found upon good cause that notice and public procedure on this instruction are impracticable, unnecessary, and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-14910 Filed 5-26-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 0—ORGANIZATION

Honolulu, Hawaii Field Station; Change of Address

AGENCY: Federal Trade Commission.

ACTION: Amendment of § 0.18(b)(9).

SUMMARY: The address of the Commission's Honolulu, Hawaii, field station set out in § 0.18(b)(9) is changed to Room 6324, 300 Ala Moana, Honolulu, HI 96850.

DATE: Effective May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph N. Kuzew, Chief, Rules and Publications Branch, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580 (202–724–1185).

By direction of the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15205 Filed 5-26-77;8:45 am]

[Docket C-2885]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Sears, Roebuck and Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order, among other things, requires a Chicago, Ill., department store chain, in its capacity of shopping center developer and/or major tenant, to cease entering into and enforcing agreements which exclude particular classes of occupants; control tenants' advertising, goods and prices; or otherwise restrict competitive trade. Additionally, to ensure compliance with the terms of the order, respondent is prohibited from using the same officers and employees in its separate capacities as tenant or shopping center developer.

DATES: Complaint and order issued April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Director, Washington Regional Office, Federal Trade Commission, 600–C Gelman Bldg., 2120 L St., NW., Washington, D.C. 20017, 202–254–7700.

SUPPLEMENTARY INFORMATION: In the Matter of Sears, Roebuck and Co., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart-Combining or Conspiring: § 13.388 To control allocation and solicitation of customers; § 13.395 To control

marketing practices and conditions; § 13.405 To discriminate unfairly or restrictively in general; § 13.410 To eliminate competition in conspirators' goods; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade. Subpart-Cutting off Access to Customers or Market: § 13.560 Interfering with distributive outlets. Subpart-Interfering with Competitors or their Goods: § 13.1080 Interfering with competitors or their goods.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719 as amended; 15 U.S.C. 45.)

The order to cease and desist, including further order requiring report of compliance therewith, and the dissenting statement of Commissioner Clanton. is as follows:

DISSENTING STATEMENT OF COMMISSIONER CLANTON

I continue to adhere to my belief that the order, in its present form, should be rejected. Paragraph III E.5.(d) permits Sears to enter into agreements with shopping center developers that inter alia designate the layout of a shopping center, including "the usage by square footage of leasable floor area * * * of each type of merchandise or service to be handled or offered for sale for which the developer will use his best efforts to obtain tenants * * *." This exemption from the proscriptions of the order comes perilously close to conferring the kind of prior approval rights which the Commission struck down by its decision *In the Matter of Tysons Corner Regional Shopping Center et al.*, 85 F.T.C. 970 (1975). While not authorizing the exclusion of identified prospective tenants, paragraph III E.5.(d) may achieve a similar effect by enabling Sears to exercise veto power over various types of retail product lines and services (and thereby, perhaps, excluding certain classes of retailers) through the designation of allowable floor space. As the Commission noted in *Tysons Corner:*

It is almost self-evident, and the administrative law judge so found, that floor space is a crucial element in the ability of a store to compete (citation omitted). The inability to expand beyond a certain size can effectively preclude a retailers from offering a particular product line or services that would render it a more viable competitor for consumers' patronage. (Id. at 1013).

The interests of a tenant in the viability of a shopping center can be met, as the Commission pointed out in *Tysons Corner*, by spelling out in lease agreements "specific and legitimate considerations which a tenant may insist that developers consider in admitting new entrants, without creating the massive potential for price-fixing and anti-competitive exclusionary activity inherent in agreements conferring blanket approval rights * * * ." Id. at 1012. (Footnote omitted). The Commission there distinguished between lease provisions giving a tenant broad rights of prior approval over other prospective entrants and those provisions setting forth well-defined entry criteria that are unlikely to constitute a cover for price-fixing and other price-controlling activities. In the latter situation, the burden would be on the tenant to demonstrate that the developer failed to give proper consideration to the relevant standards in the lease, a showing the Commission observed as "unlikely to be made or ever attempted if pricing policy is the main reason for the objection to the new competitor." Id. at 1018. By contrast, the *Sears* order permits major tenant participation in the design and layout of shopping centers in a way that renders effective enforcement of the order difficult if not impossible.

To the extent that appropriate consideration may be given to the economic viability of a proposed shopping center, the pending order contains several provisions outlining permissible lease arrangements similar to those incorporated in the *Tysons Corner* order; in fact, the order here would go further by permitting Sears to spell out in its lease agreement with a developer "reasonable categories of retailers" from which the developer would select tenants for location within the immediate proximity (150 feet) of Sears' store. (Paragraph III E.3.). To go beyond that, as provided in paragraph III E.5. (d), creates an unnecessary risk of anti-competitive exclusionary conduct.

For the above reasons, the order should not be approved.

ORDER

I

For the purpose of this Order the following definitions shall apply:

(a) The term "Respondent" refers to Sears, Roebuck and Co., its operating divisions, its subsidiaries including but not limited to Homart Development Co., and their respective officers, agents, representatives, or employees.

(b) The term "shopping center" refers to a group of retail outlets in the United States of America planned, developed and managed as a unit containing (1) a total floor area designed for retail occupancy of 200,000 square feet or more, of which at least 50,000 square feet are for occupancy by tenants other than Respondent, (2) at least two tenants other than Respondent, (3) at least one major tenant other than Respondent, and (4) on-site parking.

(c) The term "tenant" refers to any retail occupant or potential occupant of floor area in a shopping center, whether as a lessee or owner of such space, but the term does not refer to an occupant of space within the store or other area occupied by Respondent, which occupant operates as a department for Respondent pursuant to a license from Respondent.

(d) The term "major tenant" refers to a tenant providing primary drawing power in a shopping center. A tenant which occupies at least 50,000 square feet of floor area will be deemed to provide primary drawing power.

(e) The term "retailer" refers to a tenant which sells merchandise or services to the consuming public.

(f) The terms "range of prices," "range of fashions" and "range of quality" refer to, "popular priced," medium priced," and "high priced;" "low popular fashion," and "high fashion;" "low or popular quality," "medium quality" and "high quality," which identify a tenant as a member of a class of merchants which sell their merchandise within a generally identifiable range of prices.

(g) The term "radius restriction" refers to a limitation which precludes a tenant, directly or indirectly, from engaging in, owning, or operating any business within a specified radius or distance from a shopping center.

(h) The term "developer" means any business entity which plans, constructs, or operates a shopping center and negotiates and executes lease agreements with tenants.

(i) The term "shopping center joint venturer" or "joint venturer" means any shopping center developer who enters into an agreement with Sears, Roebuck and Co. through its subsidiary Homart Development Co. to develop, construct, or operate a shopping center.

(j) The term "Agreement" refers to any Operating Agreement, Reciprocal Easement Agreement (R.E.A.), lease, or other contract of any kind, oral or written, which sets forth a relationship between the parties relating to the occupancy of floor area in a shopping center.

II

A. *It is ordered* That respondent Sears, Roebuck and Co., a corporation, its successors and assigns, and its officers, and Respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in its capacity as a tenant in a shopping center, cease and desist from making, carrying out or enforcing, directly or indirectly, an Agreement or provision of an Agreement, which:

1. Prohibits the admission into a shopping center of any particular tenant or class of tenants, including, for purposes of illustration:
   (a) Other department stores,
   (b) Junior department stores,
   (c) Discount stores, or
   (d) Variety stores;
2. Grants Respondent the right to approve or disapprove the entry into a shopping center of any other tenant;
3. Provides for the formulation or circulation of lists of approved tenants;
4. Grants Respondent the right to approve or disapprove the amount of floor space that any other tenant may occupy or use in a shopping center;
5. Specifies that any tenant in a shopping center shall or shall not sell its merchandise or services at any particular price, or within any range of prices, or within any range of fashions, or within any range of quality, when such descriptions identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices;
6. Limits discount advertising, discount pricing, or discount selling;
7. Grants Respondent the right to approve or disapprove the amount of floor space that any other tenant may choose to allocate for specific use in a shopping center;
8. Limits the types of merchandise or services which any named tenant other than Respondent in a shopping center may offer for sale;
9. Limits other tenants in a shopping center from conducting bona fide sales;
10. Prescribes the minimum hours of business operation of other tenants in a shopping center;

11. Grants Respondent the right to approve or disapprove the location in a shopping center of any other tenant;

12. Provides for radius restrictions upon any tenant in a shopping center; or

13. Authorizes a major tenant to limit the types of merchandise or services which Respondent may offer for sale in a shopping center.

B. *It is further ordered* That Respondent, in its capacity as a tenant in a shopping center, shall not enter into or carry out any conspiracy, combination, or arrangement with any other tenant or developer to exclude any tenant from a shopping center or to achieve the results which Respondent is prohibited from undertaking by Paragraph IIA of this order.

III

A. *It is further ordered* That Respondent, in its capacity as a shopping center developer, cease and desist from making, carrying out, or enforcing, directly or indirectly, an Agreement or provision of an Agreement, which:

1. Specifies that any tenant in any shopping center shall or shall not sell merchandise or services at any price, or within any range of prices, or within any range of fashions, or within any range of quality, when such descriptions identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices;

2. Specifies that any tenant in any shopping center shall not be a discounter or sell merchandise or services at discount prices;

3. Specifies that any tenant in any shopping center shall be subject to a radius restriction; or

4. Specifically conditions the approval of tenant entry into one of its shopping centers upon the tenant's agreement to occupy space in another of its shopping centers.

B. *It is further ordered* That Respondent, in its capacity as a shopping center developer, cease and desist from entering into any Agreement or provision of an Agreement with any tenant that said tenant may:

1. Specify or control or may require Respondent to specify or control prices, price ranges, fashion ranges, quality ranges, which identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices; or

2. Control or may require Respondent to control discounting by any other retailer; or

3. Exclude any retailer from any of Respondent's shopping centers by reason of such retailer's discount selling or discount advertising.

C. *It is further ordered* That Respondent cease and desist from using the same officers or other employees in Respondent's separate capacities as a tenant in or as a developer of shopping centers.

D. *It is further ordered* That this Order shall not prohibit Respondent, in its capacity as a tenant in a shopping center, from including a provision in an Agreement which identifies in designated buildings Respondent and those other major tenants which enter into such an Agreement.

E. *It is further ordered* That this Order shall not prohibit Respondent, in its capacity as a tenant in a shopping center, from negotiating to include, including, carrying out or enforcing an Agreement or provision in any Agreement which:

1. Requires that in regard to the selection of other tenants in the shopping center by the joint venturer or developer the following objective shall be considered—maintaining a balanced and diversified grouping of financially sound retail stores, merchandise and services;

2. Prohibits occupancy of space in a shopping center by clearly objectionable types of tenants, including, for purposes of illustration, establishments selling or exhibiting pornographic materials, massage parlors, and body and fender shops;

3. Permits Respondent to establish reasonable categories of retailers from which the developer or the landlord may select tenants to be located in the area immediately proximate to Respondent's store; provided that such categories shall not include specification of (a) price ranges, (b) price lines, (c) trade names, (d) store names, (e) trademarks, brands or lines of merchandise of retailers, or (f) identity of particular retailers, including the listing of particular retailers as examples of a category; and further, provided that such area shall not exceed 150 lineal feet on each level of the center;

4. Requires that reasonable standards of appearance, signs, maintenance and housekeeping be maintained in a shopping center;

5. Establishes a layout of a shopping center which layout may designate: (a) Respondent's store and stores of other major tenants, (b) the location, size and height of all structures (including any structure that is to be occupied by only one tenant) but not the amount of floor area that any other tenant may occupy in the shopping center, (c) the use of all structures of a non-merchandising nature, (d) the usage by square footage of leasable floor area in the shopping center (excluding floor area occupied by major tenants) of each type of merchandise or service to be handled or offered for sale, for which the developer will use his best efforts to obtain tenants, and (e) parking areas, roadways, utilities, entrances, exits, walkways, mails, landscaped areas and other common areas, and (f) expansion areas and may within such areas establish a layout incorporating items (a) through (e) of this subsection 5; or

6. Requires that any expansion of the shopping center not provided for in the initial layout:

(a) Shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between Respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

(b) Shall not interfere with the efficient operation of Respondent's store, including its utilities or its visibility from within the shopping center or from public highways adjacent thereto;

(c) Shall not result in a change of (i) the shopping center's parking ratio, (ii) the location of a number of parking spaces reasonably accessible to Respondent's store determined by the application of such parking ratio to the number of square feet of floor area of Respondent's store, (iii) the entrances and exits to and from Respondent's store and any malls, and (iv) those parking area mall entrances and exits which substantially serve Respondent's store; or

(d) Shall be accomplished only after any and all covenants, obligations and standards (for example, construction, architecture, operation, maintenance, repair, alteration, restoration, parking ratio, and easements) of the shopping center, exclusive of the expansion area (i) shall be made applicable to the expansion area and (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area.

F. *It is further ordered* That Respondent, in its capacity as a shopping center developer, will within thirty (30) days after service of this order mail a copy of this order and a copy of Letter "A", attached hereto, by registered or certified mail, to all tenants in its Homart shopping centers.

G. *It is further ordered* That Respondent, in its capacity as a shopping center developer, advise the Commission in writing within sixty (60) days after Respondent has knowledge of any occasion that:

1. A tenant disapproves the admission into any of Respondent's shopping centers of any other retailer;

2. A tenant refuses to approve the renewal of another retailer's lease in any of Respondent's shopping centers;

3. A tenant approves the admission of another retailer into any of Respondent's shopping centers subject to conditions imposed by the tenant relating to the pricing, price ranges, fashion ranges, quality ranges, trade names, store names, trademarks, brands or lines of merchandise or the discounting practices or methods of such other retailer; or

4. A tenant enters into an Agreement or provision of an Agreement with Respondent to become a tenant in any of Respondent's shopping centers on condition that Respondent refuse to renew the lease of another retailer.

IV

A. *It is further ordered* That Respondent shall within thirty (30) days after service of this order upon Respondent distribute a copy of this order to each of its operating divisions.

B. *It is further ordered* That Respondent, in its capacity as a tenant, shall within thirty (30) days after service of this order upon Respondent, distribute a copy thereof by registered or certified mail to each major tenant, shopping

center joint venturer and developer in every shopping center in which Respondent is a major tenant.

C. *It is further ordered* That Respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent or in its subsidiary Homart such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

D. *It is further ordered* That Respondent shall within sixty (60) days after service of this order upon Respondent file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole abstained, not having participated in the decision to provisionally accept this agreement. Commissioner Clanton dissented.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15088 Filed 5-26-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13565]

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

Uniform Net Capital Rule and Customer Protection Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and interpretations.

SUMMARY: These amendments require brokers and dealers to reflect in their capital computations the exposure resulting from certain short security positions, to enable net capital computations to take into account more completely the risks associated with transactions in options and to effect certain technical adjustments to these rules.

The interpretations in this release relate to the definition of the term "bearer form" for purposes of Rule 15c3-1d and the treatment of the consolidated computation of net capital by affiliates and subsidiary corporations and are designed to resolve questions raised by the application of these provisions of the rule to specific factual situations. These amendments and interpretations arise from the Commission's ongoing review of its financial responsibility requirements.

DATE: Effective date: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1390).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today the adoption of certain amendments and interpretations to Rule 15c3-1 (17 CFR 240.15c3-1) ("Rule 15c3-1"), the uniform net capital rule, and Rule 15c3-3 (17 CFR 240.15c3-3) ("Rule 15c3-3"), the customer protection rule. The amendments are essentially those proposed in Securities Exchange Act Release No. 11969 (January 2, 1976) (41 FR 5299 (Feb. 5, 1976)) ("Release No. 11969"), modified in light of suggestions received in response to the Commission's solicitation of public comment upon the proposals. The amendments, which become effective on July 15, 1977, are intended to require brokers and dealers to reflect in their capital computations the exposure resulting from certain short security positions, to enable net capital computations to take into account more completely the risks associated with transactions in options and to effect certain technical adjustments to Rules 15c3-1 and 15c3-3.

In addition, the Commission issued today certain interpretations of Rule 15c3-1 designed to resolve questions raised by the application of certain provisions of the rule to specific factual situations. These interpretations, set forth below, are made with respect to Rule 15c3-1c ("Appendix C") and Rule 15c3-1d ("Appendix D"). Rule 15c3-1c sets forth the requirements which must be met to consolidate in a single net capital computation the assets and liabilities of affiliates in order to obtain the flow-through capital benefits for a parent broker or dealer. The interpretation of Rule 15c3-1c concerns the general applicability of flow-through benefits, the minimum net capital requirement of the consolidated entity and the treatment under Rule 15c3-1(c)(2)(vi) and (f)(3) of consolidated security positions. The interpretation of Rule 15c3-1d clarifies the definition of "bearer form" as used therein with respect to securities collateralizing a secured demand note. The Commission believes that these interpretations are necessary and in the public interest to resolve questions raised by the application of these provisions of the rule to particular factual situations.

BACKGROUND

Section 15(c)(3) of the Securities Exchange Act of 1934 ("the Act") requires the Commission to regulate brokers and dealers respecting, inter alia, the custody, carrying and use of customers' funds and securities, and the maintenance of reserves against customers' deposits or credit balances. In 1972,[1] the Commission, acting under section 15(c)(3), adopted Rule 15c3-3,[2] a customer protection rule. Rule 15c3-3 obliges brokers and dealers to obtain possession or control over fully paid or excess margin customers' securities and, through the Formula for Determination of Reserve Requirements of Brokers and Dealers ("the Reserve Formula"),[3] requires brokers and dealers to maintain reserves with respect to customers' funds and funds realized through the utilization of customers' securities.

The Securities Acts Amendments of 1975 amended section 15(c)(3)[4] to require the Commission to adopt minimum financial responsibility standards for all brokers and dealers. In response to this directive, the Commission adopted amendments to Rule 15c3-1 on June 26, 1975.[5] Rule 15c3-1 requires substantially all brokers and dealers to maintain specified levels of net capital computed in accordance with the rule's provisions, which are intended to provide safeguards with respect to the financial responsibility of brokers and dealers. As amended, Rule 15c3-1 preserves the traditional aggregate indebtedness concept and also provides an alternative capital requirement based on aggregate debit items in the Reserve Formula.

The Commission has determined that amendments to Rule 15c3-1 and the Reserve Formula of Rule 15c3-3 are necessary and appropriate for the protection of investors. First, the recent experience of certain brokers and dealers demonstrates the desirability of reducing the exposure of customers' funds and securities which arises when a broker or dealer regularly maintains for extended periods short security positions in fail to receive or stock loan accounts, as well as in special omnibus accounts established under section 4(b) of Regulation T of the Federal Reserve Board (12 CFR 220.4(b)) or otherwise. Accordingly, in Securities Exchange Act Release No. 11969 (Jan. 2, 1976) ("Release No. 11969") the Commission proposed amendments to Rule 15c3-1 and the Reserve Formula which effectively would require brokers and dealers to reflect such exposure in their computation of net capital or mark to the market these short positions.[6] Second, experience with the rapidly developing options marketplace suggests the necessity of certain amendments to these rules to reflect more appropriately the risks associated with transactions in options.

Therefore, in Release No. 11969 the Commission proposed to raise to fifty percent the deduction on long positions in listed options not offset by a short position in securities,[7] and to require recognition in the Reserve Formula of certain methods of financing brokers' and

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[1] Securities Exchange Act Release No. 9856 (Nov. 10, 1972) (37 FR 25224 (Nov. 29, 1972)).

[2] 17 CFR 240.15c3-3 (1975). Rule 15c3-3 was adopted pursuant to section 15(c)(3) as it existed prior to the Securities Act Amendments of 1975. See 15 U.S.C. 78o(c)(3) (1970), as amended, 15 U.S.C. 78o(c)(3) (Supp. V, 1975).

[3] The Reserve Formula constitutes Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a (1976).

[4] Act of June 4, 1975, Pub. L. No. 94-29, § 11(3), 89 Stat. 126.

[5] Securities Exchange Act Release No. 11497 (June 26, 1975), 40 FR 29795 (July 16, 1976).

[6] Securities Exchange Act Release No. 11969 (Jan. 2, 1976), 41 FR 5299, 5300 (Feb. 5, 1976).

[7] Id. at 11, 41 FR at 5302.

dealers' margin requirements at the clearing corporation level.[8] Finally, the need for certain other amendments to Rule 15c3–1 and the Reserve Formula became apparent during efforts on the part of the Commission and self-regulatory organizations to assist brokers and dealers in understanding and implementing Rule 15c3–1. The Commission's response to this need consisted of proposed amendments to Rule 15c3–1(b)(2),[9] the alternative financial responsibility standard for floor brokers, as well as proposed amendments to the undue concentration provisions of Rule 15c3–1(c)(2)(vi)(M) and (f)(3)(iii)[10] and proposed amendments constituting clarifications of certain other provisions of Rule 15c3–1.[11]

Generally, public comment concerning these proposals has been favorable. The Commission has determined that it is appropriate to adopt the amendments to Rule 15c3–1 and the Reserve Formula of Rule 15c3–3 in substantially the form proposed in Release No. 11969. However, several thoughtful comments received from the public did suggest the advisability of certain changes to these proposed amendments. Additionally, later amendments to Rule 15c3–1 have rendered obsolete certain of the proposals announced in Release No. 11969, necessitating their withdrawal at this time.

The modifications to the amendments proposed in Release No. 11969 may be summarized as follows:

(1) The Commission has determined not to adopt the amendment to Rule 15c3–1(c)(13) proposed in Release No. 11969. In its original form, Rule 15c3–1(c)(13) provided that, for purposes of the deductions from net worth specified in Rule 15c3–1(c)(2)(x) relative to certain positions in listed options, equity shall be computed by adding the credit balance in an options specialist's account to the current market value of the long positions in the account, and deducting the debit balance and the current market value of the short positions in the account. In Release No. 11969, the Commission proposed an amendment to this provision to clarify that all securities positions (including options positions) in such an account must be haircut pursuant to Rule 15c3–1(c)(2)(vi), (c)(2)(x), or Appendix A to the rule, as appropriate.[12] Subsequently, the Commission adopted amendments to Rule 15c3–1(c)(2)(x) which incorporated a definition of "equity" into Rule 15c3–1(c)(2)(x) and deleted Rule 15c3–1(c)(13) thereby rendering the proposed amendment to Rule 15c3–1(c)(13) unnecessary.

(2) With respect to the amendments to the Reserve Formula (Rule 15c3–3a) proposed in Release No. 11969, interested members of the public suggested two modifications which the Commission has determined are appropriate for the protection of investors. First, the amount of restricted letters of credit obtained by a clearing member of Options Clearing Corp. ("OCC") and collateralized by customers' securities will be includable as a credit item only[13] to the extent of the member's OCC margin requirement. Second, the amount of margin deposited with OCC and represented by a restricted letter of credit collateralized by customers' securities will be includable as a debit item even though the customers' securities are margin securities. Also we have further clarified Note A with respect to an overdraft in any account balance of a broker or dealer.

In all other respects, the Commission has determined to adopt in their original form the amendments to Rule 15c3–1 and the Reserve Formula proposed in Release No. 11969. The full text of the amendments to these rules adopted herein is set forth below.

Statutory Basis, Competitive Considerations and Effective Date

The amendments and interpretations set forth below with respect to §§ 240.15c3–1 and 240.15c3–3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, are adopted, effective July 15, 1977, pursuant to the Securities Exchange Act of 1934 and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), w(a). The Commission finds that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

Interpretations of Rule 15c3–1

The Commission has determined to issue the following interpretations to Rule 15c3–1:

A. *Section 240.15c3–1c Consolidated Computations of Net Capital and Aggregate Indebtedness for Certain Subsidiaries and Affiliates (Appendix C to 17 CFR 240.15c3–1).* Appendix C (17 CFR 240.15c3–1c) to Rule 15c3–1 sets forth the requirements which must be met to consolidate in a single net capital computation the assets and liabilities of subsidiaries and affiliates in order to obtain flow-through capital benefits for a parent broker or dealer.

Paragraph (b)(2) of Appendix C provides that a broker or dealer may claim flow-through capital benefits only if it possesses majority ownership and control over its consolidated subsidiary or affiliate, and there exists a satisfactory opinion of counsel essentially stating that at least the portion of the subsidiary's or affiliate's net asset values related to the parent's ownership interest therein may be distributed to the parent (or its SIPC trustee) within thirty days, at the instance of the distributee.

The Division of Market Regulation has received inquiries from certain interested members of the public raising questions of general applicability concerning flow-through benefits, the minimum net capital requirement of the consolidated entity, and the treatment under Rule 15c3–1(c)(2)(vi) and (f)(3) of consolidated securities positions. The following interpretations are intended to respond to these inquiries.

(a) *Flow-through capital benefits.* A subsidiary or affiliate broker or dealer included within a consolidated computation pursuant to Appendix C must comply, in its own right, with all applicable provisions of Rule 15c3–1 as if the consolidation did not exist. For purposes of its computations under the rule, the consolidated subsidiary or affiliate may not derive from such consolidation, directly or indirectly, any decrease in its aggregate indebtedness, increase in its net capital, or decrease in its required minimum net capital.

(b) *Minimum net capital requirement of the consolidated entity.* (1) The minimum dollar net capital requirement of the consolidated entity is determined by adding the amount of net capital required for compliance by each consolidated subsidiary subject to Rule 15c3–1 to the minimum dollar net capital requirement of the parent broker or dealer.

(2) If the parent computes its capital requirement under the alternative net capital requirement set forth in Rule 15c3–1(f), the net capital of the consolidated entity must equal at least the greater of the minimum dollar net capital requirement described in (1) above or 4 percent of the combined aggregate Reserve Formula debit items.

(3) If the parent computes capital under the aggregate indebtedness method set forth in Rule 15c3–1(a), the net capital of the consolidated entity must equal at least the minimum dollar net capital requirement described in (1) above and, in addition, the aggregate indebtedness of the consolidated entity may not exceed 1500 percent of the net capital of the consolidated entity.

(c) *Deductions on consolidated security positions.* For purposes of computing the net capital of the consolidated entity, the parent corporation shall apply the deductions set forth in Rule 15c3–1(c)(2)(vi), (f)(3) and Appendix A to all

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[8] Id. at 12–15, 41 FR at 5300. Since the issuance of Release No. 11969, the Commission has adopted additional amendments to Rule 15c3–1 which are intended to enable net capital computations to reflect more directly the credit and market risks assumed by brokers and dealers who clear, gurantee, or endorse transactions by specialists in listed options. Securities Exchange Act Release No. 12766 (Sept. 2, 1976), 41 FR 39014 (Sept. 14, 1976) and letters from the Division of Market Regulation to the various options exchanges March 28, 1977 and April 8, 1977. See note 13 infra and accompanying text.

[9] Release No. 11969, supra note 6, at 7–8, 41 FR at 5300.

[10] Id. at 8–10, 41 FR at 5300.

[11] Id. at 10, 41 FR at 5301 (adjustment to net worth for indebtedness collateralized by exempted securities); id. at 10–11, 41 FR at 5301 (definition of "equity").

[12] Release No. 11969 at 10–11, 41 FR at 5301.

[13] As proposed, the value of the face amount of the letter of credit might have been considered as includable.

the securities held by the parent and by the subsidiary or affiliate as if all such positions were the positions of the parent. Therefore, deductions applicable to the consolidated positions are those required by the parent's method of computing capital under Rule 15c3–1.

B. *Section* 240.15c3–1d *Satisfactory Subordination Agreements (Appendix D to 17 CFR 240.15c3–1).* Rule 15c3–1d (c) (4) provides that all securities collateralizing a secured demand note must be in bearer form, or registered in the name of the borrowing broker or dealer, or his nominee or custodian. The Commission wishes to clarify that this term, as used in Rule 15c3–1d(c) (4), possesses no specialized definition; a security is in bearer form for purposes of Appendix D when it runs to bearer according to its terms and not by reason of any endorsement.[14]

TEXT OF AMENDMENTS

Accordingly, 17 CFR Part 240 is amended as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

* * * * *

(b) * * *

(2) A member in good standing of a national securities exchange who acts as a floor broker (and whose activities do not require compliance with other provisions of this rule), may elect to comply, in lieu of the other provisions of this section, with the following financial responsibility standard: The value of the exchange membership of the member (based on the lesser of the most recent sale price or current bid price for an exchange membership) is not less than $15,000, or an amount equal to the excess of $15,000 over the value of the exchange membership is held by an independent agent in escrow: *Provided,* That the rules of such exchange require that the proceeds from the sale of the exchange membership of the member and the amount held in escrow pursuant to this paragraph shall be subject to the prior claims of the exchange and its clearing corporation and those arising directly from the closing out of contracts entered into on the floor of such exchanges.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) *Certain unsecured and partly secured receivables.* All unsecured advances and loans; deficits in customers' and non-customers' unsecured and partly secured notes; deficits in special omnibus accounts maintained in compliance with the requirements of 12 CFR 220.4(b) of Regulation T under the Securities Exchange Act of 1934, or similar accounts carried on behalf of another broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less; deficits in customers' and non-customers' unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less, except deficits in cash accounts as defined in 12 CFR 220.4(c) of Regulation T under the Securities Exchange Act of 1934 for which not more than one extension respecting a specified securities transaction has been requested and granted, and deducting for securities carried in any of such accounts the percentages specified in paragraphs (c) (2) (vi) or (f) of this section or Appendix (A) (17 CFR 240.15c3–1a); the market value of stock loaned in excess of the value of any collateral received therefor; receivables arising out of free shipments of securities (other than mutual fund redemptions) in excess of $5,000 per shipment and all free shipments (including mutual fund redemptions) outstanding more than 7 business days; any collateral deficiencies in secured demand notes as defined in Appendix (D) (17 CFR 240.15c3–1d);

* * * * *

(E) *Other deductions.* All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive, and the funds on deposit in a "segregated trust account" in accordance with 17 CFR 270.-27d–1 under the Investment Company Act of 1940, but only to the extent that the amount on deposit in such segregated trust account exceeds the amount of liability reserves established and maintained for refunds of charges required by sections 27(d) and 27(f) of the Investment Company Act of 1940; *Provided,* That any amount deposited in the "Special Reserve Bank Account for the Exclusive Benefit of Customers" established pursuant to 17 CFR 240.15c3–3 and clearing deposits shall not be so deducted.

* * * * *

(vi) * * *

(M) *Undue concentration.* In the case of money market instruments or securities of a single class or series of an issuer, including any option written, endorsed or held to purchase or sell securities of such a single class or series of an issuer (other than "exempted securities" and redeemable securities of an investment company registered pursuant to the Investment Company Act of 1940), which are long or short in the proprietary or other accounts of a broker or dealer, including securities which are collateral to secured demand notes defined in Appendix (D) (17 CFR 240.15c3–1d), for more than 11 business days and which have a market value of more than 10 percent of the "net capital" of a broker or dealer before the application of paragraph (c) (2) (vi) of this section or Appendix (A) (17 CFR 240.15c3–1a), there shall be an additional deduction from net worth and/or the Collateral Value for securities collateralizing a secured demand note defined in Appendix (D) (17 CFR 240.15c3–1d), equal to 50 percent of the percentage deduction otherwise provided by this paragraph (c) (2) (vi) of this section or Appendix (A) (17 CFR 240.15c3–1a), on that portion of the securities position in excess of 10 percent of the "net capital" of the broker or dealer before the application of paragraph (c) (2) (vi) of this section and Appendix (A) (17 CFR 240.15c3–1a).

This provision shall apply notwithstanding any long or short position exemption provided for in (I) or (J) of this subdivision (except for long or short position exemptions arising out of the first proviso to paragraph (c) (2) (vi) (J) of this section) and the deduction on any such exempted position shall be 15 percent of that portion of the securities position in excess of 10 percent of net capital before the application of paragraph (c) (2) (vi) of this section and Appendix (A) (17 CFR 240.15c3–1a). *Provided,* That such additional deduction shall be applied in the case of equity securities only on the market value in excess of $10,000 or the market value of 500 shares, whichever is greater, or $25,000 in the case of a debt security. *Provided, further,* That any specialist which is subject to a deduction required by this (M), respecting his specialty stock, who can demonstrate to the satisfaction of the Examining Authority for such broker or dealer that there is sufficient liquidity for such specialists' specialty stock and that such deduction need not be applied in the public interest for the protection of investors, may upon a proper showing to such Examining Authority have such undue concentration deduction appropriately decreased, but in no case shall the deduction prescribed in (J) of this subparagraph be reduced. Each such Examining Authority shall make and preserve for a period of not less than 3 years a record of each application granted pursuant to this subdivision, which shall contain a summary of the justification for the granting of the application. *Provided, further,* That until August 1, 1977, this paragraph shall not apply to municipal securities.

* * * * *

(xii) *Deduction from net worth for certain undermargined accounts.* Deducting the amount of cash required in each customer's or non-customer's account to meet the maintenance margin requirements of the Examining Authority for the broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less.

(xiii) *Deduction from net worth for indebtedness collateralized by exempted securities.* Deducting, at the option of the broker or dealer, in lieu of including such amounts in aggregate indebtedness, 4 percent of the amount of any indebtedness secured by exempted securities or municipal securities if such indebtedness would otherwise be includable in aggregate indebtedness.

* * * * *

(f) * * *

(3) * * *

[14] Accord, Uniform Commercial Code § 8–102(1) (d). See also id. § 8–310, Comment 1.

(iii) *Undue concentrations.* In the case of money market instruments, or securities of a single class or series of an issuer, including any option written, endorsed or held to purchase or sell securities of such a single class or series of an issuer (other than "exempted securities" and redeemable securities of an investment company registered pursuant to the Investment Company Act of 1940), and securities underwritten (in which case the deduction provided for herein shall be applied after 11 business days) which are long or short in the proprietary or other accounts of a broker or dealer, including securities which are collateral to secured demand notes defined in Appendix (D) (17 CFR 240.15c3–1d), and which have a market value of more than 10 percent of the "net capital" of a broker or dealer before the application of paragraphs (c) (2) (vi) of this section, (f) (3) or Appendix (A) (17 CFR 240.15c3–1a) there shall be an additional deduction from net worth and/or the Collateral Value of securities collateralizing a secured demand note defined in Appendix (D) (17 CFR 240.15c3–1d), equal to 50 percent of the percentage deduction otherwise provided by this section or Appendix (A) (17 CFR 240.15c3–1a) (in the case of securities described in paragraph (f) (3) (i) of this section which receive a 30 percent deduction or securities described in paragraph (f) (3) (ii) of this section the deduction required by this paragraph (f) (3) (iii) of this section shall be 15 percent) on that portion of the securities position in excess of 10 percent of the "net capital" of the broker or dealer before the application of paragraphs (c) (2) (vi), (f) (3) (i) and (ii) of this section and Appendix (A) (17 CFR 240.15c3–1a). This provision shall apply notwithstanding any long or short position exemption provided for in paragraph (c) (2) (vi) (I) or (f) (3) (ii) of this section (except for a long or short position exemption arising out of the first proviso to paragraph (f) (3) (ii) of this section) and the deduction on any such exemption position shall be 15 percent of that portion of the position in excess of 10 percent of net capital before the application of paragraph (c) (2) (vi), paragraphs (f) (3) (i) and (ii) of this section and Appendix (A) (17 CFR 240.15c3–1a).

Provided, That such additional deductions shall be applied in the case of equity securities only on the market value in excess of $10.000 or the market value of 500 shares, whichever is greater, or $25.000 in the case of a debt security. *Provided further,* That any specialist who is subject to a deduction required by this paragraph (f) (3) (iii) of this section respecting his specialty stock, who can demonstrate to the satisfaction of the Examining Authority for such broker or dealer that there is sufficient liquidity for such specialist's specialty stock and that such deduction need not be applied in the public interest for the protection of investors may on a proper showing to such Examining Authority have such undue concentration deduction appropriately decreased but in no case shall the deduction prescribed in paragraph (f) (3) (ii) of this section be reduced. Each such Examining Authority shall make and preserve for a period of not less than 3 years a record of each application granted pursuant to this subdivision, which shall contain a summary of the justification for the granting of the application. *Provided further,* That until August 1, 1977, this paragraph shall not apply to municipal securities.

* * * * *

§ 240.15c3–1a Options (Appendix A to 17 CFR 240.15c3–1).

* * * * *

(c) * * *

(8) *Listed Options.* Where a broker or dealer is long listed options and there is no offsetting security position, deducting 50 percent of the market value of any net long positions in options in the same underlying security, with the same exercise price and the same expiration date. Where a broker or dealer has a net short position in an option in the same underlying security, with the same exercise price and the same expiration date and for which the broker or dealer does not have a related position in the underlying security or an option position otherwise provided for in this Appendix (A), the deduction shall be determined as provided in subparagraph (c) (1) or (2) of this Appendix (A).

§ 240.15c3–3a Exhibit A—formula for determination of reserve requirement of brokers and dealers under § 240.-15c3–3.

		In dollars— Credits	Debits
1	Free credit balances and other credit balances in customers' security accounts. (See note A.)	xxx	
2	Monies borrowed collateralized by securities carried for the account of customers. (See note B.)	xxx	
3	Monies payable against customers' securities loaned. (See note C.)	xxx	
4	Customers' securities failed to receive. (See note D.)	xxx	
5	Credit balances in firm accounts which are attributable to principal sales to customers	xxx	
6	Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days	xxx	
7	Market value of short security count differences over 30 calendar days old	xxx	
8	Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days	xxx	
9	Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the last 40 days	xxx	
10	Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See note E.)		xxx
11	Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver		xxx
12	Failed to deliver of customers' securities not older than 30 calendar days		xxx
13	Margin required and on deposit with the Options Clearing Corp. for all option contracts written or purchased in customer accounts. (See note F.)		xxx
	Total credits		
	Total debits		
14	Excess of total credits (sum of items 1–9) over total debits (sum of items 10–13) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3–3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 pct of the excess of total credits over total debits	xxx	

NOTE A.—Item 1 shall include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and shall also include checks drawn in excess of a bank balance per the records of the broker or dealer.

NOTE B.—Item 2 shall include the amount of Letters of Credit obtained by a member of Options Clearing Corporation which are collateralized by customers' securities, to the extent of the member's margin requirement at Options Clearing Corp.

NOTE C.—Item 3 shall include in addition to monies payable against customers' securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

NOTE D.—Item 4 shall include in addition to customers' securities failed to receive the amount by which the market value of securities failed to received and outstanding more than thirty (30) calendar days exceeds their contract value.

NOTE E.—(1) Debit balances in margin accounts shall be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction shall not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b) or similar accounts carried on behalf of another broker or dealer, shall be reduced by any deficits in such accounts (or if a credit, such credit shall be increased) less any calls for margin, marks to the market, or other required deposits which are outstanding 5 business days or less.

(3) Debit balances in customers' cash and margin accounts included in the formula under item 10 shall be reduced by an amount equal to 1 percent of their aggregate value.

NOTE F.—Item 13 shall include the amount of margin required and on deposit with Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77–15260 Filed 5–26–77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 76C-0426]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

D&C Red No. 17; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is confirming the effective date of December 20, 1976, of an order concerning the use of D&C Red No. 17 in externally applied drugs and cosmetics. The Commissioner of Food and Drugs, in response to an objection to the order, is also revising one of the specifications for the certification of D&C Red No. 17.

DATES: Effective date confirmed: December 20, 1976. Revision effective date: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51005), that added §§ 74.1317 and 74.2317 (21 CFR 74.1317 and 74.2317) (formerly §§ 8.4116 and 8.7179, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), to provide for safe use of D&C Red No. 17 in externally applied drugs and cosmetics and amended § 81.1 (21 CFR 81.1) (formerly § 8.501) by deleting D&C Red No. 17 from the provisionally listed colors in paragraph (b). The order of November 19, 1976, also amended the identity nomenclature and specifications for the certification of D&C Red No. 17 under § 82.1317 (21 CFR 82.1317) (formerly § 9.162) to reference § 74.1317.

One objection to the order was filed by a co-petitioner for the listing of D&C Red No. 17. A hearing was not requested. The objection concerned the specification in the order (§ 74.1317(b)) that limited matter insoluble in both toluene and water to not more than 0.5 percent. The objection noted that D&C Red No. 17 is an oil soluble, water insoluble color and could not be properly certified under this limitation without including in the specification a description of the procedure needed to solubilize the color. The objection further noted that "what is meant is the dye should be dissolved in toluene and the residue then slurried with water and the resultant insoluble matter be less than 0.5 percent."

The Commissioner agrees that the specification regarding "Matter insoluble in both toluene and water" in § 74.1317(b) should be clarified. Accordingly, the regulations set forth below add a parenthetical phrase similar to that suggested by the co-petitioner. The Commissioner concludes that there is no need to provide for further public comment on this change in the regulation because it represents an editorial change for clarification rather than a substantive amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1):

1. There being no other objections and no requests for a hearing in response to the order of November 19, 1976, the amendments promulgated thereby became effective on December 20, 1976.

2. Part 74 is amended in the listing in § 74.1317(b) by adding after the specification for "Matter insoluble in both toluene and water" a parenthetical expression; the revised entry in the listing reads as follows:

§ 74.1317 D&C Red No. 17.

* * * * *

(b) *Specifications.* * * *

Matter insoluble in both toluene and water (color additive mixed in toluene and the resultant residue isolated and mixed with water to obtain the matter insoluble in both toluene and water), not more than 0.5 percent.

* * * * *

Effective dates: (1) This amendment was effective December 20, 1976; (2) The revision to this amendment as set forth above is effective May 27, 1977.

Dated: May 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15094 Filed 5-26-77;8:45 am]

PART 101—FOOD LABELING

Foods That Are Not Meaningful Sources of Nutrients; Establishment of Effective Date

CROSS REFERENCE: In the FEDERAL REGISTER of March 6, 1974 (39 FR 8621), the Commissioner of FDA proposed to exempt certain foods of negligible nutritional value from the labeling requirements of 21 CFR 1.17 (later recodified as 21 CFR 101.9). An FDA document (FR Doc. 77-14806) in the proposed rules section of this FEDERAL REGISTER terminates this proceeding and establishes an effective date of July 1, 1979 by which these foods must comply with the nutritional labeling requirements in 21 CFR 101.9.

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0066]

PART 101—FOOD LABELING

Declaration of Amounts of Protein, Fat, and Carbohydrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Commissioner of Food and Drugs is allowing for the declaration of protein content, carbohydrate content, and fat content in nutrition labeling of foods in terms of "less than one gram" when a serving of a food contains less than 1 gram. The regulation, based on a proposal resulting from petitions to allow exemptions from the complete labeling format, will facilitate labeling of such items by providing for this declaration as a permissible alternative.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION: The Commissioner issued a proposal in the FEDERAL REGISTER of March 6, 1974 (39 FR 8620) to amend § 1.17 (21 CFR 1.17, recodified as § 101.9 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to allow for the declaration of protein content, carbohydrate content, and fat content by the statement "contains less than one gram" whenever such a statement is appropriate.

Eight comments were received in response to the proposal. Three comments did not address the proposal, but commented on other aspects of nutrition labeling. The points raised in the remaining comments and the Commissioner's responses are discussed below:

1. Three comments recommended that the declaration "contains less than one gram" or "less than one gram" be a permissible alternative to the declaration of these constituents to the nearest gram.

The Commissioner advises that the proposal was intended to provide for the declaration of these constituents to the nearest gram or, where appropriate, "less than one gram." The Commissioner is revising the regulation to clearly provide for such declaration as a permissible alternative.

2. One comment said that the wording of labels would appear redundant if, for example, protein were required to be declared, "Protein content: Contains less than one gram." The same comment questioned the necessity of "contains" in the phrase "contains less than one gram."

The Commissioner advises that use of the term "content" is optional. "Contains" is not required for the numerical gram designations, and the Commissioner agrees that it is also unnecessary for the "less than one gram" declaration.

3. One comment questioned the value of attempting to differentiate between 0.5 gram of protein and 0.0 gram because of variation in analytical methodology.

The Commissioner advises that products containing less than 1 gram per serving (portion) of protein, fat, or carbohydrate need only declare "less than

one gram" as indicated in the amendments to § 101.9(c) (4), (5), and (6). Therefore, manufacturers need only be able to distinguish analytically between those products that contain less than 1 gram of protein and those products that contain 1 gram of protein or more.

The issue of labeling increments for calories, protein, fat, and carbohydrates has been discussed in paragraphs 20 and 36 of the preamble to the nutrition labeling regulations published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6951).

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended in § 101.9 by revising paragraphs (c) (4), (5), and (6) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) * * *

(4) "Protein content" or "Protein": A statement of the number of grams of protein in a serving (portion) expressed to the nearest gram except that if a serving (portion) contains less than one gram, the statement "Contains less than one gram" or "less than one gram" may be used as an alternative. Protein content may be calculated on the basis of the factor of 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis of the Association of Official Analytical Chemists. 12th edition, 1975,[1] except when the official procedure for a specific food requires another factor.

(5) "Carbohydrate content" or "Carbohydrate": A statement of the number of grams of carbohydrate in a serving (portion) expressed to the nearest gram except that if a serving (portion) contains less than one gram, by the statement "Contains less than one gram" or "less than one gram" may be used as an alternative.

(6) "Fat content" or "Fat": A statement of the number of grams of fat in a serving (portion) expressed to the nearest gram, except that if a serving (portion) contains less than one gram, the statement "Contains less than one gram" or "less than one gram" may be used as an alternative. Fatty acid composition, cholesterol content, and sodium content may also be declared in compliance with §§ 101.25 and 105.69 of this chapter.

* * * * *

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

Effective date: This regulation shall become effective June 27, 1977.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 U.S.C. 321, 323, 371(a)).)

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register March 11, 1976, and on file in the Federal Register Office library.

[FR Doc.77-14805 Filed 5-26-77;8:45 am]

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 77N-0103]

PART 201—LABELING

Information Commonly Known

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document deletes from the regulations certain prescription drugs that were reviewed in the FDA Drug Efficacy Study and were formerly listed as being exempt from the requirement of "full disclosure" labeling. The agency is taking this action because new information about the directions, hazards, warnings, and use of those drugs may not be commonly known. This final regulation will require that those drugs bear "full disclosure" labeling in their dispensing packages.

EFFECTIVE DATE: November 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-5220)

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 24, 1975 (40 FR 3783), the Commissioner of Food and Drugs proposed to amend § 201.160 (21 CFR 201.160) by deleting from the list of drugs exempted from the labeling requirements of § 201.100 (c) (1) (i.e., full disclosure information on or within the package from which the drug is dispensed) those drugs for which such exemptions have been superseded by Drug Efficacy Study Implementation (DESI) notices. The Commissioner also proposed that the reference to nitroglycerin in § 201.160(b) specify the sublingual dosage form, which was the intent of the original exemption.

Two comments were received in response to the proposal. A summary of the comments and the Commissioner's conclusions regarding them follows:

1. One manufacturer stated that the DESI notice cited as superseding the exemptions from full disclosure for barbiturates (DESI 793, published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15186)), affected only seven oral or parenteral forms of specified short-to-intermediate-acting barbiturates, and the manufacturer also stated that there is no DESI notice applicable to the remaining single-entity oral barbiturate preparations such as phenobarbital, the second oldest and most widely used member of its class. The comment further pointed out that the use of phenobarbital not in excess of 100 milligrams per dosage unit is well known and accepted and should not require full disclosure information.

The Commissioner agrees that phenobarbital as a single-entity drug is not covered by any DESI notice. Accordingly, in § 201.160(b) the entry *"Barbiturates"* will be replaced by the following entries: *"Phenobarbital.* For oral use, not in excess of 100 milligrams per dosage unit" and *"Phenobarbital sodium.* For oral use, not in excess of 100 milligrams per dosage unit."

The Commissioner believes, however, that an exemption from "full disclosure" labeling for any prescription drug can no longer be justified. Elsewhere in this issue of the FEDERAL REGISTER he is proposing to revoke the provision in § 201.100(c)(2) of the drug labeling regulations permitting the "full disclosure" labeling to be omitted from the dispensing package of certain prescription drugs for which the directions, hazards, warnings, and use information are commonly known to physicians. That proposal also includes the proposed revocation of § 201.160, which is amended by this final regulation.

2. The other comment stated that the final regulation should allow not less than 6 months from the date of publication for the labeling of affected drug products to be brought into compliance with its requirements.

The Commissioner agrees with this comment. Accordingly, this regulation will be effective on November 23, 1977. After that date, FDA will regard as misbranded prescription drugs that do not carry "full disclosure" labeling, except those prescription drugs listed in § 201.160(b); no person after that date will be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any such prescription drug product without "full disclosure" labeling. This prohibition, however, will not apply to any drug product received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent the further distribution of such products after the effective date by any person involved in the production of prescription drug products who has responsibility for the content of the labeling.

The requirements thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It will allow distributors (but not own-label distributors) and retailers to exhaust supplies on hand on the effective date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to the Com-

missioner (21 CFR 5.1), Part 201 is amended in § 201.160(b) by deleting the entries *"Aminophylline," "Atropine methyl nitrate," "Barbiturates," "Digitalis," "Epinephrine injection," Mannitol hexanitrate," "Pentaerythritol tetranitrate," "Pentaerythritol tetranitrate with phenobarbital," "Quidine sulfate," "Scopolamine methylbromide";* by inserting the following new entries: *"Phenobarbital.* For oral use, not in excess of 100 milligrams per dosage unit," and *"Phenobarbital sodium.* For oral use, not in excess of 100 milligrams per dosage unit"; and by revising the entry *"Nitroglycerin"* to read *"Nitroglycerin sublingual"*. As revised, § 201.160(b) reads as follows:

§ 201.160 Drugs; information commonly known.

* * * * *

(b) The Commissioner of Food and Drugs has considered submitted material covering a number of drug products and has offered the opinion that the following drugs, when intended for those human uses for which they are now generally employed by the medical profession, should be exempt from the requirements of § 201.100(c)(1) of this chapter, provided that they meet the conditions prescribed in this paragraph. Preparations that are not in dosage unit form (for example, solutions) will be regarded as meeting the conditions with respect to the maximum quantity of drug per dosage unit if they are prepared in a manner that enables accurate and ready administration of a quantity of drug not in excess of the maximum per dosage unit:

Atropine sulfate. For oral use, not in excess of 0.54 milligram per dosage unit; for injection, not in excess of 0.54 milligram (1/120 grain) per dosage unit.

Chloral hydrate. For oral use, not in excess of 500 milligrams per dosage unit; for use as suppositories, not in excess of 1.0 gram per suppository.

Codeine phosphate. For oral use, not in excess of 65 milligrams per dosage unit; for injection, not in excess of 65 milligrams per dosage unit.

Codeine sulfate. For oral use, not in excess of 65 milligrams per dosage unit; for injection, not in excess of 65 milligrams per dosage unit.

Dihydrocodeinone bitartrate. For oral use, not in excess of 10 milligrams per dosage unit.

Dihydromorphinone hydrochloride. For oral use, not in excess of 4 milligrams per dosage unit.

Erythrityl tetranitrate. For oral use, not in excess of 30 milligrams per dosage unit.

Homatropine methylbromide. For oral use, not in excess of 5 milligrams per dosage unit.

Hyoscyamine hydrobromide. For oral use, not in excess of 1 milligram per dosage unit.

Hyoscyamine sulfate. For oral use, not in excess of 1 milligram per dosage unit.

Hyoscyamus tincture. For oral use, not in excess of 2 milliliters per dosage unit.

Methenamine. For oral use, not in excess of 1 gram per dosage unit.

Morphine phosphate. For oral use, not in excess of 33 milligrams per dosage unit: for injection, not in excess of 33 milligrams per dosage unit.

Morphine sulfate. For oral use, not in excess of 33 milligrams per dosage unit: for injection, not in excess of 33 milligrams per dosage unit.

Nitroglycerin sublingual. For oral use, not in excess of 0.65 milligram per dosage unit.

Phenobarbital. For oral use, not in excess of 100 milligrams per dosage unit.

Phenobarbital sodium. For oral use, not in excess of 100 milligrams per dosage unit.

Sodium chloride injection.

Sodium nitrite. For oral use, not in excess of 60 milligrams per dosage unit.

Theobromine. For oral use, not in excess of 325 milligrams per dosage unit.

Thyroid. For oral use, not in excess of 220 milligrams per dosage unit.

Water for injection, sterile.

Effective date: This order shall be effective on November 23, 1977.

(Secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371).)

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-15092 Filed 5-26-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0101]

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Fees for Certifying Insulin Drugs; Increase

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the fee schedule for certifying insulin drugs by adding a fee of $85 for each batch of drugs submitted for certification and by increasing certain other fees. The increases are needed to maintain an adequate insulin certification program, as required by section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356).

DATES: Effective June 27, 1977; comments by July 26, 1977.

ADDRESS: Written comments to: Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

David Petak, Accounting Branch (HFA-120), Food and Drug Administration, Department of Health, Education and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1768).

SUPPLEMENTARY INFORMATION: The current fee schedule specified in § 429.55(b) (21 CFR 429.55(b)) became effective in January 1964, except for the sterility test fee, which was increased on October 3, 1972 (37 FR 20685). Since that time there has been a general increase in employees' salaries and in the cost of operating laboratories.

Section 506(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356(b)(5)) requires that fees adequate to maintain an insulin certification program be specified in agency regulations. The current fee schedule is insufficient to provide, equip, and maintain an adequate certification service, and therefore, an immediate increase is necessary.

The current fee schedule for insulin certification was designed to cover all the costs involved in the certification program. These include both the cost of specific tests required by the regulations and the general costs associated with the certification program, such as costs of accounting, reviewing data, issuing certificates, carrying out research, and conducting establishment inspections. In the revised schedule published below in this regulation, the test fees are based solely on the cost of the tests performed. The additional fee of $85 for each batch of drugs submitted is intended to cover the general costs of the certification program.

The institution of the $85 fee for each batch of drugs submitted for certification and the increase in the present fee schedule are expected to provide sufficient funds to maintain an adequate certification program.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851 as amended (21 U.S.C. 356)), and under authority delegated to the Commissioner (21 CFR 5.1), Part 429 is amended in § 429.55 by revising the introductory text of paragraph (b) and paragraphs (b)(1)(i), (2)(ii), (3)(ii), (4), (5), (6)(ii), (7), (8), and (9) to read as follows:

§ 429.55 Fees.

* * * * *

(b) The fee for such services is $85 for each batch submitted, plus the sum of the fees for all services rendered with respect to the samples submited pursuant to § 429.40(d), as follows:

(1) * * *

(i) $195 if the master lot or mixture has not been previously approved by the Commissioner.

* * * * *

(2) * * *

(ii) $3,177 if the results referred to in paragraph (b)(3)(i) of this section are not submitted and are not to be submitted.

(3) * * *

(ii) $2,754 if the results referred to in paragraph (b)(3)(i) of this section are not submitted and are not to be submitted.

(4) $378 for each lot of protamine.

(5) $1,328 for each trial mixture of isophane insulin suspension.

(6) * * *

(ii) $2,754 if the results referred to in paragraph (b)(6)(i) of this section are not submitted and are not to be submitted.

(7) $386 for each lot of globin hydrochloride.

(8) $537 for each trial mixture of insulin zinc suspension, prompt insulin zinc suspension, and extended insulin zinc suspension.

(9) $16 for each package in the sample of the finished batch submitted for all tests except sterility; $68 for all packages in the sample submitted for the initial sterility test in accordance with § 429.40(d)(10); and $136 for all packages in the sample submitted for any re-

peat sterility test, if necessary, in accordance with the U.S.P.

* * * * *

Since the amendment established by this regulation is necessary to provide, equip, and maintain an adequate insulin drug certification service, the Commissioner finds that notice and public procedure are impracticable, unnecessary, and contrary to the public interest. A copy of the agency study supporting the changes is available for review in the office of the Hearing Clerk. Interested persons may, on or before July 26, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in quadruplicate and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This amendment shall be effective June 27, 1977.

(Sec. 560, 55 Stat. 851 as amended (21 U.S.C. 356).)

Dated: May 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15288 Filed 5-26-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0116]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Bacitracin and Bacitracin Zinc

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the antibiotic drug regulations that provide for certification of bacitracin drug products. This action is taken because of the need to update and make technical changes to these regulations. Certain inactive sections or partial sections are revoked, nomenclature changes are made, changes affecting indexing and placement of sections within Part 448 are made, and technical changes are made by this action.

DATES: Effective June 27, 1977, rearrangement of nonproprietary name from "zinc bacitracin" to "bacitracin zinc" by November 22, 1977, bacitracin zinc preparations must be labeled by November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of July 16, 1976 (41 FR 29413), to amend the antibiotic drug regulations by updating and making technical changes to those regulations providing for bacitracin- and bacitracin zinc-containing drugs intended for human use.

Interested persons were given until September 14, 1976 to submit written comments. One comment was received from a manufacturer, pointing out an error in the potency statement for neomycin in § 448.313b (21 CFR 448.313b).

The Commissioner finds that potency for neomycin was stated incorrectly in proposed § 448.313b as 3.0 milligrams instead of 3.5 milligrams. The regulation is corrected accordingly, and other minor typographical errors are corrected.

Although no comments were received concerning the proposed revocation from § 448.510a of the provisions for certifying bacitracin zinc ointment (a dermatologic drug product), a review of FDA certification records indicates that such a product is currently being certified. The Commissioner, therefore, is not revoking the provisions for its certification, but is updating and redesignating them as § 448.513f to correspond to the section number of the bulk drug. Because the only known manufacturer of this drug product has agreed to the technical changes necessary to update the applicable monograph, the Commissioner concludes that it is unnecessary to propose for public comment the updated monograph for bacitracin zinc ointment. Therefore, § 448.513f Bacitracin zinc ointment is included in this final rulemaking document.

Therefore, under 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 (21 CFR 5.1), Parts 436 and 448 are amended as follows:

A. Part 436 is amended as follows:

1. In § 436.20 by adding new paragraph (c)(14) to read as follows:

§ 436.20 Sterility test methods and procedures.

* * * * *

(c) * * *

(14) *Medium N.*

Pancreatic digest of casein	grams	15.0
Peptic digest of soybean meal	do	5.0
Sodium chloride	do	5.0
Agar	do	15.0
Water	milliliters	1,000

pH 7.3±0.2 after sterilization.

* * * * *

2. In § 436.105(b) in the table, by deleting the item "Bacitracin" and by alphabetically inserting the following new item:

§ 436.105 Microbiological agar diffusion assay.

* * * * *

(b) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Working standard stock solutions: Initial solvent	Working standard stock solutions: Diluent (solution number as listed in § 436.101(a))	Standard response line concentrations: Final concentration units or milligrams per milliliter	Standard response line concentrations: Storage time under refrigeration	Standard response line concentrations: Diluent	Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter
*	*	*	*	*	*	*	*
Bacitracin zinc	1	----------	0.01*N* HCl	100 units	Use same day	1	0.64, 0.80, 1.0, 1.25, 1.56 units.
*	*	*	*	*	*	*	*

* * * * * * *

3. In Subpart F by adding new § 436.319 to read as follows:

§ 436.319 Thin layer chromatography identity test for bacitracin and bacitracin zinc.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide, equipped with a glass solvent trough in the bottom and a tight-fitting cover for the top. Line the inside walls of the tank with Whatman 3MM chromatographic paper or equivalent.

(2) *Plates.* Use a 20- by 20-centimeter thin layer chromatography plate coated with silica gel G or equivalent to a thickness of 250 micrometers. Activate the plate by heating for 20 minutes at 110° C. Allow to cool to room temperature and use immediately.

(b) *Reagents*—(1) *Developing solvent.* Mix *n*-butanol, water, pyridine, glacial acetic acid, and ethyl alcohol in volumetric proportions of 60:10:6:15:5, respectively.

(2) *Spray solution.* Dissolve I gram of ninhydrin in a mixture of 1 milliliter of pyridine and sufficient *n*-butanol to make 100 milliliters.

(c) *Preparation of spotting solutions.* Prepare solutions of the sample and working standard, each containing 6.0 milligrams of bacitracin per milliliter in 1 percent disodium ethylenediamine tetraacetic acid in water.

(d) *Procedure.* Pour the developing

solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. Cover and seal the tank. Allow it to equilibrate for at least 30 minutes. Prepare a plate as follows: On a line 2.0 centimeters from the base of the silica gel plate, and at intervals of 2.0 centimeters, spot approximately 1.0 microliter of the standard solution to points 1 and 3. When these spots are dry, apply approximately 1.0 microliter of sample solution to points 2 and 3. After all spots are thoroughly dry, place the base of the silica gel plate directly into the glass trough in the chromatography tank. Cover and seal the tank. Allow the solvent front to travel approximately 13 centimeters from the starting line. Remove the plate from the tank, and allow it to air dry. After the plate is dry, spray lightly with the spray solution. The plate may take 1 hour or more to develop at room temperature. The development may be speeded up by warming the plate in a 110° C oven.

(e) *Evaluation.* The sample and standard should have spots of corresponding R_f value (approximately 0.26) and standard and sample combined should appear as a single spot of corresponding R_f value.

B. Part 448 is amended as follows:

1. In Subpart A, by adding new § 448.10 to read as follows:

§ 448.10 Bacitracin.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin is a white to brown, neutral water-soluble polypeptide. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5 percent.

(iv) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(v) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: 10 packages, each containing approximately 1.0 gram.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(5) *Identity.* Proceed as directed in § 436.319 of this chapter.

2. Section 448.10a is revised to read as follows:

§ 448.10a Sterile bacitracin.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin is a white to brown, neutral water-soluble polypeptide. It is so purified and dried that:

(i) Its potency is not less than 50 units per milligram. If it is packaged for dispensing, its content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of units of bacitracin that it is represented to contain.

(ii) It is sterile.

(iii) It passes the safety test.

(iv) It is nonpyrogenic.

(v) Its loss on drying is not more than 5 percent.

(vi) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(vii) Its residue on ignition is not more than 3.0 percent.

(viii) It passes the identity test.

(ix) Its heavy metals content is not more than 30 parts per million.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, loss on drying, pH, residue on ignition, identity, and heavy metals.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 1 gram.

(*2*) For sterility testing: 1 package, containing approximately 12 grams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 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 for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain 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 solution 1 to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 300 units of bacitracin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(7) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(8) *Identity.* Proceed as directed in § 436.319 of this chapter.

(9) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

3. Section 448.13 is revised to read as follows:

§ 448.13 Bacitracin zinc.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc is the zinc salt of a kind of bacitracin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5 percent.

(iv) Its pH is not less than 6.0 and not more than 7.5.

(v) Its zinc content is not more than 10 percent by weight on an anhydrous basis.

(vi) It passes the identity test.

(2) *Labeling.* In addition to the labeling requirements of § 432.5 of this chapter, each package shall bear on the outside wrapper or container and the immediate container the statement "For use only in the manufacture of nonparenteral drugs".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(ii) Samples required: 10 packages, each containing approximately 1.0 gram.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample (usually 25 to 35 milli-

grams) in sufficient 0.01*N* hydrochloric acid to give a bacitracin concentration of 100 units per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE.—The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated solution (approximately 100 milligrams of the sample per milliliter).

(5) *Zinc content.* Proceed as directed in § 436.312 of this chapter.

(6) *Identity.* Proceed as directed in § 436.319 of this chapter.

4. Section 448.13a is amended by revising the section heading and the introductory text of paragraph (a)(1), by adding new paragraph (a)(1)(vii), by revising paragraph (a)(3)(i), and by adding new paragraph (b)(7) to read as follows:

§ 448.13a Sterile bacitracin zinc.

(a) *Requirement for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile bacitracin zinc is the zinc salt of a kind of bacitracin or a mixture of two or more such salts. It is so purified and dried that:

* * * * *

(vii) It passes the identity test.

* * * * *

(3) * * *

(i) Results of tests and assays on the batch for potency, sterility, safety, loss on drying, pH, zinc content, and identity.

* * * * *

(b) * * *

(7) *Identity.* Proceed as directed in § 436.319 of this chapter.

§ 448.110a [Revoked]

5. Section 448.110a. *Bacitracin tablets; zinc bacitracin tablets; bacitracin suppositories; zinc bacitracin suppositories (if they are represented for vaginal use)* is revoked.

§ 448.110b [Revoked]

6. Section 448.110b *Bacitracin polymyxin tablets* is revoked.

§ 448.310a [Revoked]

7. Section 448.310a *Bacitracin ophthalmic* is revoked, and the section designation is reserved.

8. Section 448.310b is revised to read as follows:

§ 448.310b Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains bacitracin, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin used conforms to the standards prescribed by § 448.10a(a)(1), except pyrogens, residue on ignition, and heavy metals. The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1) of this chapter, except pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch:

(*1*) For all tests except sterility: A minimum of 17 immediate containers.

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

(b) *Tests and methods of assays—*(1) *Potency—*(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

9. Section 448.310c is revised to read as follows:

§ 448.310c Bacitracin ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, qual-*

ity, and purity. Bacitracin ophthalmic ointment contains bacitracin in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin used conforms to the standards prescribed by § 448.10a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 15 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 for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

10. Section 448.313 is revised and redesignated § 448.313b and a new § 448.313 *Bacitracin zinc ophthalmic dosage forms* is added to read as set forth below.

§ 448.313 Bacitracin zinc ophthalmic dosage forms.

11. Section 448.313a is added to read as follows:

§ 448.313a Bacitracin zinc-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate ophthalmic ointment contains in each gram 500 units of bacitracin and 10,000 units of polymyxin B in a suitable and harmless ointment base. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin zinc used conforms to the standards prescribed by § 448.13a(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 17 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*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the final sample solution.) Remove an aliquot and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6) and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

12. Section 448.313b, as revised and redesignated from former § 448.313, is added to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment is bacitracin zinc, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains:

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate; or

(ii) 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B.

Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that

it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin zinc used conforms to the standards prescribed by § 448.13a(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1) of this chapter, except pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch:

(*1*) For all tests except sterility: A minimum of 17 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*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of 3 more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

13. Section 448.510a is revised to read as follows:

§ 448.510a Bacitracin ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin ointment is composed of 500 units of bacitracin per gram in a suitable ointment base. It may contain a suitable local anesthetic. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1) and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.510b [Revoked]

14. Section 448.510b *Bacitracin-tyrothricin ointment* is revoked, and the section designation is reserved.

§ 448.510c [Revoked]

15. Section 448.510c *Bacitracin-polymyxin ointment; zinc bacitracin-polymyxin ointment* is revoked, and the section designation is reserved.

16. Section 448.510d is revised to read as follows:

§ 448.510d Bacitracin-neomycin sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate ointment contains bacitracin and neomycin sulfate in a suitable ointment base. Each gram contains 500 units of bacitracin and 3.5 milligrams of neomycin. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. The moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10 (a) (1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a) (1) of this chapter, except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a) (3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter; each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, neomycin content, and moisture.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

17. Section 448.510e is revised to read as follows:

§ 448.510e Bacitracin-neomycin sulfate-polymyxin B sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate-polymyxin B sulfate ointment, in a suitable and harmless ointment base, contains in each gram the following:

(i) 500 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B:

It may contain a suitable local anesthetic. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more tha 130 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a) (1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a) (1) of this chapter, except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a) (1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a) (3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 7 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake

the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumertic flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.510f [Revoked]

18. Section 448.510f *Bacitracin-neomycin-polymyxin powder topical; zinc bacitracin-neomycin-polymyxin powder topical* is revoked.

19. Section 448.513 is added to read as set forth below.

§ 448.513 Bacitracin zinc dermatologic dosage forms.

20. Section 448.513a is added to read as follows:

§ 448.513a Bacitracin zinc-polymyxin B sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate ointment contains bacitracin zinc and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin and 10,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing equal portions of approximately 1.0 gram.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient solution 1 to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

21. Section 448.513b is added to read as follows:

§ 448.513b Bacitracin zinc-neomycin sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate ointment contains bacitracin zinc and neomycin sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin and 3.5 milligrams of neomycin. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter, except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a) (3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, neomycin content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution will have the same amount of acid as the final sample solution.) Remove an aliquot and further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

22. Section 448.513c is added to read as follows:

§ 448.513c Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate hydrocortisone ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* This drug, in a suitable and harmless ointment base, contains in each gram the following:

(i) 400 units of bacitracin, 3.0 milligrams of neomycin, 8,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B with and without 10 milligrams of hydrocortisone acetate.

Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a) (1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a) (1) of this chapter, except safety. The polymyxin B sulfate used conforms to the standards perscribed by § 448.30(a) (1), except safety.

(2) *Labeling.* If it contains a steroid, it shall be labeled in accordance with the requirements of § 432.5 of this chapter. If it does not contain a steroid, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) The batch mark.

(ii) The name and quantity of each active ingredient contained in the drug.

(iii) An expiration date that conforms to the requirements prescribed by § 432.5 (a) (3) of this chapter.

(iv) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 7 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so

that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(b) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(a) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(b) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter of polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows:

(a) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(b) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimiated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

23. Section 448.513d is added to read as follows:

§ 448.513d Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical powder.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical powder contains bacitracin zinc, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless base. Each gram contains 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 7.0 percent. It contains not more than an average of 10 microorganisms per gram. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30 (a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(b) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(c) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(d) The batch for bacitracin content, neomycin content, polymyxin B content, moisture, and a microorganism count.

(ii) Samples required:

(a) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(b) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(c) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(d) The batch: A minimum of 12 immediate containers.

(b) *Tests and methods of assay—*(1) Potency—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Wash an accurately weighed sample (usually 2 grams) into a 100-milliliter volumetric flask with 0.01*N* hydrochloric acid. Dilute to volume with 0.01*N* hydrochloric acid. Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Blend an accurately weighed representative portion of the sample (usually 1 gram) for 3 to 5 minutes in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Dissolve an accurately weighed representative portion of the sample (usually 1 gram) in 20 milliliters of sterile distilled water. Wash into an appropriate-sized volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 6). Further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count—*(i) *Conduct of test for bacteria.* Using approximately 200 milligrams of powder from each of five separate immediate containers, proceed as directed in § 436.20(e)(1) of this chapter, except after the three washings transfer the entire filter mem-

brane to the surface of medium N as described in § 436.20(c)(14) of this chapter. Incubate the plate for 7 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(ii) *Conduct of test for molds and yeasts.* Proceed as directed in § 436.20(e)(1) of this chapter, using approximately 200 milligrams from each of the five containers tested, except transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter, and incubate at 22° C to 25° C for 7 days. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

24. Section 448.513e is added to read as follows:

§ 448.513e Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical aerosol.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical aerosol is bacitracin zinc, neomycin sulfate, polymyxin B sulfate in a suitable and harmless vehicle, packaged in a pressurized container with suitable and harmless inert gases. Each container contains 8,000 units of bacitracin, 70 milligrams of neomycin, and 100,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. It contains not more than an average of 10 microorganisms per gram. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, moisture, and a microorganism count.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 12 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Spray, as directed in the labeling, the entire contents of each container to be tested into a separate 2-liter Erlenmeyer flask, held in a horizontal position. Add 500 milliliters of 0.01*N* hydrochloric acid and shake to dissolve the contents. Immediately remove aliquots of this sample solution and proceed as directed in paragraph (b)(1)(i) (*a*), (*b*), and (*c*) of this section for each antibiotic to be tested.

(*a*) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, diluting an aliquot of the sample solution with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(*b*) *Neomycin content.* Proceed as directed in § 436.105 of this chapter. Further dilute the sample solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(*c*) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Further dilute the sample solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 10.0 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count*—(i) *Conduct of test for bacteria.* Thoroughly cleanse the valve of each container to be tested with a suitable disinfectant. Into an empty, sterile Erlenmeyer flask, stoppered with a cotton plug, spray about one-half of the contents of each of five separate immediate containers by removing the cotton plug temporarily and using aseptic technique. Allow the propellant to evaporate. To the dry residue, which should not exceed 1 gram, add 500 milliliters of diluting fluid C as described in § 436.20(d)(3) of this chapter. Stopper the flask and swirl to dissolve the drug. As soon as the sample has completely dissolved, proceed as directed in § 436.20(e)(1)(ii) of this chapter, except after the three washings transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter. Incubate the plate for 7 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(ii) *Conduct of test for molds and yeasts.* Proceed as directed in paragraph (b)(3)(i) of this section, except transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter, and incubate at 25° C for 7 days.

25. Section 448.513f is added to read as follows.

§ 448.513f Bacitracin zinc ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc ointment is composed of 500 units of bacitracin zinc per gram in a suitable ointment base. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing 1.0 gram.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the aid layer and repeat the extraction procedure with each of

three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.610 [Revoked]

26. Section 448.610 *Bactitracin tablets; zinc bactitracin tablets; bacitracin suppositories; zinc bacitracin suppositories (if they are represented for vaginal use)* is revoked.

27. Section 448.910 is revised to read as follows:

§ 448.910 Bacitracin for prescription compounding.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin for prescription compouding is a white to brown, neutral, water-soluble polypeptide intended for use in the extemporaneous compounding of prescriptions by practicing pharmacists. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5.0 percent.

(iv) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(v) It passes the identity test.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass, and it shall be a tight container as defined by the United States Pharmacopeia (U.S.P.). It shall be so sealed that the contents cannot be used without destroying such seal. Each such container shall contain 500,000 or 5 million units of bacitracin.

(3) *Labeling.* Each package shall bear on its outside wrapper or container and on the immediate container the following:

(i) The statement "Caution: Federal law prohibits dispensing without prescription".

(ii) The statement "Not sterile".

(iii) The batch mark.

(iv) The number of units of bacitracin activity in each milligram and the number of grams of bacitracin in the immediate container.

(v) The statement "Expiration date --------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, unless the use of a longer dating period has been approved in accordance with § 432.5(a)(3) of this chapter.

(vi) The statement "The potency of this drug cannot be assured for longer than 60 days after the container is first opened for compounding a prescription".

(vii) The statements, "For use only in extemporaneous prescription compounding. Not for manufacturing use".

(4) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: A 0.5-gram portion for each 5,000 packages in the batch, but in no case less than 10 such portions. Each such portion shall be collected at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(5) *Identity.* Proceed as directed in § 436.319 of this chapter.

28. Section 448.913 is revised to read as follows:

§ 448.913 Bacitracin zinc for prescription compounding.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc for prescription compounding is the zinc salt of a kind of bacitracin or a mixture of two or more such salts intended for use in the extemporaneous compounding of prescriptions by practicing pharmacists. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5.0 percent.

(iv) Its pH in a saturated aqueous solution is not less than 6.0 and not more than 7.5.

(v) Its zinc content is not more than 10 percent by weight on an anyhdrous basis.

(vi) It passes the identity test.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass, and it shall be a tight container as defined by the United States Pharmacopeia (U.S.P.). It shall be so sealed that the contents cannot be used without destroying such seal. Each such container shall contain 500,000 or 5 million units of bacitracin.

(3) *Labeling.* Each package shall bear on its outside wrapper or container and on the immediate container the following:

(i) The statement "Caution: Federal law prohibits dispensing without prescription".

(ii) The statement "Not sterile".

(iii) The batch mark.

(iv) The number of units of bacitracin activity in each milligram of the bacitracin zinc and the number of grams of bacitracin zinc in the immediate container.

(v) The statement "Expiration date ----------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, unless use of a longer dating period has been approved in accordance with the provisions of § 432.5(a)(3) of this chapter.

(vi) The statement, "The potency of this drug cannot be assured for longer than 60 days after the container is first opened for compounding a prescription".

(vii) The statements, "For use only in extemporaneous prescription compounding. Not for manufacturing use".

(4) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(ii) Samples required: A 0.5-gram portion for each 5,000 packages in the batch, but in no case less than 10 such portions. Each such portion shall be collected at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample (usually 25 to 35 milligrams) in sufficient 0.01*N* hydrochloric acid to give a bacitracin concentration of 100 units per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated solution (approximately 100 milligrams of the sample per milliliter).

(5) *Zinc content.* Proceed as directed in § 436.312 of this chapter.

(6) *Identity.* Proceed as directed in § 436.319 of this chapter.

This order shall become effective June 27, 1977, except that the effective date for rearrangement of the nonproprietary name from "zinc bacitracin" to "bacitracin zinc" shall be November 22, 1977. Any bacitracin zinc preparation labeled after November 22, 1977 that does not bear the name "bacitracin zinc" is misbranded.

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

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-14966 Filed 5-26-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0014]

PART 539—BULK ANTIBIOTIC DRUGS SUBJECT TO CERTIFICATION

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE BACITRACIN AND BACITRACIN-CONTAINING DRUGS; CONFORMING AMENDMENTS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations regarding certification of bacitracin drug products for animal use to conform with amendments to regulations on bacitracin drug products for human use being published elsewhere in this issue of the FEDERAL REGISTER.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: This regulation is not substantive, nor does it affect presently approved new animal drug applications (NADA's), the labeling contained therein or the requirements for certification of the named antibiotic drug products. Revised labeling requirements will be the subject of a future proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 539 and 548 are amended as follows:

1. Part 539 is amended in § 539.310 by revising paragraphs (a) (1) (ii), (iii), and (4) (i) and (b) to read as follows:

§ 539.310 Bacitracin methylene disalicylate.

(a) * * *

(1) * * *

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 7 percent.

* * * * *

(4) * * *

(i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the number of units of bacitracin activity per gram, and the number of grams of bacitracin activity per pound. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, safety, loss on drying, and pH.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 1 gram in a blending jar, add 99 milliliters of an aqueous solution of 2-percent sodium bicarbonate and 1 milliliter of polysorbate 80, and blend for 3 minutes in a high-speed blender. Allow the foam to subside, remove an aliquot of the solution, and dilute to 1 unit per milliliter with 1-percent phosphate buffer.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated aqueous solution containing approximately 50 milligrams per milliliter.

2. Part 548 is amended as follows:

a. In § 548.110, paragraphs (a) (1), (4) (ii) (*a*), (*b*), and (iii) (*b*), and (b) (1), (2) are revised to read as follows:

§ 548.110 Bacitracin powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin powder is bacitracin, with or without suitable and harmless buffer substances, preservatives, diluents, colorings, and flavorings. It contains the equivalent of not less than 10 grams of the bacitracin master standard per pound. Its loss on drying is not more than 5 percent. The bacitracin used conforms to the standards prescribed therefor by § 448.10(a) (1) of this chapter. Each other substance used, if its name is recognized in the *United States Pharmacopeia* or *National Formulary*, conforms to the standards prescribed therefor by such official compendium.

* * * * *

(4) * * *

(ii) * * *

(*a*) The batch: units of bacitracin per gram, and loss on drying.

(*b*) The bacitracin used in making the batch: potency, safety, loss on drying, pH, and identity.

(iii) * * *

(*b*) The bacitracin used in making the batch: six packages, each containing approximately equal portions of not less than 500 milligrams.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 1 to 5 grams in a 100-milliliter volumetric flask, dissolve in 1 percent phosphate buffer, and dilute to 100 milliliters with 1 percent phosphate buffer. Dilute a suitable aliquot with 1-percent phosphate buffer to a concentration of 1 unit per milliliter (estimated). Its potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin per pound that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

b. In § 548.111, paragraphs (a) (1) and (2), (b) (1), (2), and (3) (ii) are revised to read as follows:

§ 548.111 Feed grade manganese bacitracin powder oral.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Feed grade manganese bacitracin powder oral is a mixture of the manganese salt of a kind of bacitracin or a mixture of two or more such salts, with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. It contains the equivalent of not less than 5 grams of the bacitracin master standard per pound. Its loss on drying is not more than 8.0 percent. The manganese bacitracin used in making the batch has a potency of not less than 2.0 units per milligram, it contains not more than 1.0 gram of manganese for each gram of bacitracin, and its loss on drying is not more than 6.0 percent. Each other substance used, if its name is recognized in the *United States Pharmacopeia* or *National Formulary*, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging; labeling; requests for certification, samples.* Feed grade manganese bacitracin powder oral conforms to all requirements and procedures prescribed for feed grade bacitracin zinc powder oral by § 548.113(a) (1), except:

(i) Its expiration date shall be 12 months.

(ii) Its labeling is such that, when the drug is mixed with animal feed according to the directions contained therein, such medicated feed complies with the requirements of § 510.510 of this chapter and the requirements of regulations in Part 558 of this chapter.

(b) *Tests and methods of assay*—(1) Proceed as directed in § 436.105 of this chapter, preparing the sample as follows:

(i) Place 2 grams of the sample in a 150-milliliter beaker, add 5 milliliters of 10 percent HCl and stir 1 minute. Check pH with test paper. If pH is greater than 2 add more acid until pH 2 is reached. Add 45 milliliters of pyridine-buffer solution (mix 9 volumes pyridine and 31 volumes pH 6.0 buffer) and transfer the mixture to a centrifuge tube. Shake well for 5 minutes then centrifuge for 15 minutes at 2,000 r.p.m. Dilute an aliquot of the clear solution with enough pH 6.0 buffer to obtain an estimated concentration of 0.20 unit per milliliter.

(ii) Prepare the following dilutions in 0.1 MpH 6 buffer from the stock solution for the standard curve: 0.025, 0.05, 0.1, 0.2, 0.4, and 0.8 unit per milliliter with 0.2 unit per milliliter as the reference concentration. Also add 10 milliliters of agar to each petri dish instead of 21 milliliters. Its potency is satisfactory if it contains not less than 85 percent of the number of grams of manganese bacitracin per pound that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

(3) * * *

(ii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

c. In § 548.112a, paragraph (a)(1) is amended in the third sentence by deleting "moisture content" and inserting "loss on drying"; paragraph (b)(1) is amended by revising the introductory portion of the text; and paragraphs (b)(2) and (3) are revised to read as follows:

§ 548.112a Soluble bacitracin methylene disalicylate.

(a) * * *

(1) * * * Its loss on drying is not more than 8.5 percent. * * *

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 200 units per milliliter.

* * * * *

d. In § 548.112b, paragraphs (a)(3)(i) introductory text and (b)(2) and (3) are revised to read as follows:

§ 548.112b Tablets bacitracin methylene disalicylate and streptomycin sulfate oral.

* * * * *

(a) * * *

(3) * * *

(i) For potency and loss on drying: * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter.

e. In § 548.112c, paragraph (b)(2) is revised to read as follows:

§ 548.112c Capsules bacitracin methylene disalicylate and streptomycin sulfate oral.

* * * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

f. In § 548.112d, paragraph (a)(1) is amended by revising the third sentence and paragraphs (a)(4)(ii)(*b*) and (b) are revised to read as follows:

§ 548.112d Powder bacitracin methylene disalicylate and streptomycin sulfate oral.

(a) * * *

(1) * * * Its loss on drying is not more than 7.5 percent. * * *

(4) * * *

(ii) * * *

(*b*) The bacitracin methylene disalicylate and the streptomycin sulfate oral veterinary used in making the batch; potency, loss on drying, and pH.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency*—(*i*) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 5 grams in a blending jar. Add sufficient dimethylformamide so that when the sample is diluted to its reference point the concentration of dimethylformamide in the final blank is no greater than 20 percent. Blend for 3 to 5 minutes. Filter through filter paper immediately. Remove an aliquot of the filtrate at once and dilute to 1 unit per milliliter with 1.0 percent phosphate buffer, pH 6.0. Add sufficient dimethylformamide to the working solution of the standard so that the concentration of dimethylformamide is the same as that in the sample being tested. In lieu of the test organisms prescribed by § 436.105(a), use either of the test organisms R or V described in § 436.103(a) of this chapter.

NOTE.—Pyridine may be substituted for dimethylformamide in the procedure described in paragraph (b)(1)(i).

Its potency is satisfactory if it contains not less than 85 percent of the units of bacitracin activity that it is represented to contain.

(ii) *Streptomycin content.* Proceed as directed in § 444.70a(b)(1) of this chapter. Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin activity per gram that it is represented to contain.

(2) *Loss on drying.* Using a 1.0-gram sample, proceed as directed in § 436.200(b) of this chapter.

g. In § 548.113, the section heading and paragraphs (a)(1), (a)(3)(ii)(*a*) and (*b*), (b), and (c) are revised to read as follows:

§ 548.113 Crude, unrefined, feed grade bacitracin/bacitracin zinc powder oral.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Feed grade bacitracin powder oral is bacitracin with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. Feed grade bacitracin zinc powder oral is a mixture of bacitracin zinc and zinc proteinates, with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. They contain the equivalent of not less than 2.5 grams of the bacitracin master standard per pound, except that if it is bacitracin zinc powder it contains the equivalent of not less than 5 grams of the bacitracin master standard per pound. Their loss on drying is not more than 5 percent. The bacitracin used in making the batch has a potency of not less than 5 units per milligram, and its loss on drying is not more than 5 percent. The bacitracin zinc used in making the batch has a potency of not less than 2 units per milligram nor more than 2 grams of zinc for each gram of bacitracin, and its loss on drying is not more than 6 percent. Each other substance used, if its name is recognized in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

* * * * *

(3) * * *

(ii) * * *

(*a*) The batch: Grams of bacitracin per pound and loss on drying.

(*b*) The bacitracin used in making the batch: Potency, loss on drying, and zinc content if the bacitracin used is bacitracin zinc.

* * * * *

(b) *Tests and methods of assay*—(1) *Feed grade bacitracin or bacitracin zinc powder oral*—(i) *Potency.* Proceed as directed in § 548.110(b)(1), except if it is feed grade bacitracin zinc powder oral proceed as directed in § 448.13(b)(1) of this chapter. Their potency is satisfactory if they contain not less than 85 percent of the number of grams of bacitracin or bacitracin zinc per pound that they are represented to contain.

(ii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(2) *Bacitracin or bacitracin zinc used in making the batch*—(i) *Potency.* Proceed as directed in § 448.10(b)(1) of this chapter, except if it is bacitracin zinc proceed as directed in § 448.13(b)(1) of this chapter.

(ii) Zinc content (if bacitracin zinc is used). Proceed as directed in § 448.13(b)(5) of this chapter.

(iii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(c) *Conditions of marketing.* If it is feed grade bacitracin powder, its conditions of marketing are described in § 548.110(c). If it is feed grade bacitracin zinc powder, oral, its conditions of marketing are described in § 548.114(c).

h. In § 548.114, the section heading and paragraphs (a), (b), and (c)(1) and (3) are revised to read as follows:

§ 548.114 Bacitracin zinc oral.

(a) *Requirements for certification.* The requirements for certification for bacitracin zinc oral are described under § 548.113(a).

(b) *Tests and methods of assay.* The tests and methods of assay for bacitra-

cin zinc oral are described under § 548.113(b).

(c) *Conditions of marketing*—(1) *Specifications.* Bacitracin zinc is the zinc salt of the antibiotic substance produced by growth of *Bacillus subtilis var. Tracy* or the same antibiotic substance produced by any other means, and for the purposes of this section refers to bacitracin zinc or feed grade bacitracin zinc.

* * * * *

(3) *Special considerations.* Quantities of bacitracin zinc expressed in paragraph (c)(5) of this section refer to the weight of an appropriate antibiotic standard.

* * * * *

i. Section 548.212 is revised to read as follows:

§ 548.212 Bacitracin methylene disalicylate tablets; bacitracin/bacitracin zinc implantation pellets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin methylene disalicylate tablets, bacitracin tablets, and bacitracin zinc tablets are tablets composed of bacitracin methylene disalicylate, bacitracin or bacitracin zinc with or without one or more suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings, and with or without a suitable amebicidal agent. The potency of each tablet is not less than 1,000 units or more than 10,000 units. Its loss on drying content is not more than 5 percent. Tablets not exceeding 15 millimeters in diameter shall disintegrate within 1 hour. The bacitracin methylene disalicylate used conforms to the standards prescribed therefor by § 539.310(a)(1) of this chapter. The bacitracin used conforms to the standards prescribed therefore by § 448.10(a)(1) of this chapter. The bacitracin zinc used conforms to the requirements of § 448.13(a)(1) of this chapter. Each other substance used, if its name is recognized in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* Unless each tablet is enclosed in a foil or plastic film and such enclosure is a tight container as defined by the United States Pharmacopeia, except the provision that it shall be capable of tight reclosure, the immediate container shall be a tight container as so defined. The immediate container may also contain a desiccant separated from the tablets by a plug of cotton or other like material. The composition of the immediate container, or of the foil or film enclosure, shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(3) *Labeling.* It shall be labeled in accordance with the requirements of § 510.55 of this chapter, and its label and labeling shall bear the statement, "Warning—not for use in animals raised for food production".

(4) *Request for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark; the number of packages of each size in such batch; the batch mark and, unless it was previously submitted, the date on which the latest assay of the bacitracin methylene disalicylate, bacitracin, or bacitracin zinc used in making such batch was completed; the number of units in each tablet; the quantity of each ingredient used in making the batch; the date on which the latest assay of the drug comprising such batch was completed; and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(ii) Except as otherwise provided in paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(*a*) The batch: Average potency per tablet, average loss on drying, and if required by paragraph (a)(1) of this section, disintegration time.

(*b*) The bacitracin methylene disalicylate, bacitracin, or bacitracin zinc used in making the batch; potency; safety; loss on drying; pH; identity if it is bacitracin; and zinc content if it is bacitracin zinc.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(*a*) The batch:

(*1*) For potency and loss on drying: One tablet for each 5,000 tablets in the batch, but in no case less than 30 tablets, collected by taking single tablets throughout the entire time of tableting so that the quantities tableted during the intervals are approximately equal.

(2) For disintegration time: six tablets.

(*b*) The bacitracin methylene disalicylate used in making the batch: five packages, each containing approximately equal portions of not less than 5 grams.

(*c*) The bacitracin used in making the batch: six packages, each containing approximately equal portions of not less than 500 milligrams.

(*d*) The bacitracin zinc used in making the batch: six packages, each containing approximately equal portions of not less than 1.0 gram.

(*e*) In case of an initial request for certification, each other substance used in making the batch: one package of each containing approximately 5 grams.

(iv) No result referred to in paragraph (a)(4)(ii)(*b*) of this section and no sample referred to in paragraph (a)(4)(iii)(*b*), (*c*), (*d*) or (*e*) of this section are required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency:* (i) If it is bacitracin or bacitracin zinc, proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: If it is bacitracin, place a representative sample (usually five tablets) in a blending jar containing 250 milliliters of 1-percent phosphate buffer, pH 6.0. If it is bacitracin zinc, use 250 milliliters of 0.01*N* HCl. If it is bacitracin, after blending for 1 minute with a high-speed blender, add 250 milliliters of buffer to the blender, and if it is bacitracin zinc, add 250 milliliters of 0.01*N* HCl to the blender. Blend again for 1 minute and make the proper estimated dilutions in 1-percent phosphate buffer, pH 6.0. If it is bacitracin zinc, make all dilutions for the assay so that the final dilution contains the same ratio of 1.01*N* HCl to 1-percent phosphate buffer, pH 6.0, as the sample under test. The content of bacitracin or bacitracin zinc is satisfactory if it contains not less than 85 percent of the number of units per tablet that it is represented to contain.

(ii) If it is bacitracin methylene disalicylate, proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place a representative sample (usually five tablets) into a high-speed glass blender jar containing 99 milliliters of an aqueous solution of 2-percent sodium bicarbonate and 1 milliliter of polysorbate 80. Blend 3 to 5 minutes. Allow the foam to subside. Dilute an aliquot of the resultant solution with 1 percent sodium phosphate buffer, pH 6.0, to the reference concentration of 1 unit of bacitracin per milliliter (estimated). Its potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin per tablet that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure described in paragraph (e)(1) of that section.

j. Section 548.310a is amended to read as follows:

§ 548.310a Bacitracin ophthalmic.

(a) *Requirements for certification*—(1) *Standards of identity, quality, and purity.* Bacitracin ophthalmic is bacitracin, with or without one or more suitable and harmless preservatives, local anesthetics, buffer substances, and diluents. It is sterile. Its loss on drying is not more than 5 percent. The bacitracin is of such quantity that when dissolved as directed in its labeling the potency of such solution is not less than 500 units per milliliter and maintains its labeled potency after it has been kept for 7 days at room temperature. Such solution has a pH of 6.5 ± 0.5. The bacitracin used conforms to the requirements of § 448.10(a)(1) of this chapter. Each other ingredient used, if its name is recognized

in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* The immediate container of bacitracin ophthalmic shall be a tight container as defined by the United States Pharmacopeia; its closure shall be one through which a hypodermic needle cannot be introduced; and the immediate container and closure shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container shall contain not less than 5,000 units, and each may be packaged in combination with a container of the solvent, sterile distilled water U.S.P.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the outside wrapper or container and the immediate container, the statement "Warning—not for injection".

(ii) If a local anesthetic is present, after the name "bacitracin ophthalmic", wherever it appears, the words "with ----------", (the blank being filled in with the established name of the local anesthetic) in juxtaposition with such name.

(4) *Requests for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the bacitracin used in making such batch was completed, the number of units in each immediate container, the date on which the latest assay of the drug comprising such batch was completed, the quantity of each other ingredient used in making the batch, and a statement that each such ingredient used conforms to the requirements prescribed therefor by this section. If such batch or any part thereof is to be packaged with a solvent, such request shall also be accompanied by a statement that such solvent conforms to the requirements prescribed therefor by this section.

(ii) Except as otherwise provided in paragraph (a) (4) (iv) of this section, such person shall submit in connection with his request, results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(*a*) The batch: potency, sterility, loss on drying, and pH of the solution prepared as directed in its labeling;

(*b*) The bacitracin used in making the batch, potency, safety, loss on drying, pH, and identity.

(iii) Except as otherwise provided by paragraph (a) (4) (iv) of this section, such person shall submit in connection with his request in the quantities hereinafter indicated, accurately representative samples of the following:

(*a*) The batch:

(*1*) For all tests except sterility: One immediate container for each 5,000 immediate containers in the batch, but in no case less than five immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch so that the quantities packaged during the intervals are approximately equal.

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

(*b*) The bacitracin used in making the batch: 6 packages, each containing approximately equal portions of not less than 500 milligrams.

(*c*) In case of an initial request for certification, each other ingredient used in making the batch; one package of each, containing approximately 5.0 grams.

(iv) No result referred to in paragraph (a) (4) (ii) (*b*) of this section and no sample referred to in paragraph (a) (4) (iii) (*b*) of this section are required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 448.10 (b) (1) of this chapter.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution prepared as directed in the labeling for the drug.

(4) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (1) of that section.

k. Section 548.310b is revised to read as follows:

§ 548.310b Bacitracin-polymyxin B sulfate-neomycin sulfate ointment.

(a) *Requirements for certification.* The requirements for certification for bacitracin-polymyxin B sulfate-neomycin sulfate ointment are described under § 448.510e(a) of this chapter.

(b) *Tests and methods of assay.* The tests and methods of assay for bacitracin-polymyxin B sulfate-neomycin sulfate ointment are described under § 448.510e(b) of this chapter.

l. Section 548.313a is revised to read as follows:

§ 548.313a Bacitracin - neomycin - polymyxin powder topical; bacitracin zinc - neomycin - polymyxin powder topical.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin-polymyxin powder topical and bacitracin zinc-neomycin-polymyxin powder topical are bacitracin or bacitracin zinc neomycin, and polymyxin B. with or without suitable and harmless diluents, preservatives, and lubricants, and with or without hyaluronidase, chymotrypsin, and polyvinylpyrrolidone. Unless it is packaged with one or more suitable and harmless inert gases, each gram contains not less than 200 units of bacitracin or bacitracin zinc not less than 1,600 units of polymyxin B, and not less than 3.5 milligrams of neomycin. It contains not more than an average of 10 microorganisms per gram. Its moisture content is not more than 7.0 percent, unless it is packaged with one or more suitable and harmless inert gases, in which case its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed therefor by § 448.10(a) (1) of this chapter.

The bacitracin zinc used conforms to the standards prescribed by § 448.13(a) (1) of this chapter. The neomycin used conforms to the standards prescribed by § 444.42a(a) (1) (i), (iv), (v), and (vi) of this chapter. The polymyxin B used conforms to the standards prescribed therefor by § 444.170a(a) (1) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U.S.P. The composition of the immediate container shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limits therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container may contain one or more suitable and harmless inert gases; in which case it shall contain not less than 8,000 units of bacitracin zinc, not less than 70 milligrams of neomycin, and not less than 100,000 units of polymyxin B.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

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

(*a*) The statement "Expiration date ----------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, except that the blank may be filled in with the date that is 18 months, or 24 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) (1) of this section.

(*b*) The statement "Not sterile".

(ii) If it contains, in addition to the antibiotic drug, one or more other active ingredients specified in paragraph (a) (1) of this section, after the name "bacitracin-neomycin-polymyxin powder topical" or "bacitracin zinc-neomycin-polymyxin powder topical", wherever such name appears, the words "with_____", in juxtaposition with such name, the blank being filled in with the established name of each such other ingredient.

(4) *Request for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless they were previously submitted) the dates on which the latest assays of the bacitracin or bacitracin zinc neomycin, and polymyxin used in making such batch were completed, the number of units of bacitracin or bacitracin zinc and polymixin B, and the number of milligrams of neomycin in each immediate container, the date on which the latest assays of the drugs comprising such batch were completed, the quantity of each ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section.

(ii) Except as otherwise provided in paragraph (a) (4) (iv) of this section such person shall submit in connection with his request results of the tests and assays listed after each of the following made by him on an accurately representative sample of:

(*a*) The batch: The number of units of bacitracin or bacitracin zinc the number of units of polymyxin, and the number of milligrams of neomycin, a microorganism count, and moisture.

(*b*) The bacitracin or bacitracin zinc used in making the batch: Potency, safety, loss on drying, pH, and zinc content if it is bacitracin zinc.

(*c*) The neomycin used in making the batch: Potency, toxicity, moisture, and pH.

(*d*) The polymyxin B used in making the batch: Potency and toxicity.

(iii) Except as otherwise provided by paragraph (a) (4) (iv) of this section such person shall submit in connection with his request, in the quantities hereinafter indicated accurately representative samples of the following:

(*a*) The batch: For all tests except microorganism count, one immediate container for each 5,000 immediate containers in the batch, but in no case less than seven immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(*b*) For microorganism testing: Five immediate containers.

(*c*) The bacitracin or bactracin zinc used in making the batch: Six packages, containing approximately equal portions of not less than 0.5 gram.

(*d*) The neomycin used in making the batch: Five packages containing approximately equal portions of not less than 0.5 gram.

(*e*) The polymyxin B used in making the batch: Five packages containing approximately equal portions of not less than 0.5 gram.

(*f*) In case of an initial request for certification, each other substance used in making the batch: One package of each containing approximately 5 grams.

(iv) The results referred to in paragraph (a) (4) (ii) (*b*), (*c*), and (*d*) of this section and the samples referred to in paragraph (a) (4) (iii) (*c*), (*d*), (*e*), and (*f*) of this section are not required if such results or samples have been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency.* (i) *Dry powder*—(*a*) *Bacitracin content.* Proceed as directed in § 448.10 (b) (1). Its content of bacitracin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(*b*) *Bacitracin zinc content.* Proceed as directed in § 448.13(b) (1). Its content of zinc bacitracin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(*c*) *Neomycin content.* Proceed as directed in § 436.517(b) (1) of this chapter. Its content of neomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(*d*) *Polymyxin B content.* Proceed as directed in § 444.170a(b) (2) (1) of this chapter. Its content of polymyxin B is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(ii) *Powder packaged with inert gases.* Spray, as directed in the labeling, the entire contents of each container to be tested into a separate 2-liter Erlenmeyer flask, held in a horizontal position. Add 500 milliliters of 0.01*N* HCl and shake to dissolve the contents. Immediately remove aliquots of this solution and using the appropriate buffer solutions to make further dilutions, proceed as directed in paragraph (b) (1) (i) of this section. Calculate the average total amount of each antibiotic expelled from the containers. The total potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin zinc and polymyxin and not less than 85 percent of the number of milligrams of neomycin that it is represented to contain.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count*—(i) *Conduct of test for bacteria*—(*a*) *Dry powder.* Using approximately 200 milligrams of powder from each of five separate immediate containers, proceed as directed in § 436.20(e) (1) of this chapter, except after the three washings transfer the entire filter membrane to the surface of medium G as described in § 436.20(c) (7) of this chapter. Incubate the plate for 5 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(*b*) *Powder packaged with inert gases.* Thoroughly cleanse the valve of each container to be tested with a suitable disinfectant. Into an empty, sterile Erlenmeyer flask, stoppered with a cotton plug, spray about one-half on the contents of each of five separate immediate containers by removing the cotton plug temporarily and using aseptic technique. Allow the propellant to evaporate. To the dry residue, which should not exceed 1 gram, add 500 milliliters of diluting fluid C as described in § 436.20(c) (3) of this chapter, and swirl the flask to dissolve the contents. Then proceed as described in paragraph (b) (3) (i) (*a*) of this section.

(ii) *Conduct of test for molds and yeasts*—(*a*) *Dry powder.* Proceed as directed in § 436.20(e) (1) of this chapter, using approximately 200 milligrams from each of the five containers tested, except use the agar medium H as described in § 436.20(b) (8) of this chapter, and incubate at 22° C—25° C for 5 days. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(*b*) *Powder packaged with inert gases.* Proceed as directed in paragraph (b) (3) (i) (*b*) of this section, use agar medium H as described in § 436.20(c) (8) of this chapter, and incubate at 25° C for 5 days.

(iii) *Evaluation of results.* The microorganism count of the sample is satisfactory if the average number of viable microorganisms is not more than 10 per gram of powder, or per container if it is packaged with inert gases.

§ 548.313b [Amended]

m. In § 548.313b, the section heading is revised to read § 548.313b *Bacitracin/bacitracin zinc ointment*, the introductory text of paragraph (a) and paragraph (b) are amended by changing "zinc bacitracin" to read "bacitracin zinc", and paragraph (a) (2) (i) is amended in the last sentence by changing "§ 448.510a(a) (3)" to read "448.510a(a) (2)".

n. In § 548.314a, the section heading and paragraph (a) are revised to read as follows:

§ 548.314a Bacitracin zinc, polymyxin B sulfate, neomycin sulfate ophthalmic ointment.

(a) *Specifications.* The drug conforms to the provisions of § 448.313b of this chapter.

* * * * *

o. In § 548.314b, the section heading and paragraphs (a), (b), and (c) (1) are revised to read as follows:

§ 548.314b Bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone acetate, ophthalmic ointment.

(a) *Requirements for certification.* The requirements for certification for bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone ace-

tate, ophthalmic ointment are described under § 448.313b(a) of this chapter.

(b) *Tests and methods of assay.* The tests and methods of assay for bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone acetate, ophthalmic ointment are described under § 448.313b of this chapter.

(c) *Conditions of marketing*—(1) *Specifications.* The drug conforms to the specification requirements in § 448.313b of this chapter and is subject to the tests and methods of assay prescribed in § 548.310b of this chapter. Each gram of the drug contains the following active ingredients: 400 units of bacitracin zinc, 5,000 units of polymyxin B sulfate, 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams of neomycin base), and 10 milligrams of hydrocortisone acetate.

* * * * *

Effective date: This regulation shall become effective June 27, 1977.

(Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b).)

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-14965 Filed 5-26-77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340-21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Privacy Act of 1974

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: This rule adopts prescribed exemptions which may be claimed under the Privacy Act for the system of records ID: A0709.01aDAPE, entitled: United States Military Academy Candidate Files. This action is being taken in order to protect information sources, evaluative material, and investigatory and testing techniques.

DATE: This rule is effective May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus Fraker (202-693-0973).

SUPPLEMENTARY INFORMATION: In FR Doc. 77-10574 published in the FEDERAL REGISTER issue of April 11, 1977 (42 FR 18863), the Department of the Army published a proposed exemption rule as a proposed amendment to 32 CFR 505.9 for system of records identified above. Comments were received from the Office of Management and Budget and the House of Representatives concerning necessity for claiming a (k)(6) exemption for the Candidate Summary Sheet. It was suggested that the Army consider separating information furnished by the candidate from the values (scores) assigned such information by the Academy so that a person could see his/her scores. This suggestion was considered infeasible since a candidate could be supplying ten or more papers containing self-prepared information about oneself. The Academy does not verify all information reported by the candidate. Thus, if a candidate knows the weight assigned to a given item of information, he/she could obtain undue advantage. For example, a candidate may report having lettered in football or track when, in reality, the person may have only participated in these sports. Another may report being Editor-in-Chief of a high school newspaper when the person was only a reporter. The Academy develops quantified scores from the information provided. To permit an individual to see his/her scores on the Candidate Summary Sheet would give the candidate the opportunity to derive a close approximation of the values assigned to each event or category of accomplishment reported and therefore jeopardize the objectivity of the evaluation in fairness to all candidates.

ROME D. SMYTH,
Colonel, GS, Director, Administrative Management.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 17, 1977.

The following exemption rule is added and should be inserted before exemption rule ID-A0709.03aDAPE, SYSNAME—United States Military Academy Cadet Files (41 FR 30905).

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORD SYSTEM (SPECIFIC EXEMPTIONS)

ID-A0709.01aDAPE.

SYSNAME: United States Military Academy Candidate Files.

EXEMPTION: All portions of this system which fall within 5 U.S.C. 552a(k) (5), (6), or (7) are exempt from the following provisions of Title 5 U.S.C. section 552a:(d).

AUTHORITY: 5 U.S.C. 552a(k) (5), (6), and (7).

REASONS: From subsection (d) because access might reveal investigatory and testing techniques. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act.

Exemption is necessary to protect the identity of individuals who furnished information to the United States Military Academy which is used in determining suitability, eligibility, or qualifications for military service and which was provided under an express promise of confidentiality.

Exemption is needed for the portion of records compiled within the Academy which pertain to testing or examination material used to rate individual qualifications, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Exemption is required for evaluation material used by the Academy in determining potential for promotion in the armed services, to protect the identity of a source who furnished information to the Academy under an express promise of confidentiality.

[FR Doc.77-15029 Filed 5-26-77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—NATIONAL FOREST SYSTEM PROHIBITIONS

Permits for Chattooga River

AGENCY: Forest Service, Department of Agriculture.

ACTION: Interim regulations applicable to Region 8, Southern Region, and Notice of Proposed Rulemaking.

SUMMARY: This action requires private and commercial users to obtain a permit to float the Chattooga Wild and Scenic River. Permits will include conditions of use to protect river values and provide for floater safety. Safety regulations have drastically reduced the high number of fatalities occurring prior to regulations.

DATES: Effective date May 27, 1977. Comments must be received on or before: August 25, 1977.

ADDRESS: Sent comments to: USDA, Forest Service, Fiscal and Accounting Management Staff, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Forest Supervisor John Orr, Francis Marion & Sumter National Forests, 1801 Assembly Street, Second Floor, Columbia, South Carolina 29201, 803-765-5222.

SUPPLEMENTARY INFORMATION: The number of people annually floating and canoeing the Chattooga River has increased over 7,000 percent since 1967.

The river was designated a Wild and Scenic River in 1974. The river is located on the border of Georgia-South Carolina and is one of the largest rivers in the Southeast with challenging whitewater rapids.

The number of accidents, including drownings, also increased at an alarming rate, averaging seven per year. In 1974, regulations to provide for user safety were adopted. Principal among these was the required wearing of life jackets. The fatality rate has been lowered drastically. No fatalities have occurred since October 1975. Safety regulations and more experienced users are thought to account for this improved record. This action provides these regulations to continue as a condition of the permit required to float or canoe the river. There is immediate need for the regulations as the warmer weather increases use on the river. They will be issued as interim regulations for ninety days during which time comments may be submitted. After ninety days, the regulations will be issued as permanent reg-

ulations or modified depending upon comments received.

INTERIM REGULATIONS

Pursuant to 36 CFR 261.70, the Regional Forester, Region 8, Southern Region, has determined that advanced notice of proposed rulemaking and public participation thereon relative to the interim regulations hereinafter set forth is impracticable, unnecessary, or contrary to the public interest. Accordingly, the following interim regulations, prohibiting acts or omissions within the areas of the Sumter National Forest and the Chattahoochee National Forest described below for the purposes of public safety and establishing reasonable rules of public conduct, are hereby issued with the concurrence of the Chief of the Forest Service, United States Department of Agriculture. The prohibitions set forth below become effective on May 27, 1977, and shall remain effective for not more than 90 days unless readopted as permanent regulations as hereinafter proposed.

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Department of Agriculture, by and through the Regional Forester, Region 8, Southern Region, Forest Service, is considering readopting the interim regulations set forth below, 36 CFR 261.77, as permanent regulations pursuant to 36 CFR 261.70 for the purposes of public safety and establishing reasonable rules of public conduct on the areas mentioned in the interim regulations.

It is proposed that the said interim regulations being published concurrently herein become permanent regulations and that § 261.77, as set forth in the interim regulations, become permanent regulations.

All persons wishing to submit written data, views, or objections pertaining to the proposed new permanent section § 261.77, may do so by submitting them to the U.S. Department of Agriculture, Forest Service, Fiscal and Accounting Management Staff, Washington, D.C. 20250 on or before August 25, 1977.

All written submissions made pursuant to this notice will be available for public inspection in Room 4007, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C., during regular business hours (7 CFR 1.27(b)).

Subpart C is amended by adding a new interim regulation section, § 261.77, as follows:

§ 261.77 Prohibitions in Region 8, Southern Region.

(a) Using or occupying any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(b) Using or occupying within the scope of any commercial operation or business any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by special use permit.

(c) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraphs (a) or (b) of this section is prohibited.

(d) Entering, going, riding, or floating upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description, unless authorized by a permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(e) Entering, going, riding, or floating within the scope of any commercial operation or business upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description, unless authorized by special use permit.

(f) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraph (d) or (e) of this section is prohibited.

Dated: May 20, 1977.

JAMES E. WEBB,
Deputy Regional Forester for Administration, Region 8, Southern Region, Forest Service, Department of Agriculture.

[FR Doc.77-15148 Filed 5-26-77;8:45 am]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 1—GENERAL PROVISIONS

United States Flag for Burial Purposes

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This amended regulation would eliminate the preference being given to sons and fathers in the disposition of a United States Flag for burial purposes. It would permit the eldest child to be eligible to receive the flag if there is no spouse, and it would combine the eligibility of mothers and fathers into one category of parents. In addition minor editorial changes have been made to reflect agency policy concerning use of precise terms denoting gender. These actions are being taken in the interests of fairness and in conformity with recent decisions of the United States Supreme Court. It is intended that this rule will eliminate sex discrimination with regard to this regulation.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles M. Ott, Veterans Assistance Specialist (272), Veterans Assistance Service, Veterans Administration, Washington, D.C. 20420, telephone 202-389-3675.

SUPPLEMENTARY INFORMATION: On page 54777 of the FEDERAL REGISTER of December 15, 1976, there was published a notice of proposed regulatory development to amend § 1.10(b)(2) and (3). This proposal concerned the elimination of preference being given to sons over daughters with regard to the disposition of a United States Flag for burial purposes. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. Twenty-one written comments were received. Four of these concurred with the proposal while the remaining seventeen not only agreed with the proposal but wished to see it extended to also eliminate the preference being given to fathers over mothers. The proposal has been reviewed in light of these comments and consequently subdivisions (iii) and (iv) of paragraph (b)(2) have been combined with the remaining subdivisions renumbered accordingly. The proposed regulation is adopted as changed and set forth below.

Inflation Impact: The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved: May 20, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 1.10, paragraph (b) (2) and (3) is revised to read as follows:

§ 1.10 Eligibility for and disposition of the United States flag for burial purposes.

* * * * *

(b) *Disposition of burial flags.* * * *

(2) The phrase "next of kin" for the purpose of disposing of the flag used for burial purposes is defined as follows, with preference to entitlement in the order listed:

(i) Widow or widower.

(ii) Children, according to age (minor child may be issued a flag on application signed by guardian).

(iii) Parents, including adoptive, stepparents, and foster parents.

(iv) Brothers or sisters, including brothers or sisters of the halfblood.

(v) Uncles or aunts.
(vi) Nephews or nieces.
(vii) Others—cousins, grandparents, etc. (but not in-laws).

(3) The phrase "close friend or associate" for the purpose of disposing of the burial flag means any person who because of his or her relationship with the deceased veteran arranged for the burial or assisted in the burial arrangements. In the absence of a person falling in either of these categories, any person who establishes by evidence that he or she was a close friend or associate of the veteran may be furnished the burial flag. Where more than one request for the burial flag is received and each is accompanied by satisfactory evidence of relationship or association, the head of the field station having jurisdiction of the burial flag quota will determine which applicant is the one most equitably entitled to the burial flag.

2. Immediately preceding § 1.12, the following centerhead is added "Public Participation."

[FR Doc.77-15163 Filed 5-26-77;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Definition of Advertisements; Marking of Paid Reading Matter

AGENCY: U.S. Postal Service.

ACTION: Final rule.

SUMMARY: The rule, among other things, revises 125.52 of the Postal Service Manual to simplify and more precisely define the term "advertising." It also incorporates administrative rulings of the Postal Service to the effect that, if an advertising rate is paid for the publication of reading matter or other material in a second-class publication, such material is deemed to be "advertising." Under 125.52 articles published in scientific journals or other second-class publications would not be considered "advertising" for rate purposes, even though the author paid a fee for the publication based upon the number of printed pages. Such articles, however, continue to fit the definition of "advertisement" in 132.7, which requires disclosure that valuable consideration has been paid or promised for the publication of editorial or other reading matter. In this connection, 132.7, which deals with the marking of paid reading matter with the word "advertisement," is amended by limiting the required marking to one page of a piece of reading matter, regardless of the total number of pages.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur S. Cahn, 202-245-4604.

SUPPLEMENTARY INFORMATION: On March 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER a notice of rule which, among other things, would revise 125.52 of the Postal Service Manual to simplify and more precisely define the term "advertisement" and amend 132.7 of the Postal Service Manual, which deals with the marking of paid reading matter with the word "advertisement," so that the required marking would be limited to one piece of reading matter, regardless of the total number of pages.

Interested persons were invited to submit written data, views or arguments concerning the proposed revised regulations. Comments were received from a total of 23 individuals and organizations. These comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

The general areas of concern of the commenters and the Postal Service analysis of the comments follows:

(a) Labeling requirement—Many commenters suggested that the Postal Service not require that advertising matter in an editorial format be marked "advertisement." Others felt that the word "advertisement" should be permitted as an explanatory phrase at the end of a multi-page article, while others felt that our proposed regulations should clearly specify the exact location where the word "advertisement" should appear. 18 U.S.C. 1734 provides as follows:

> Sec. 1734. Editorials and other matter as 'advertisements'
>
> Whoever, being an editor or publisher, prints in a publication entered as second-class mail, editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same 'advertisment' shall be fined not more than $500.

The Postal Service has no authority to waive this statutory requirement that any reading matter must be labeled "advertisement" if consideration is paid for its publication. Since the statute on which the regulation is based states that the matter in question is to be plainly marked, the regulation prescribes that the word "advertisment" must be on the first page of a multi-page article.

Further, the word "advertisement" may appear as part of an explanatory statement telling why the material must be marked advertisement. However, any such statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen. We have added this requirement to 132.73 in the final regulation.

(b) A second area of concern for several commenters concerned whether the revised regulation would apply to articles published in scientific journals which have a "voluntary page charge" policy. The Postal Service has previously stated that the provisions of part 132 of the Postal Service Manual do not apply to articles in scientific or other publications for which payment of a page charge or other consideration is not a condition of publication. However, in order for these provisions not to apply, any payments resembling page charges must be truly voluntary contributions. Part 132 applies to all publications, scientific or otherwise, having mandatory page charges.

(c) Several commenters objected to the proposed revision on the basis that it may violate the provisions of the First Amendment of the Constitution because of vagueness and possible censorship questions. This criticism does not appear to be valid. The revised regulations do not prohibit or censor the content of a second-class publication but simply contain a more precise statement of how the Postal Service determines what is "advertising" for rate purposes, a statutory and regulatory responsibility of the Postal Service. Additionally, a commenter felt that the word "promotes" in the last sentence of proposed section 125.52 was too vague. We have changed the word "promotes" to "advertises" in the final version of the regulation.

(d) Several commenters objected to the last two sentences of proposed section 125.52 as constituting a substantive change in Postal Service regulations. However, the last two sentences of the proposed regulation are almost identical to the existing regulation and changes were made simply for clarity. No substantive changes are intended. The Postal Service received several phone inquiries concerning the meaning of the term "reader," which is a technical term used in the current regulation and in the proposed revision. To avoid any confusion concerning this term, we have used nontechnical language in the final regulation.

(e) Lastly, several commenters indicated their approval of the revised regulation.

Accordingly, having given due consideration to all comments received, the Postal Service has determined to adopt the following amendments to the Postal Service Manual, with these changes from the original proposal.

The third and fourth sentences of § 125.52 are rewritten as follows:

> Articles, items, and notices in the form of reading matter are deemed to be "advertising" if they are inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears. If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

The following sentence has been added to 132.73:

> The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

Accordingly, the Postal Service hereby adopts the following revisions of the Postal Service Manual effective 12:01 a.m. on May 27, 1977.

PART 125—SECOND-CLASS BULK MAILINGS

1. In 125.5 of the Postal Service Manual revise .52 to read as follows:

125.5 *Statement and copy filed with mailings.*

* * * * *

.52 *Definition of advertising.* The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

PART 132—SECOND CLASS

2. In 132.7 of the Postal Service Manual revise .73 to read as follows:

132.7 *Marketing of paid reading matter.*

* * * * *

.73 Each paid editorial or other reading matter which occupies all or any part of one page, or which occupies more than one page, must be marked plainly "advertisement" either on the one page or on the first page. The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401(2).)

LOUIS A. COX,
General Counsel.

[FR Doc.77-15149 Filed 5-26-77;8:45 am]

Title 41—Public Contract and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA-PR TEMPORARY REGULATION NO. 32)

PART 51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

PART 55—JUSTIFICATION AND DOCUMENTATION OF PROCUREMENT ACTIONS

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation No. 32.

SUMMARY: This regulations deletes the fixed dollar threshold for independent review of contract and subcontract actions. Currently, Managers of Field Offices are not permitted the flexibility to determine at what levels such reviews should be initiated. This action will permit them to establish appropriate levels based upon individual office needs.

DATE: Effective date: This regulation is effective May 27, 1977.

ADDRESS: Charles E. Arbanas, Division of Procurement, Room C-167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Charles E. Arbanas (301-353-4541).

SUPPLEMENTARY INFORMATION: Expiration date: This regulation will remain in effect until canceled or until its provisions are incorporated into a permanent ERDA procurement regulation.

BACKGROUND: ERDA-PR Subpart 9-51.4, Contract and Subcontract Review Requirements, requires that all prime and subcontracts under cost-type prime contracts in excess of $100,000 shall be subjected to the independent review procedures of this subpart. This requirement unduly impinges upon the management responsibilities of Managers of Field Offices. As a corollary action, the $100,000 threshold is also removed from § 9-55.102-2, Justification of ERDA direct negotiated contracts. Such action will require only that the justification be in the scope and detail, as appropriate, based on the nature, dollar value, and complexity of the transaction involved.

1. Subpart 9-51.4 is amended as follows:

Subpart 9-51.4—Contract and Subcontract Review Requirements

§ 9-51.401 Applicability.

Prime contracts and subcontracts under cost-type prime contracts shall be reviewed in conformance with this subpart, based on dollar thresholds to be established by Managers of Field Offices. Such reviews shall be made prior to award in all cases. Managers of Field Offices may, if considered appropriate, exempt basic research lump sum contracts with educational institutions from the independent review board requirements of this subpart.

* * * * *

§ 9-51.403-2 Alternate review procedures.

* * * * *

(b) (3) (i) Contract or subcontract actions requiring review under a field office (or area office with respect to contract or subcontract actions within the approval authority of an Area Manager in those instances where Area Managers have been delegated contracting or approval authority in excess of the independent review threshold established by the Manager of the Field Office) to the fullest extent practicable shall be reviewed by the same reviewers regardless of the nature of the work under the individual contracts in order to assure continuity of experience and uniformity of treatment.

2. Subpart 9-55.1 is amended as follows:

Subpart 9-55.1—Justification of Procurements

§ 9-55.102-2 Justification of ERDA direct negotiated contracts.

The justification of negotiated prime contracts shall be in the form of a narrative statement covering, to the extent applicable to the particular transaction, the general type of information as indicated in paragraphs (a) through (i) of this section. The scope and detail of information to be included in the contract file should generally be determined on the basis of the nature dollar value, and complexity of the transaction involved.

* * * * *

AUTHORITY: Section 105 of the Energy Reorganization Act of 1974 (P.L 93-438).

Dated: May 11, 1977.

WILLIAM A. PARKER,
Acting Deputy Director, Division of Procurement.

[FR Doc.77-15310 Filed 5-26-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected Service Order No. 1268]

PART 1033—CAR SERVICE

Return of Trailers

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1268).

SUMMARY: Service Order No. 1268 directs the return to Seaboard Coast Line (SCL), Louisville and Nashville (L&N), and Richmond, Fredericksburg and Potomac (RFP) of insulated trailer-on-flat-car (TOFC) trailers owned or leased by Seaboard Coast Line and affiliated lines. Named railroads prohibited from furnishing insulated TOFC trailers except for transportation of freight requiring protection from heat. L&N and RFP directed to deliver surplus insulated trailers to SCL. There is a shortage of

insulated TOFC trailers on SCL in Florida for transporting shipments of watermelons, potatoes, and other perishable commodities.

DATES: Effective 12:01 a.m., May 19, 1977. Expires 11:59 p.m., June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423. Telephone 202-275-7840, TLX 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of May, 1977.

It appearing, That an acute shortage of insulated trailers equipped with ventilating devices exists on certain railroads in the southeast for transporting melons, potatoes, and other perishable products requiring protection from heat; that shippers are being deprived of the insulated and ventilated trailers required to transport such perishable freight, thus creating spoilage of produce and great economic loss; that insulated, ventilated trailers, after being unloaded are being retained and appropriated for other services which do not result in their return to the major origin areas for perishable freight; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of insulated, ventilated trailers are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1268 Regulations for return of trailers.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Remove from general distribution and deliver by rail, on flat cars insulated trailers described in paragraph (i) herein to any of the following railroads:

Louisville and Nashville Railroad Company (L&N), Richmond, Fredericksburg and Potomac Railroad Company (RFP), Seaboard Coast Line Railroad Company (SCL)

(i) Insulated trailers subject to this order are identified as follows:

Reporting Marks: RCLZ, RCRZ, RGRZ, RLNZ,[1] RSCZ—Series 700000-709999 SBD, Series 30230-30899, SBDZ 703043, 703076 and 703105.

(2) Trailers described in paragraph (a) (1) of this section, located on railroads other than the L&N, RFP or SCL, may be loaded with freight requiring protection from heat to any destination to which loading is authorized by Rule 2 of the Code of Trailer Service Rules, published on page 185 of the Official Intermodal Equipment Register, ICC-OIER No. 29, issued by R. G. Hilts, or reissues thereof; or, such trailers may be loaded with any type of freight to any station on the lines of the L&N, RFP or SCL.

(3) Trailers described in paragraph (a) (1) of this section located on the L&N or RFP for which no suitable loading, as defined in paragraph (a) (4) of this section is available, shall be delivered empty, on cars, to the SCL.

(4) Trailers described in paragraph (a) (1) of this section, located on the L&N, RFP, or SCL, may be used only for transporting traffic requiring protection from heat.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded trailer, described in this order contrary to the provisions of the order.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(e) Effective Date: This order shall become effective at 12:01 a.m., May 23, 1977.

(f) Expiration date: The provisions of this order shall expire at 11:59 p.m., June 15, 1977, unless otherwise modified, changed or suspended by order of this Commission.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15 (4) and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15270 Filed 5-26-77;8:45 am]

[1] RLNZ omitted in error.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 59]

REGULATIONS GOVERNING THE INSPECTION OF EGGS AND EGG PRODUCTS

Importation of Egg Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to list Canada in the regulations governing the inspection of eggs and egg products as a nation maintaining an egg products inspection system that is the equivalent of the system maintained by the United States and therefore establishing the eligibility for certain plants in Canada to ship egg products into the United States.

DATE: Comments must be received on or before July 26, 1977.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ashley R. Gulich, United States Department of Agriculture, Food Safety and Quality Service, Room 3944 South Building, Washington, D.C. 20250, phone 202-447-3506.

SUPPLEMENTARY INFORMATION: The Egg Products Inspection Act (84 Stat. 16.20 et seq, 21 U.S.C. 1031-1056) prohibits the importation of egg products into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin and are labeled and packaged in accordance with the standards of the Act and regulations issued thereunder (Part 59). The laws and regulations of Canada concerning these matters have been reviewed and are acceptable. Further, onsite reviews of the Canadian egg products inspection program indicate that it is equal to our program in the United States. Thus, it is proposed to provide for the eligibility of egg products produced in certain approved Canadian plants to be imported into the United States.

§ 59.910 [Amended]

The proposed rule is as follows: Section 59.910(b) in 7 CFR Part 59 would be amended by adding the word "Canada" after "United States:"

Dated: May 20, 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operation.

[FR Doc.77-15100 Filed 5-26-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

1977 Flue-Cured Tobacco Grade Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish the grade loan rates to be applied to the various grades of 1977 crop flue-cured tobacco to provide price support as required by the Agricultural Act of 1949, as amended. This action will provide producers with appropriate levels of support for the various grades of tobacco.

DATE: Comments must be received by June 10, 1977, to be sure of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanut Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus (202-447-5753).

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1977 crop of flue-cured tobacco be supported at the level of 113.8 cents per pound. The average level of support for flue-cured tobacco is increased by 7.3 percent over the 1976 level. It is anticipated that price support will be provided through a loan to a producers association which will receive the tobacco from the producers and advance to the producers the support price for the tobacco received. In accordance with Section 403 of the Act, the price support advances will be based on grade loan rates which will average the required level of support when weighted by the anticipated grade percentages.

The period for receiving comments is limited to 14 days because the harvesting season will commence in June and the rates applicable to the various grades may affect harvesting practices.

The public is invited to submit written data, views and recommendations to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

PROPOSED RULE

Under the Tobacco Loan Program published in this part, Commodity Credit Corporation proposes to establish loan rates by grades for the 1977 crop of flue-cured tobacco, types 11-14, as set forth herein. These proposed rates, calculated to provide the level of support of 113.8 cents per pound as determined under Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) are as follows:

§ 1464.16 1977 Crop flue-cured tobacco, types 11-14, loan schedule.[1]

[Cents/lb, farm sales weight]

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
A1F	147	B3K	125	B3KR	124
A1L	147	B4K	121	B4KR	120
B1L	137	B5K	117	B5KR	116
B2L	133	B6K	112	B4KV	110
B3L	130	B3V	121	B5KV	106
B4L	126	B4V	116	B6KV	101
B5L	122	B5V	112	B4G	111
B6L	117	B3S	118	B5G	107
B1F	137	B4S	114	B6G	102
B2F	133	B5S	110	B5GR	99
B3F	130	B3KL	118	B4GK	108
B4F	126	B4KL	114	B5GK	104
B5F	122	B5KL	111	B6GK	99
B6F	117	B6KL	106	B5GG	95
B1FR	135	B3KF	118	H3L	132
B2FR	131	B4KF	114	H4L	129
B3FR	128	B5KF	111	H5L	124
B4FR	125	B6KF	106	H6L	119
B5FR	121	B3KM	121	H1F	139
B6FR	116	B4KM	118	H2F	135
B4R	117	B5KM	114	H3F	132
B5R	111	B6KM	108	H4F	129

[1] The loan rates listed are applicable to tied and untied flue-cured tobacco which is: (1) eligible tobacco as defined in the regulations and (2) identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Rates for eligible tobacco identified by a marketing card, which bears the notation "Discount Variety-Limited Support," are 50 percent of the loan rates listed plus fifty cents ($0.50) per hundred pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest cent, of the loan rate listed. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2", "No-G", "No-G-F", "No-G-F-sand", "No-G-F-dirt" or "scrap" will not be accepted. Tobacco is eligible for advance only if consiged by the original producer. The cooperative association through which advances are made available is authorized to deduct 1 cent per pound to apply against overhead costs.

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
H5F	124	X2L	128	P2F	105
H6F	119	X3L	123	P3F	101
H4FR	127	X4L	118	P4F	97
H5FR	122	X5L	111	P5F	92
H6FR	117	X1F	132	P4G	88
H4K	125	X2F	128	P5G	82
H5K	120	X3F	123	M4F	113
H6K	115	X4F	118	M5F	108
C1L	136	X5F	111	M4KR	107
C2L	133	X3V	115	M4KM	105
C3L	130	X4V	110	M5KM	101
C4L	127	X3S	114	M4GK	100
C5L	123	X4KL	110	M5GK	95
C1F	136	X4KF	110	N1L	84
C2F	133	X4KV	105	N1XL	89
C3F	130	X3KR	120	N1K	95
C4F	127	X4KR	115	N1R	86
C5F	123	X3KM	117	N1GL	78
C4V	118	X4KM	111	N1GF	87
C4S	117	X4G	104	N1GR	82
C4KL	117	X5G	99	N1KV	86
C4KM	118	X4GK	103	N1GG	79
C4KR	122	P2L	105	N1BO	78
C4G	112	P3L	101	N1XO	76
C4GK	110	P4L	97	N1PO	73
X1L	132	P5L	92		

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on May 23, 1977.

VICTOR A. SLNECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-15146 Filed 5-26-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 85]

PSEUDORABIES REGULATIONS

Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to establish regulations which would prevent the spread of pseudorabies in the United States. This would be accomplished by regulating the interstate movement of livestock affected with or exposed to pseudorabies, by requiring negative official test results for pseudorabies and health certification of swine moved interstate for breeding purposes, and by requiring the cleaning and disinfection of means of conveyance, facilities, and premises used in the interstate movement of pseudorabies affected or exposed livestock.

The number and severity of outbreaks of pseudorabies has been increasing dramatically during the past 3 years and is expected to continue upward. Since pseudorabies is particularly prevalent in swine, this trend is expected to cause serious financial losses to individual swine producers and the swine industry, in particular. The regulations proposed in this document are intended to reduce the overall spread of pseudorabies.

DATE: Comments on or before July 26, 1977.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Room 704, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. J. W. Walker, USDA, APHIS, VS, Room 704, Federal Building, Hyattsville, Md. 20782 (301-436-8487).

SUPPLEMENTARY INFORMATION: Under the administrative procedure provisions in 5 U.S.C. 553, the Animal and Plant Health Inspection Service is considering adding a new Part 85, Title 9, Code of Federal Regulations, to provide interstate regulations concerning pseudorabies.

Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is primarily a disease of swine caused by a herpes virus. Occasionally, this disease also infects other livestock, dogs, cats, and wild animals causing a fatal encephalomyelitis manifested by intense itching and self mutilation. Swine are believed to be the chief reservoir of pseudorabies, however. In swine the infection is often inapparent, except in suckling pigs which usually develop a fatal encephalomyelitis, and in sows that abort or produce stillborn or mummified fetuses.

There are currently no regulations specifically designed to prevent the interstate spread of pseudorabies. Because the disease is known to be spreading rapidly and causes serious losses, representatives of the swine industry have urged that Federal regulations be placed in effect to prevent further spread of the disease in interstate commerce.

The proposed regulations would (1) permit the movement of swine, other than breeding swine, not known to be affected with or exposed to pseudorabies, without restrictions under this part for a period of one year following the effective date of this regulation; (2) after one year has expired, permit such movements only from a State which requires that the chief livestock sanitary official be immediately notified of all confirmed or suspected cases of pseudorabies and that affected or exposed animals be quarantined; (3) prevent the interstate movement of known affected or exposed livestock, except directly to slaughter when accompanied by a permit; (4) require negative testing and health certification of swine moved interstate for breeding purposes; and (5) require the cleaning and disinfection of vehicles, facilities, and premises involved in the movement of livestock affected with or exposed to pseudorabies.

The basis for the different requirements proposed for use during the first year these regulations are in effect as compared to proposed requirements for subsequent years is to provide States adequate time to obtain necessary legal authority and to place control measures into effect. However, we believe that, in the interim, the proposed restrictions on the movement of livestock would be adequate as a first step in reducing the overall spread of pseudorabies.

Accordingly, Part 85, Title 9, Code of Federal Regulations, would be added to read:

PART 85—PSEUDORABIES

Sec.
85.1 Definitions.
85.2 Notice relating to the existence of the contagion of pseudorabies.
85.3 General restrictions.
85.4 Interstate movement of livestock affected with or exposed to pseudorabies.
85.5 Interstate movement of livestock not known to be affected with or exposed to pseudorabies.
85.6 Other movements.
85.7 Cleaning and disinfection.

AUTHORITY: Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.

§ 85.1 Definitions.

For purposes of this part, the following terms mean:

(a) *Administrator.* The Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other official of the Service to whom authority has been delegated or may be delegated to act in his stead.

(b) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has been delegated or may be delegated to act in his stead.

(c) *Veterinary Services.* Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

(d) *Pseudorabies.* The contagious, infectious, and communicable disease of livestock and other animals commonly known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

(e) *Accredited Veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

(f) *Exposed livestock.* Any livestock that has ever been in contact with an animal affected with pseudorabies or that has ever been inoculated with pseudorabies virus or attenuated or inactivated vaccine, or that has ever been in contact with an inoculated animal.

(g) *State.* Any State, Puerto Rico, Guam, the United States Virgin Islands, or the District of Columbia.

(h) *Interstate.* From any State into or through any other State.

(i) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement by land, water, or air.

(j) *Recognized slaughtering establishment.* A slaughtering establishment where State or Federal meat inspection is available.

(k) *Livestock.* Swine, cattle, sheep, or goats.

(l) *Affected livestock.* Any livestock that has reacted to an official test for pseudorabies or from which pseudorabies virus has been isolated, or which has

been otherwise diagnosed, by a veterinarian, as having pseudorabies.

(m) *Official test.* The serum neutralization test for pseudorabies or the enzyme labeled antibody test for pseudorabies conducted in a laboratory approved by the Deputy Administrator.

(n) *Breeding farm.* A farm on which swine are bred and to which no swine have been introduced within 6 months immediately preceding the interstate movement of any swine therefrom, except swine that were found negative to an official test within 60 days prior to their introduction, or swine that were introduced directly from another breeding farm on which all swine 6 months of age and older were tested and found negative to an official test within one year prior to the movement involved. An organized sale which permits entry and sale only of swine from breeding farms shall be considered to qualify as a breeding farm for the purpose of interstate movement under this regulation.

(o) *Permit.* An official document issued by a Veterinary Services representative, State representative, or an accredited veterinarian for movement of livestock under this part that lists the identification tag, tattoo, backtag, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee.

§ 85.2 Notice relating to the existence of contagion of pseudorabies.

Notice is given that there is reason to believe that the contagion of pseudorabies may exist in each State and that to prevent the spread and dissemination of the contagion thereof, and to protect the livestock of the United States, the regulations in this part are promulated.

§ 85.3 General restrictions.

Movement of livestock not in accordance with the regulations of this part is prohibited.

§ 85.4 Interstate movement of livestock affected with or exposed to pseudorabies.

No livestock showing clinical signs of pseudorabies may be moved interstate. Livestock affected with or exposed to pseudorabies, other than those showing clincal signs of the disease, may be moved interstate from any point directly to a recognized slaughtering establishment for immediate slaughter under the following conditions:

(a) *Movement of swine.* (1) The swine so moved must be identified by a hole ½ inch in diameter punched in the left ear by the person who ships, transports, or otherwise causes the movement of such swine,

(2) The swine so moved must be accompanied by a permit, and

(3) The swine so moved must be moved in one continuous movement only without unloading enroute.

(b) *Movement of livestock other than swine.* (1) The livestock so moved must be accompanied by a permit, and

(2) The livestock so moved must be moved in one continuous movement only without unloading enroute.

§ 85.5 Interstate movement of livestock not known to be affected with or exposed to pseudorabies.

(a) *Movement of livestock other than swine.* Livestock, other than swine, not known to be affected with or exposed to pseudorabies may be moved interstate without restrictions under this part.

(b) *Movement of swine.* Swine, other than breeding swine not known to be affected with or exposed to pseudorabies, may be moved without restrictions under this part: Except, That one year after the effective date of this regulation such swine may only be moved from a State which requires that the chief livestock sanitary official of such State be immediately notified of any confirmed or suspected cases of pseudorabies in that State and which requires that pseudorabies exposed or affected animals be quarantined.

(c) *Movement of swine for breeding purposes.* Swine for breeding purposes not known to be affected with or exposed to pseudorabies may be moved from a breeding farm if they are accompanied by a certificate issued by a Veterinary Services representative, State representative, or an accredited veterinarian, a copy of which shall be mailed immediately to the chief livestock sanitary official in the State of destination by such State or Federal representative or accredited veterinarian, showing: (1) The identification tag, tattoo or registration number of each animal, (2) the number of animals covered by the certificate, (3) the points of origin and destination, (4) the consignee and consignor, and (5) that each animal in the shipment over 3 months of age was subjected to an official test within the 60 days prior to movement and was found to be negative, the date the animal was tested, and the laboratory conducting the test, or (6) that each animal was part of a breeding farm herd in which all swine 6 months of age and older, at the time of testing, were found negative to two official tests for pseudorabies conducted not less than 60 days nor more than 180 days apart and within 1 year immediately prior to the movement involved.

§ 85.6 Other movements.

The Deputy Administrator may upon request, in specific cases, permit the movement of livestock not otherwise provided for in this part.

§ 85.7 Cleaning and disinfection.

Means of conveyance, facilities, and premises used in connection with the interstate movement of pseudorabies affected or exposed livestock shall be thoroughly cleaned and disinfected by the owner or person having control of such conveyances, facilities, and premises in accordance with § 71.7 of this chapter, except that permitted disinfectants specified in §§ 71.10–71.12 shall not be used for the purposes of this Part 85, and only disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.) with herpes virucidal claims as disinfectants for general use, shall be used for the purposes of this part in accordance with directions on the labels accepted in connection with their registration. Such cleaning and disinfection shall be carried out immediately after any means of conveyance, facilities, and premises are used in connection with the transportation of livestock in interstate commerce and before they are again used for such purpose.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 704, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

G. V. PEACOCK,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-15109 Filed 5-26-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Lending in Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: These proposed rules implement the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95-22, 91 Stat. 49) pertaining to Federal credit union lending policies, lines of credit to members, loans to officials, loans endorsed by officials, and insured or guaranteed loans. In addition, these proposed rules contain certain clarifications of existing rules pertaining to the amortization of loans to members and insured or guaranteed loans.

DATE: Comments must be received on or before July 1, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator for Examination and Insurance, at the above address (202–254–8760).

SUPPLEMENTARY INFORMATION: These proposed rules implement the provisions of the Federal Credit Union Act (12 U.S.C.A. 1751, et seq., hereafter "the Act"), as amended by Pub. L. 95–22, pertaining to loans and lines of credit to members of Federal credit unions. These rules do not apply, however, to real estate or mobile home loans with maturities in excess of 12 years. Nor do they apply to loans and lines of credit to nonmember borrowers, i.e., other credit unions (except members of a corporate central Federal credit union) and credit union organizations. Rules implementing provisions of the amended Act regarding such loans will be proposed at a later date.

The following information relates to the specific sections of the proposed rules:

LENDING POLICIES, § 701.21–1

Pub. L. 95–22 removed from the Act the $2,500 limit on unsecured loans to any one member. The House Report on Pub. L. 95–22 indicates a Congressional intent that the Board of Directors of each Federal credit union establish its own lending policies, and requires that the National Credit Union Administration (NCUA) report to the Congress each year on the unsecured loan limits adopted by Federal credit unions. (See, House Report 95–23, page 8.) Accordingly, these rules propose that the Board of Directors of each Federal credit union establish specific written lending policies, which include maximum unsecured and secured loan limits. These limits would reflect, respectively, the maximum amount of credit which may be granted to one member without security, and the maximum amount which may be granted with full or partial security. (Any unsecured portion of a partially secured loan would be subject to the unsecured loan limit.) Whether a given member is eligible to borrow up to each limit may, of course, be affected by that individual's creditworthiness.

Proposed § 701.21–1(d) sets forth those factors which the credit committee or loan officer should consider when reviewing a member's loan application. These factors are carried over from § 701.21(a) of NCUA's present regulations.

Section 701.21–1(c) provides that the rates of interest imposed on outstanding loan balances (including line of credit balances) may vary according to "reasonable classifications" established by the board of directors. Within a given classification, however, the rate must be uniform among all member borrowers. In regard to loans granted by Federal credit unions under the Act prior to its amendment by Pub. L. 95–22, § 701.21–1 restates existing policy. In regard to loans accessed by a line of credit, this limitation is imposed because of the statement in the House Report that lines of credit may be offered "with the terms and conditions, but not rate, varying among borrowers" (House Report No. 95–23, page 7).

The most restrictive reading of this statement would require that a single rate of interest be imposed upon all line of credit balances to all borrowers, without regard to factors such as the type of loan or credit obtained under the line of credit or the value of any security provided by the borrower. Other language in the same paragraph in which the statement appears indicates, however, that the purpose of the line of credit authority is to allow Federal credit unions to continue their present practice of providing varying types of open-end or similar credit plans, but with the added convenience to all parties of eliminating the need for credit committee or loan officer approval of each advance, once a credit ceiling has been established. Further language, appearing in a different portion of the House Report, reveals Congress' endorsement of the traditional Federal credit union practice of varying rates of interest according to the classification of loan, but imposing the same rate upon loans within each classification (See, House Report, p. 10).

It is in this light that these rules propose to implement the expressed Congressional intent by requiring uniform rates within any given class of loans, including those under a line of credit. Thus, for example, a member who obtains a loan to purchase a particular item (such as an automobile) and provides a security interest in that item, or a member who provides a security interest in his or her share account as to a portion of the loan balance may to that extent qualify for a lower rate of interest than that imposed on unsecured loan balances. Within a given classification, such as share secured consumer loans, or unsecured credit card account balances, however, all member borrowers are subject to the same rate. The board of directors may establish "reasonable classifications" for varying rates, according to the criteria set forth in § 701.21–1(c). To ensure the existence of a readily accessible record of the board's decision, § 701.21–1(b) proposes that the classifications established by the board be set forth in the credit union's written lending policies. The "uniform rate" provisions are drafted in a manner which is intended to allow maximum discretion to each individual Federal credit union's board of directors, while at the same time, ensuring achievement of the apparent Congressional intent that all members who qualify for a particular type of loan be afforded the same rate of interest.

The Administration views the establishment of specific written lending policies to be increasingly important because of the board of directors' increased responsibility under the new provisions of the Act and as an aid in ensuring that credit union members are afforded their rights under the provisions of consumer protection laws. Beyond any specific requirements of § 701.21, and consistent with other applicable law and regulations, lending policies will be established as determined to be necessary by the board of directors of each Federal credit union.

AMORTIZATION OF LOANS TO MEMBERS, § 701.21–2

The major changes to this Section are of a housekeeping nature, i.e., general provisions of § 701.21 of NCUA's present regulations are carried over and reorganized in a more logical format, with the deletion of those provisions superseded by Pub. L. 95–22. The only new provision, found in § 701.21–2(b), requires that payments on loans granted under a line of credit be made at intervals not greater than monthly. It is felt that requiring at least monthly payments by a member on a line of credit will serve to emphasize, to that member, the continuing debt obligations which arise through use of a line of credit.

LINES OF CREDIT TO MEMBERS, § 701.21–3

Section 107(5) of the amended Act (12 U.S.C.A. 1757(5)) gives Federal credit unions the authority to establish "lines of credit" for their members, other credit unions and credit union organizations. Section 107(5)(D) of the Act provides that the terms and conditions of "self-replenishing lines of credit" may vary among borrowers. The two quoted terms are considered synonymous, since the most common definition of the term "line of credit" includes the concept of self-replenishment.

Section 701.21–3 of these rules implements the line of credit authority for member borrowers. Rules implementing line of credit authority for nonmember borrowers (other credit unions and credit union organizations) will be proposed at a later date.

The method by which funds will be accessed under a line of credit is not addressed or restricted in § 701.21–3. The Administration views the method of access (credit card, loan draft, etc.) as a management decision, within the limitations of the Act and this Part. In this regard, it is expected that many Federal credit unions will convert existing "special loan programs" to lines of credit by eliminating the need for separate approval of each loan advance.

Section 701.21–3(a) defines certain key terms used in the line of credit rules. A "line of credit" is defined, in effect, as any loan plan with a self-replenishment feature. Self-replenishment is the characteristic which distinguishes the new line of credit authority from those lending activities which were authorized for Federal credit unions prior to Public Law 95–22.

Section 701.21–3(a)(2) sets forth a self-explanatory definition of the term "agreement."

Section 701.21–3(b) establishes those items which must be contained in a line of credit agreement. The effects of the specific subsections are largely self-evident, and are either reflective of requirements of the Act, or of provisions which would normally be established in any line of credit agreement. Further explanation of one aspect of this Section is, however, in order. Subsection 701.21–3(b)(4) provides that loans obtained under a line of credit shall be subject to rates of interest

not exceeding 1 per centum per month on the unpaid balance "inclusive of all fees and service charges." This requirement is carried over from section 107(5)(A)(vi) of the Act (12 U.S.C.A. 1757(5)(A)(vi)), which establishes a 1 per centum per month maximum interest, "inclusive of all service charges", for all loans to members. The word "fees" is inserted in the regulatory provision to eliminate any question of distinguishing fees from other service charges.

Section 701.21–3(c) requires that the "loan file" of each member who has been extended a line of credit be reviewed and updated at least once every 36 months, to determine that member's continued creditworthiness. With the introduction of self-replenishment as a feature of Federal credit union loan plans, the opportunity for the credit union to review a member's creditworthiness at the time of application for an advance or for renewal of a nonreplenishable ceiling is eliminated. The "periodic review" requirement of § 701.21–3(c) is intended to provide an ongoing review of each member's creditworthiness, to ensure fair distribution of lending resources among creditworthy members, and to protect the best interests of the credit union.

Section 701.21–3(d) requires that the credit committee or a loan officer rule on any modification (other than termination) of a line of credit agreement. This is consistent with section 114 of the Act, which requires that initial approval of each line of credit application be by the credit committee or a loan officer.

Section 701.21–3(e) is intended to cause the board of directors of each Federal credit union which extends lines of credit to its members to closely monitor the relationship between (1) the credit union's liquidity status, and (2) actual and prospective member activity on line of credit accounts. The section requires that the board of directors conduct a monthly review to this end, with specific consideration of the credit union's liquidity status, existing member balances on line of credit accounts, total approvals (ceilings) on such accounts and member use and payment activity during the previous review period.

LOANS TO OFFICIALS, § 701.21–4

The recent amendments to sections 107(5)(A)(iv) and (v) of the Act (12 U.S.C.A. 1767(5)(A)(iv) and (v)) increased, from $2,500 to $5,000, the aggregate amount of loan(s) which may be made to or endorsed by an official without board of director approval. The House Report states that "[the] Committee is sensitive to any grant of authority which appears to make it easier for 'insiders' to take advantage of funds entrusted to their care." (Page 9.) In accordance with this expression of legislative intent, proposed § 701.21–4 requires that the rate, terms and conditions of a loan to an official shall not be more favorable than the rate, terms and conditions to other credit union members. The proposed rule also clarifies the board of directors' responsibility in approving loans to officials, requires concurrence or nonconcurrence by the credit committee on all officials' applications sent to the board for action, and establishes a computation which will clearly determine which loans must be approved by the board of directors. (Properly authorized executive committees or loan officers may act on loans to officials for the board of directors or credit committee.)

Sections 107(5)(A)(iv) and (v) of the Act, as amended, are unclear as to whether or not the same criteria must be applied to both a loan endorsed by an official and a loan granted to an official when determining whether board of director approval is necesary. However, the legislative history of Pub. L. 95–22 evidences an intent to require that an official's entire liability to the credit union be considered prior to his receiving a loan and/or prior to allowing the official to endorse a loan to another member. In addition to loan liability, the Administration also believes the Act requires that the official's potential liability under a line of credit must be considered in determining which loan applications will be submitted to the board of directors for action.

The following examples show how the computation set forth in § 701.21–4 will be used:

(1) An official applies for a loan of $5,000 and has $1,000 in shares to be pledged on the loan. He is an endorser on a loan to his son which has an outstanding balance of $3,500.

Computation:	
$5,000	Current application
+3,500	Son's loan
8,500	Total liability
−1,000	Pledged shares
7,500	Total
Result:	

The total exceeds $5,000. The application must be acted on by the board of directors after obtaining the concurrence or nonconcurrence by the credit committee or loan officer.

(2) An official intends to cosign a loan for his wife for $3,000. The official currently has a line of credit with a maximum limit of $2,000 with an outstanding balance of $500.

Computation:	
$ 3,000	Current application
+ 500	Official's line of credit balance
+1,500	Official's unused line of credit
5,000	Total
Result:	

The total does not exceed $5,000. The application may be approved or disapproved by the credit committee without action by the board of directors.

INSURED AND GUARANTEED LOANS, § 701.21–5

Neither section 107(5)(A)(iii) of the Federal Credit Union Act, as amended, nor this proposed rule specify which Federal or State insured or guaranteed loan programs may be used by a Federal credit union in providing this type of loan to its members. Because of the vast array of these programs, the decision to participate in such programs is left to the discretion of the board of directors, limited only by a requirement that the credit committee determine that in each such loan the interest of the credit union is adequately protected.

Finally, it is proposed that § 701.25 of the National Credit Union Administration Rules and Regulations (12 CFR 701.25) be deleted because the provisions of such Section, which address loans pursuant to the Higher Education Act of 1965, fall within the scope of proposed § 701.21–5.

Accordingly, it is proposed that 12 CFR Part 701 be amended as follows:

§ 701.21 [Deleted]

(1) Delete § 701.21 and add new sections to read as follows:

§ 701.21–1 Lending policies.

(a) For the purposes of § 701.21: (1) "Security" means an interest in property which has tangible value or any endorsement of a person which will wholly or partially secure a loan obligation.

(2) "Unsecured loan limit" means the maximum amount of funds which may be loaned to any member, including advances under a line of credit, without security.

(3) "Secured loan limit" means the maximum amount of funds which may be loaned to any member, including advances under a line of credit, with security.

(4) "Loan file" means a file maintained by a Federal credit union which includes applications for loans and lines of credit for a specific borrower and other related information concerning the borrower's creditworthiness.

(b) Within the limits of the Act and this Part, the board of directors of a Federal credit union shall establish specific written policies, which shall include at least (1) the secured loan limit and unsecured loan limit, and (2) the classifications established under paragraph (c) of this section, and the rate of interest applying to each classification.

(c) Rates of interest charged on loans (including line of credit balances) may vary according to reasonable classification established by the board of directors. Distinctions among classifications shall be based upon one or more of the following: Type of line of credit or loan plan, purpose of the loan, and type or value of security in relation to the amount of the loan. Within a given classification, the same rate of interest must be applied uniformly to all member borrowers.

(d) Subject to limitations established by the board of directors, the credit committee or loan officer shall consider the following factors in ruling on applications for loans or loan accounts (including lines of credit):

(1) The amount and regularity of receipt of funds which the borrower intends to rely upon for repayment.

(2) The borrower's other commitments and anticipated financial needs over the term of his obligation to the credit union.

(3) Other valid factors of creditworthiness as determined by the credit committee or loan officer.

(4) The best interests of the member and credit union.

(e) The loan files of a Federal credit union shall contain evidence of the financial responsibility of any endorser and the value of any security provided by a borrower.

§ 701.21–2 Amortization and payment of loans to members.

(a) A loan to a member approved by the credit committee or loan officer shall be paid by substantially equal payments of principal at intervals of not greater than 12 months, except that, an approved line of credit agreement shall provide for payments at intervals of not greater than 1 month.

(b) The board of directors may, by resolution: (1) Require that any loan agreement provide for periodic substantially equal payments of principal at intervals shorter than 12 months.

(2) Authorize the following exceptions to the requirements of paragraph (a) of this section:

(i) A loan for the purpose of vocational or higher education of the member/borrower may be made with a maturity of not greater than 12 years and on such terms of payment as the credit committee or loan officer find to be consistent with the needs of the member/borrower and the best interest of the credit union.

(ii) A loan with a maturity of less than 30 months may be repaid by a single payment of principal if the credit committee or loan officer find such terms are justified by the needs and condition of the borrower.

(c) Each loan approved by the credit committee or loan officer shall provide for: (1) Payment of interest with each payment of principal;

(2) Payment of interest not less frequently than annually, and;

(3) Sufficient payment to pay the loan in full at maturity.

§ 701.21–3 Lines of credit to members.

(a) For the purposes of this section: (1) "Line of credit" means a fixed amount which may be drawn upon by a member from time to time and which may be replenished by payment on amounts previously drawn.

(2) "Agreement" means the written document signed by the borrower to establish the terms and conditions of a line of credit.

(b) Each line of credit approved by the credit committee or loan officer shall be evidenced by an agreement which shall provide for at least the following:

(1) The maximum amount of loan outstanding under the agreement.

(2) Maturity within the limits of the Act.

(3) The terms of payment.

(4) Interest at a rate or rates not exceeding 1 per centum per month on the unpaid balance inclusive of all fees and service charges.

(5) The borrower's promise to pay.

(6) A requirement that the borrower advise the credit union of any change in his financial condition which may affect his creditworthiness.

(7) Repayment of any amounts outstanding prior to maturity in whole or in part on any business day without penalty.

(8) Other conditions established by the board of directors necessary to protect the best interests of the credit union and to comply with applicable Federal and State laws and regulations.

(9) That the board of directors may terminate the agreement under the following conditions:

(i) Upon adverse reevaluation of the borrower's creditworthiness.

(ii) At the option of the borrower.

(iii) Upon failure of the borrower to satisfy the terms of the agreement. Termination shall be given by written notice and shall not affect the balance outstanding incurred prior to the notice.

(c) The board of directors shall require a review, at least once every 36 months, of the loan file of each member who has a line of credit. The review shall be completed by obtaining current information to reassess the member's creditworthiness. The date of this review shall be documented in the member's loan file.

(d) Modifications to a line of credit agreement shall require reapplication by the member and approval by the credit committee or loan officer.

(e) Each month the board of directors shall review the credit union's liquidity status in relation to extending loans approved under line of credit agreements and shall document at least the following information as of the previous month end in the board of directors' minutes:

(1) The number and amount of outstanding balances under all line of credit agreements.

(2) The aggregate amount of credit approved under line of credit agreements.

(3) The total amount of loans advanced and the total amount of loans repaid under line of credit agreements for the previous month.

§ 701.21–4 Loans to Officials.

(a) For purposes of this section: (1) "Official" includes a member of the board of directors, credit committee, or supervisory committee.

(2) "Endorser" is the same as guarantor.

(3) "Application" shall include all applications by officials for loans and lines of credit and all applications by members for loans and lines of credit for which officials intend to act as endorsers.

(b) The following computation shall be used to determine which applications must be considered by the board of directors.

(1) Add: (i) The amount of the current application.

(ii) The outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed by the official.

(iii) The total unused portion of approved lines of credit extended to or endorsed by the official.

(2) From the above total subtract: (i) The amount of shares pledged by the official on loans or lines of credit extended to or endorsed by the official.

(ii) The amount of shares to be pledged by the official on the loan or line of credit applied for.

(3) The board of directors shall consider an application if the computation produces a total in excess of $5,000.

(c) The board of directors shall establish a procedure for processing all applications involving officials. This procedure shall include the appointment of an individual responsible for:

(1) Receiving all applications involving officials.

(2) Assuring that the application is completed as to income and debt obligations.

(3) Documenting, on the application, the computation explained in paragraph (b).

(4) Referring the application to the credit committee for concurrence or nonconcurrence if the board of directors must consider the application.

(d) Prior to disbursing a loan or granting a line of credit which must be considered by the board, the following requirements must be met:

(1) The application shall indicate the credit committee's concurrence or nonconcurrence.

(2) The rate, terms and conditions of the approved loan or line of credit shall not be more favorable than the rate, terms and conditions for comparable loans or lines of credit to other credit union members.

(3) The approved loan or line of credit must comply with the requirements of the Act.

(4) An official shall not consider his/her application or one for which he/she is acting as an endorser. Also, an official shall not be present at a meeting while his/her application or one for which he/she is acting as an endorser is being considered.

(5) The application may be approved only if a quorum of the board is present and all present agree to approve the application.

(6) As a minimum, the following information shall be recorded in the board's minutes:

(i) Board's decision on an application.

(ii) Name of applicant.

(iii) Names of board members present at the meeting.

(iv) Name of endorsing official (if applicable).

(v) Board's reason for approving a loan or line of credit if the credit committee did not concur (if applicable).

§ 701.21–5 Insured and guaranteed loans.

(a) A Federal credit union which has been qualified as a lender under a Fed-

eral or State insured or guaranteed loan program may make loans to members under the terms and conditions and within the maturities specified by the laws and regulations governing the program.

(b) Loans or lines of credit approvad under the provisions referenced in paragraph (a) of this section shall be in full compliance with all applicable provisions of such laws and regulations including any requirements to record liens or related collateral. Where a Federal or State insurance or guarantee is accepted as security for a loan or line of credit, the credit committee shall determine that the interest of the credit union is adequately protected and that the borrower's application reflects his/her creditworthiness.

§ 701.25 [Deleted]

(2) Delete § 701.25.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

C. AUSTIN MONTGOMERY,
Administrator.

MAY 24, 1977.

[FR Doc.77-15287 Filed 5-26-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

[15 CFR Part 70]

CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

Proposed Rulemaking

AGENCY: Department of Commerce, Bureau of the Census.

ACTION: Proposed rule.

SUMMARY: It is proposed that cutoff dates for recognition by the Census Bureau of boundaries to be used in the 1980 Decennial Census be promulgated. A cutoff date was promulgated in 1967 applicable to the 1970 Decennial Census providing that only those boundaries legally in effect on January 1, 1970 be recognized. The purpose of Part 70 is to encourage municipalities and other units of government to complete their desired boundary changes sufficiently in advance of the decennial census to allow time for the Bureau of the Census to incorporate the changes into maps, control records, enumerator materials, computer tapes, and so on.

DATES: Comments must be received within 30 days after the date of this publication.

ADDRESSES: Written comments should be addressed to Assistant Director for Demographic Censuses, Bureau of the Census, Washington, D.C. 20233.

FOR FURTHER INFORMATION:

Jacob Silver, Chief Geography Division, Room 3203, FB-4, Washington, D.C. 20233, telephone (301) 763-5636.

SUPPLEMENTARY INFORMATION: This proposal will update 15 CFR Part 70 in preparation for the 1980 Decennial Census. The proposed rule is identical to that promulgated prior to the 1970 Decennial Census except as follows:

1. The dates have been adjusted from 1970 to 1980.

2. A cutoff date is added for receipt of boundary changes submitted to the Bureau. The purpose of the cutoff date is to avoid last minute revisions made necessary by receipt of notice of new annexations and other boundary changes after March 1, 1980. The decennial census date is April 1, 1980. Data will be tabulated on the basis of the boundaries legally existing on January 1, 1980, as officially submitted to the Bureau not later than March 1, 1980; boundary change information reported after that date will necessarily be set aside for post-census processing.

3. The term "municipality" is defined in addition to "county subdivision."

4. Some minor nonsubstantive changes in wording have also been made.

All written views and comments received by the aforementioned date will be considered by the Bureau of the Census and made available to the public for inspection and copying on request.

Proposed 15 CFR Part 70 reads as follows:

PART 70—CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

Sec.

70.1 Cutoff dates and effect on enumeration and data tabulation.
70.2 "Municipality" and "county subdivision" defined for census purposes.
70.3 Effect of boundary changes occurring or reported after the cutoff dates.

AUTHORITY: 13 U.S.C. 4; 32 FR 15154; and Department of Commerce Organization Order 35-2A (40 FR 42765).

§ 70.1 Cutoff dates and effect on enumeration and data tabulation.

For the tabulation and publication of data from the 1980 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries that are legally in effect on January 1, 1980 and have been officially reported to the Bureau no later than March 1, 1980. Respondents will be enumerated on the decennial census date as residing within the legal limits of municipalities, county subdivisions, counties, States, and equivalent areas as those limits exist on January 1, 1980.

§ 70.2 "Municipality" and "county subdivision" defined for census purposes.

For purposes of this part, "municipalities" and "county subdivisions" are defined to include the areas identified by the Bureau of the Census as incorporated places (such as cities and villages) and minor civil divisions (such as townships and magisterial districts). A more complete description appears on pages X and XI of U.S. "Census of Population: 1970", Volume I, Part A.

§ 70.3 Effect of boundary changes occurring or reported after the cutoff dates.

Changes in boundaries that become effective after January 1, 1980 will not be recognized by the Bureau of the Census in taking the 1980 Decennial Census; the residents of any area which is transferred to another jurisdiction after that date will be enumerated in and reported by the 1980 census as residents of the area in which their residences were located on January 1, 1980. Changes occurring on or before January 1, 1980, but not officially submitted to the Bureau of the Census until after March 1, 1980, will not be recognized in the data tabulations prepared for the 1980 census except as necessary by the Bureau for its decennial census operations; only population counts will be reported for such areas.

Dated: May 23, 1977.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc.77-15113 Filed 5-26-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0027]

PERFORMANCE SAILCRAFT, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order which requires a Point-Claire, Quebec, Canada, manufacturer and distributor of fiberglass sailboats and accessories, among other things, to cease entering into or enforcing any form of agreement with its dealers concerning the retail price of its products; restricting territories in which its dealers may advertise or sell its products; and terminating or threatening to terminate dealers who do not follow its pricing and territorial instructions. Further, any future price lists distributed by the firm must note that the prices are suggested or approximate.

DATE: Comments must be received on or before July 25, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Regional Director, Washington, D.C., Regional Office, Federal Trade Commission, 600-C Gilman Building, 2120 L St. NW., Washington, D.C. 20017 (202-254-7700).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and §2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record

for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9 (b) (14)).

[File No. 771 0027]

IN THE MATTER OF PERFORMANCE SAILCRAFT, INC., A CORPORATION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Performance Sailcraft Inc., a corporation, it now appears that Performance Sailcraft, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Performance Sailcraft, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Performance Sailcraft, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the province of Quebec, Canada, with its principal office and place of business at 91 Hymus Boulevard, Pointe-Claire, Quebec, Canada..

2. For purposes of this agreement, proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's counsel at the following address shall constitute service: David J. Cynamon, Covington & Burling, 888 16th Street NW., Washington, D.C. 20006. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered,* That respondent Performance Sailcraft, Inc., and its subsidiaries, divisions, licensees, successors, assigns, officers, directors, agents, representatives, and employees, directly or indirectly, or through any corporate or other device, in connection with the distribution, advertising, offering for sale, or sale of fiberglass sailboats and accessories, or any other products (hereinafter referred to in this order as "said products"), in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from:

A. Establishing, maintaining, or enforcing any contract, agreement, understanding, or arrangement fixing, establishing, maintaining, controlling, influencing, or enforcing in any way or to any extent, directly or indirectly, the price at which any of said products is advertised, sold or offered for sale at retail.

B. Requiring any dealer or prospective dealer to enter into any oral or written agreement or understanding that such dealer or prospective dealer will maintain any resale or retail price for any of said products as a condition of buying any of said products.

C. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer, person, or firm who does not adhere to any resale or retail price for any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer, person or firm so reported.

D. Threatening to terminate or terminating, either directly or indirectly, any dealer for failure to observe, maintain, or advertise respondent's suggested resale prices for said products.

E. Requiring, from any dealer charged with price cutting or failure to adhere to any resale or retail price, a promise or assurance to adhere to any resale or retail price for any of said products as a condition precedent to any future sales to said dealer.

F. Publishing, disseminating, or circulating any price list, price book, price tag, advertising, or promotional material, or other document indicating any resale or retail price without stating on each page (of such list, book, tag, advertising, or promotional material or other document), on which a price appears, that the price is suggested or approximate.

G. Imposing or attempting to impose any limitations or restrictions respecting the territories in which said products may be advertised or sold by its dealers.

H. Attempting to enter into, entering into, continuing, maintaining, or enforcing any contract, combination, understanding, or agreement to limit, allocate, or restrict the territory in which said products may be advertised or sold by its dealers.

I. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer, person, or firm who does not adhere to any territorial restriction in the advertising and sale of any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer, person, or firm so reported.

J. Threatening to terminate or terminating, either directly or indirectly, any dealer for failure to limit or restrict the advertising and sale of said products to a specified territory.

Provided, That none of the provisions herein shall prohibit respondent from designating geographical areas within which a dealer may agree to devote his best efforts to the sale of said products (hereinafter "area of primary responsibility") as a condition of becoming a dealer or maintaining a dealership, provided that such dealers are told that said area is not exclusive and does not place a territorial restriction upon the sale of said products.

Provided further, That none of the provisions herein shall prohibit respondent from terminating dealers for lawful business reasons.

II. *It is further ordered,* That the respondent shall within sixty (60) days after the service upon it of this order, mail a copy of this order to each of its dealers of said products in the United States and, during the five (5) year period of time following the date of service of this order, to all of its future dealers in the United States at the time said dealers are opened as accounts, under cover of the letter annexed hereto as Exhibit A, and furnish the Commission proof of the mailing thereof in the file required to be maintained under Paragraph V herein.

III. *It is further ordered,* That respondent shall forthwith distribute a copy of this order to each of its operating divisions engaged in the manufacture, sale, marketing, and distribution of said products and to all of its sales personnel connected with the sale, marketing, and distribution of said products and shall instruct each sales person employed by it now or in the future to read this order and to be familiar with its provisions.

IV. *It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the order.

V. *It is further ordered,* That the respondent herein, for a period of five (5) years from the date of this signing, establish and maintain a file of all records referring or relating to respondent's refusal to sell said products to any of respondent's dealers, which file shall contain the names and addresses of all dealers with whom respondent has refused to deal since the effective date of the order, a description of the reason for the refusal, the date of the refusal, and a record of a communication to each such dealer explaining respondent's refusal to sell said products, and which file will be made available on reasonable notice for inspection at the Commission's offices in Washington, D.C.

VI. *It is further ordered,* That the respondent herein shall within sixty (60) days after

service upon it of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

EXHIBIT A

(Letterhead of Performance Sailcraft, Inc.)

DEAR DEALER: PSI has entered into an agreement with the Federal Trade Commission relating to our territorial allocation and pricing policies. A copy of the consent order entered into pursuant to that agreement is enclosed herewith.

We have entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement and consent order are not to be construed as an admission that we have violated any of the laws administered by the Commission, or that any of the allegations in the complaint are true and correct. Instead, the order merely relates to our activities in the future.

In order that you may readily understand the terms of the consent order, we have set forth the essentials of the agreement with the Commission, although you must realize that the consent order itself is controlling rather than the following explanation of its provisions:

(1) Our dealers are free to set their own retail or resale prices for the products covered by the consent order.

(2) We will not solicit, invite, or encourage any dealer or any other person to report any dealer not following any retail or resale price for any of said products, and, furthermore, will not act on any such report sent to us.

(3) We will not require or induce our dealers to refrain from advertising said products at any price or from selling or offering said products at any price to any person.

(4) As you know, it is a condition of becoming a dealer or maintaining a dealership that you agree to devote your best sales efforts in your designated geographical territory. However, you are free to advertise and sell any of the products covered by the consent order outside of these designated territories.

Sincerely,

_____,
Officer.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commision has accepted an agreement to a proposed consent order from Performance Sailcraft, Inc., a Canadian sailboat manufacturer, with its principal offices located at 91 Hymus Boulevard, Pointe-Claire, Quebec, Canada.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the proposed consent order alleges that Performance Sailcraft, Inc., regularly furnished its U.S. dealers with retail price lists and required that its products be sold at such prices as a condition of establishing or maintaining a dealership.

Further, the complaint alleges that the company has sought to prohibit its dealers from advertising or selling its products outside of their allocated territories.

Finally, the complaint alleges that the company has encouraged its dealers to report the names of other dealers who do not follow its pricing and territorial instructions.

The proposed order prohibits Performance Sailcraft, Inc., from entering into or enforcing any form of agreement with its dealers and prospective dealers concerning the retail price of its products. Also, the company may not terminate dealers who do not follow its pricing instructions, and any price lists distributed by the company must note that the prices and suggested or approximate.

While recognizing that dealers may be assigned territories in which it is expected that they will devote their best efforts, the proposed order also prohibits the company from entering into or enforcing any agreement which restricts the territories in which its dealers may advertise and sell its products, and prohibits the company from terminating dealers who advertise or sell Performance products outside of their assigned territories.

Further, the order prohibits the company from requiring or encouraging its dealers to report any other dealer not following the company's pricing or territorial instructions, and prohibits the company from acting on any such reports.

Finally, Performance Sailcraft, Inc., is required to send a copy of the order and an explanatory letter to each of its dealers and to maintain a file containing detailed information about any future dealer terminations.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15089 Filed 5-26-77;8:45 am]

[16 CFR Part 13]

[File No. 751 0011]

UNION CARBIDE CORP.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires a N.Y.C. producer of industrial gases and gas welding apparatus, for a 20-year period, to cease using any tying arrangement, or employing any excusive dealing contract that is not for one year or less, or which fails to provide a 90-day or less period for notice of termination. Additionally, the firm is prohibited for a ten-year period from acquiring distributors of industrial gases or gas welding equipment without prior Commission approval, except where any of the prescribed conditions exist. Further, in those instances where prior approval is not required, Union Carbide must furnish the Commission with sufficient data so as to enable it to determine whether such acquisition violates the terms of the order.

DATES: Comments must be received on or before July 29, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Gordon Youngwood, Attorney, Bureau of Competition, Federal Trade Commission, 2120 "L" St. N.W., Washington, D.C. 20580 202-254-6975.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comments is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14).)

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

[File No. 751 0011]

AGREEMENT CONTAINING CONSENT ORDER

UNION CARBIDE CORPORATION

The Federal Trade Commission having initiated an investigation of certain acts and practices of Union Carbide Corporation, a corporation, and it now appearing that Union Carbide Corporation is willing to enter into an agreement with respect to the acts and practices being investigated.

It is hereby agreed by and between Union Carbide Corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Union Carbide Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business at 270 Park Avenue, New York, New York 10017.

2. Proposed respondent admits all the jurisdictional facts set forth in Paragraphs 6 and 18 of the draft of the complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within sixty (60) days after the acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of any of the facts alleged in the draft of complaint attached hereto, beyond the admission in

Paragraph 2 above, or that the law has been violated as alleged in such draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. Proposed respondent agrees that its receipt of mailing of the complaint and decision containing the agreed-to order to its address stated in this agreement constitutes service of same, and respondent waives any right it may have to any other manner of service.

ORDER

For the purpose of this order, the following definitions shall apply:

1. "Industrial Gases" shall mean the following gases: Oxygen, Nitrogen, Argon, Acetylene, Hydrogen and Helium.

2. "Welding Products" shall mean equipment, supplies and consumable items used to fuse or cut metals.

3. "Gas Welding Apparatus" shall mean equipment used to fuse or cut metals by means of heat produced by a gas flame.

4. "Distributor" shall mean a business firm whose primary function in the Industrial Gas and Welding Products business is the purchase of Industrial Gases and Welding Products for the purpose of resale, but shall not include any business firm whose primary function in the resale of Industrial Gases and Welding Products is the distribution of Industrial Gases and Welding Products to entities engaged in the plumbing, heating or air conditioning trade.

5. "Location" shall mean a bona fide sales and distribution facility operated by a Distributor as a receiving or distribution point for Industrial Gases, which facility ordinarily carries an inventory of Industrial Gases and Welding Products and is staffed with a bona fide sales force and operating and/or distribution personnel. Two or more facilities that are staffed by common sales and operating and/or distribution personnel shall be deemed to comprise a single Location.

6. "Requirements" of any Distributor for any Industrial Gas at any Location shall mean such Distributor's total requirements for such Industrial Gas either delivered to such Location or delivered direct by the Distributor to using customers which are generally served by sales or distribution personnel assigned to such Location.

I

It is ordered and directed, That for a period of twenty (20) years from the date of service of this Order, respondent Union Carbide Corporation (hereinafter Union Carbide), its subsidiaries, divisions, affiliates, successors, and assigns, in connection with the distribution, offering for sale, or sale of Industrial Gases or Welding Products to Distributors in which it owns less than a majority interest, shall:

A. Not offer, renew, extend or enter into any contracts or agreements, or enforce directly or indirectly those provisions of any contract or agreement, which require any Distributor:

1. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas unless (a) the initial term of such contract or agreement is one year or less, and (b) such contract or agreement may be terminated by either party effective on any anniversary date upon written notice given some minimum period in advance of such date as set forth in such contract, such minimum period to be not more than ninety (90) days; or

2. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at one or more Locations as a condition to being permitted to purchase from Union Carbide such Industrial Gas at another Location; or

3. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at any Location as a condition to being permitted to purchase from Union Carbide any other Industrial Gas at the same or any other Location; or

4. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at any Location as a condition to being permitted to purchase from Union Carbide any Welding Products.

B. Not refuse to sell, subject to paragraph A1 above, Industrial Gases or Welding Products to a Union Carbide Distributor because that Distributors refuses (1) to purchase all or a designated part of its requirements of Industrial Gases from Union Carbide; or (2) to purchase from Union Carbide all or any part of its requirements of Industrial Gases at more than one of its Locations.

II

It is further ordered, That for a period of twenty (20) years from the date of service of this order, Union Carbide shall not, either directly or indirectly through subsidiaries in which Union Carbide owns a majority interest, (i) lease or otherwise make available to customers of any Distributor who has ceased purchasing one or more Union Carbide Industrial Gases within the preceding two years, Industrial Gas cylinders at rental or demurrage rates set for the purpose of destroying a competitor or eliminating competition, or (ii) lease or otherwise make available to competitors of any Distributor who has ceased purchasing one or more Union Carbide Industrial Gases within the preceding two years, Industrial Gas cylinders at rental or demurrage rates lower than the standard rental or demurrage rate for such cylinders then in effect for Union Carbide Industrial Gas Distributors, for the purpose of destroying a competitor or eliminating competition; *provided, however,* That if either a standard cylinder rental rate schedule to Union Carbide Industrial Gas Distributors or a standard cylinder demurrage rate schedule to such Distributors, but not both, is in effect, then, for the purpose of this Part II, one shall be deemed to be equivalent to the other on the basis of the revenue that would be generated by a single cylinder during a two-month period of continuous usage, rounded to the nearest cent: *And provided, further,* That for the purpose of this Part II, a standard cylinder rental or demurrage rate shall be a rate which is available to all Union Carbide Industrial Gas Distributors: *And provided, further,* That the purpose of destroying a competitor or eliminating competition must be established by proof of intent on the part of Union Carbide to destroy the Industrial Gas business of, or eliminate as a competitor, a Distributor who has ceased to distribute one or more Union Carbide Industrial Gases; and evidence that Union Carbide has engaged in price competition with such Distributor or that Union Carbide intends to seek or obtain the trade of particular customers then being served by such Distributor shall not, by itself, be sufficient to establish such intent: *And provided, further,* That Union Carbide may set rental or demurrage rates for customers or competitors of such Distributor lower than those in effect for Union Carbide Industrial Gas Distributors in good faith response to competitive conditions in the area served by such Distributor; *And provided still further,* That Union Carbide shall have all defenses which would be available in law, including, but not limited to, the defenses of meeting competition and cost justification.

III

A. *It is further ordered,* That for a period of ten (10) years from the date of service of this order, Union Carbide shall not without prior approval of the Commission, except as otherwise provided in paragraph B of this Part III, acquire, directly or indirectly, the whole or any part of the asset, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases and/or Gas Welding Apparatus.

B. No prior approval shall be required under this Order for any acquisition by Union Carbide of any assets, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases or Gas Welding Apparatus if such acquisition meets any of the following standards:

1. The acquisition involves only a change in the equity interest of Union Carbide in a Distributor in which Union Carbide already holds an equity interest; or

2. Except to the extent such acquisition is covered by clause 3 of this paragraph B, the consummation of the acquisition does not result in Union Carbide owning an equity interest, obtained by acquisition, in Distributors to whom in the calendar year prior to the calendar year in which such acquisition is consummated, Union Carbide sold in excess of 16 percent of its total sales of Industrial Gases or 16 percent of its total sales of Gas Welding Apparatus sold in such year to all acquired and independent Distributors; *Provided, however,* That no acquisition of a Distributor shall be exempt from prior approval under this clause 2 unless the Distributor to be acquired purchased from Union Carbide more than 50 percent of its total purchases of industrial gases in the calendar year prior to the calendar year in which such acquisition is consummated; or

3. The acquisition is not covered by clause 2 of this paragraph B, but within twelve (12) months prior to the consummation of such acquisition Union Carbide has divested absolutely and in good faith by sale or spin-off its equity interests in one or more Distributors the aggregate dollar value of whose purchases of Industrial Gases and Gas Welding Apparatus, respectively, in the calendar year in which such acquisition is consummated was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases and Gas Welding Apparatus, respectively, in such prior calendar year, by the Distributor so acquired; *Provided, however,* That, to the extent that any purchases by a divested Distributor are utilized by Union Carbide in a determination that an acquisition falls

within the provisions of clause 2 or 3 of this paragraph B, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of this clause 3; or

4. The transaction involves only (a) the purchase of products from a Distributor in the normal course of business, or (b) the purchase of fixed assets from an independent Distributor in a transaction in which the Distributor will continue thereafter to carry on its function as an independent Distributor in which Union Carbide has no equity interest; or

5. But for the acquisition by Union Carbide, the Distributor would have ceased business operations as an Industrial Gas distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

C. During the period that this Part III is in effect, Union Carbide shall advise the Commission, prior to consummation thereof, of each acquisition of the type described in paragraph A of this Part III as to which prior approval is not required because of the provisions of paragraph B2 or B3 of this Part III.

D. During the period that this Part III is in effect, Union Carbide shall, within ninety (90) days from the date of each acquisition described in paragraph B5 of this Part III, provide information sufficient for the Commission to determine whether, but for the acquisition by Union Carbide, the Distributor would have ceased business operations as an Industrial Gas Distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

IV

It is further ordered, That if, during the ten (10) year period beginnnig on the date of service of this Order, any Distributor of Industrial Gases and/or Gas Welding Apparatus in which Union Carbide holds an equity interest acquires, without the prior approval of the Commission to the extent such approval would be required under Part III of this Order if such acquisition were made directly or indirectly by Union Carbide, the whole or any part of the assets, stock, or share capital of, or other equity interest in, any Distributor of Industrial Gases and/or Gas Welding Apparatus, then Union Carbide shall within six (6) months thereafter divest absolutely and in good faith by sale or spinoff its equity interests in one or more Distributors, the aggregate dollar value of whose purchases of Industrial Gases and Gas Welding Apparatus, respectively, in the prior calendar year was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases and Gas Welding Apparatus, respectively, in such prior calendar year by the Distributor so acquired; *Provided, however,* That to the extent that any purchases by a divested Distributor are utilized by Union Carbide in determining compliance with the divestiture provisions of this Part IV, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of Paragraph III B3 of this order.

V

It is further ordered: A. That if the Commission does not seek against Airco, Inc., an order to cease and desist from engaging in practices set forth in paragraph 10 of the complaint here attached, similar to that provided in Parts I and II of this order, in a complaint arising out of the investigation conducted under FTC File No. 751 0010 and issued not later than one year from the effective date of this order, then Parts I and II of this order shall be of no further force and effect after such anniversary date.

B. That if the Commission issues on or before the first anniversary of the effective date of this order a complaint against Airco, Inc., arising out of the investigation conducted under FTC File No. 751 0010 and at any time after issuance such complaint is dismissed on the motion of, or without objection by, the Commission staff, then Parts I and II of this order shall be of no further force and effect after the effective date of such dismissal,

C. That if a consent order is entered against Airco, Inc. in settlement of a proceeding arising out of the investigation conducted under FTC File No. 751 0010 which contains any provisions that differ from any provisions of Part I or II of this order, then Union Carbide may apply to the Commission for modification of, or relief from, any such different provisions in this order, and upon such application the Commission shall grant such modification or relief in the provisions covered by such application as are necessary to conform such provisions in this order with the corresponding provisions of such Airco, Inc., consent order.

VI

It is further ordered, That Union Carbide shall within twenty-one (21) days after service upon it of this order forward a copy of this order and the Complaint issued herein along with a copy of the attached letter (Attachment A) on respondent's official company stationery and signed by a responsible official of Union Carbide to Distributors of Union Carbide Industrial Gases and/or Gas Welding Apparatus.

VII

It is further ordered, That Union Carbide notify the Commission at least thirty (30) days prior to any proposed changes in corporate structure of Union Carbide such as dissolution, assignment or sale resulting in the emergence of a successor corporation, which may affect compliance obligations arising out of the order.

VIII

It is further ordered, That Union Carbide shall within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner in which it has complied with this order, and shall file such other reports as may from time to time be required to assure compliance with the terms and conditions of this order.

UNION CARBIDE CORPORATION

FILE NO. 751 0011 ANALYSIS OF PROVISIONALLY ACCEPTED CONSENT ORDER

Paragraph IA of the order prohibits Union Carbide, for a period of twenty years, from entering into any agreement or enforcing any provision of any agreement that requires a distributor of acetylene, argon, helium, hydrogen, nitrogen, and oxygen (hereinafter called industrial gases) to purchase from Union Carbide all or any part of its requirements of industrial gases unless the initial term of such contract is one year or less and the minimum period for termination is not more than ninety days. It also restrains Union Carbide from requiring a distributor to purchase at any one or more locations all or any part of its requirements of any industrial gas a condition to purchasing welding products or any other industrial gas at the same or any other location.

Paragraph IB prohibits Union Carbide, for a period of twenty years, from refusing to sell industrial gases or welding products to a Union Carbide distributor because the distributor refuses to purchase from Union Carbide all or a designated part of its requirements of industrial gases at any one or more locations.

Paragraph II of the order prohibits Union Carbide, for a period of twenty years, from making available industrial gas cylinders to customers of any distributor who has ceased purchasing one or more industrial gases from Union Carbide within the preceding two years at rates set for the purpose of destroying a competitor or eliminating competition. It also prohibits Union Carbide from leasing industrial gas cylinders to competitors of such a distributor at rates set for the purpose of destroying a competitor or eliminating competition.

Paragraph III bans, for a period of ten years, any acquisition of a Union Carbide distributor of industrial gas or gas welding apparatus without prior approval from the Commission unless (1) the acquisition is merely an increase in Union Carbide's equity interest in a distributor; (2) the acquisition of a distributor buying more than 50 percent of his industrial gases from Union Carbide does not result in Union Carbide having acquired an equity interest in distributors accounting in the year prior to acquisition for more than 16 percent of Union Carbide's total sales of industrial gases or gas welding apparatus to all distributors; (3) within 12 months prior to an acquisition not covered by subparagraph 2 above, Union Carbide has sold its interest in one or more distributors, the aggregate dollar value of whose purchases of industrial gases and gas welding apparatus, respectively, is no less than the respective purchases of the distributor acquired; (4) the acquisition is merely a purchase of products in the normal course of business or is a purchase of fixed assets from an independent distributor that continues to operate as an independent distributor; (5) the acquisition is of a distributor which, but for the acquisition, would have ceased to operate as an industrial gas distributor as a result of its financial condition or of the death or physical or mental incapacity of essential management personnel.

Paragraph IIIC requires Union Carbide to notify the Commission in advance of each acquisition for which prior approval is not required under subparagraphs (2) and (3) above. Paragraph IIID directs Union Carbide to provide within 90 days from the date of acquisition information sufficient for the Commission to determine whether an acquisition purportedly made under the provisions of subparagraph (5) above violates the terms in the order.

Paragraph IV of the Order provides that if any distributor in which Union Carbide has an equity interest acquires a distributor which could not have been acquired by Union Carbide without prior approval of the Commission, Union Carbide shall within six months sell its interest in one or more distributors whose purchases of industrial gases and gas welding apparatus respectively are not less than the aggregate industrial gases and gas welding apparatus purchases respectively of the acquired distributor.

Paragraph V provides that Parts I and II of the Order will be of no further force and effect if (1) the Commission does not seek within one year relief against Airco similar to that set forth in Parts I and II of the Order or (2) the Commission issues a complaint against Airco which is subsequently dismissed on the motion of or without objection by the Commission staff. In addition, Union Carbide may apply to the Commission to conform this order to any agreement entered in settlement of the Airco complaint.

Paragraphs VI, VII, and VIII are standard to Commission orders. Paragraph VI requires that a letter be sent to all of Union Carbide's industrial gas and welding products distributors forwarding a copy of the order and complaint issued in this matter. Paragraph VII requires Union Carbide to notify the Commission thirty days prior to any proposed change in corporate structure which may affect Union Carbide's compliance obligations. Paragraph VIII requires a written report within sixty days demonstrating the manner in which Union Carbide has complied with the terms of the order and such other compliance reports as are required to assure compliance with its terms.

The order furthers competition among industrial gas suppliers by providing them with the opportunity to sell any one or more industrial gases to a substantial group of purchasers for whose requirements there had been virtually no competition. The increased competition brought about from this order is expected to result in lower prices to distributors and consumers of industrial gas. In addition, by preventing the purchase of further industrial gas and gas welding apparatus distributors, the agreement ensures that important sources of distribution of these products are not foreclosed to other industrial gas suppliers.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc\77-15204 Filed 5-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231, 241]

[Release Nos. 33-5827, 34-13552, 35-20032; File No. S7-696]

DEVELOPMENT OF GUIDELINES FOR DISCLOSURE BY ELECTRIC AND GAS UTILITY COMPANIES

AGENCY: Securities and Exchange Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Securities and Exchange Commission announces its intention to develop guidelines for the disclosure to be included in registration statements and reports filed by electric and gas utility companies under the federal securities regulations. The Commission anticipates that these guidelines should improve the usefulness to investors of the various documents prepared under the securities regulations by specifying the types of data which such documents should disclose. Interested persons are invited to participate in the formulation of the guidelines by submitting comments and suggestions.

DATES: Comments must be received on or before August 1, 1977.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comments should refer to file No. S7-696 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Linda Griggs, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202/755-1750).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it has authorized the staff of its Division of Corporation Finance to develop guidelines for the disclosure to be included in registration statements and reports filed by electric and gas utility companies pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). Such guidelines would not constitute Commission rules nor would they bear the Commission's official approval; they would represent policies and practices followed by the Division in administering the disclosure requirements of the federal securities laws.

The decision to formulate these guidelines represents another step in the Commission's undertaking to implement a recent recommendation made by the Advisory Committee on Corporate Disclosure. At its October meeting, the Advisory Committee recommended that the Commission develop on a limited experimental basis disclosure guides for specific industries in order to encourage uniform textual and financial statement disclosure of material items which are unique to a particular industry. In response to this recommendation, the Commission has recently requested comments and suggestions from interested persons on the development of disclosure guidelines for railroads in Securities Act Release No. 5824 (April 28, 1977) (42 FR 24069).

The electric and gas utility industry has been selected as one of the industries for which disclosure guidelines will be developed. The high demand of the industry for capital to defray escalating costs and the unavailability to this heavily regulated industry of current pricing adjustments for carrying through to customers increased expenses necessitate frequent reliance upon the public equity and debt markets. In addition, the availability of energy to meet the ever-increasing needs of users is a primary concern of gas and electric utilities. The capital and energy needs of utilities and industry practices have increased the need for more meaningful and uniform disclosure relating to electric and gas utility companies.

The proposed guidelines are intended to provide registrants with a convenient reference to the disclosure sought by the staff of the Securities and Exchange Commission in documents filed under the federal securities regulations. Their format will be analogous to that of the disclosure guidelines previously developed for bank holding companies,[1] real estate limited partnerships,[2] and oil and gas drilling programs.[3]

Consistent with the recommendation of the Advisory Committee, the Commission hereby invites interested persons to participate in the formulation of these guidelines by submitting comments and suggestions as to the scope and substance of the guidelines. Users and preparers of information relating to electric and gas utility companies are particularly requested to assist in the development of meaningful guidelines by recommending areas of disclosure appropriate to uniform presentation by electric and gas utility companies and by considering any difficult disclosure problems with respect to both accounting and non-accounting matters.

Commentators are asked to consider guidelines with respect to disclosure of the following matters, among others:

(1) Construction programs, including nuclear power construction projects—estimated and actual expenses and performance schedules associated therewith, financing arrangements for long term capital programs and a definition and an explanation of the effect of the allowance for funds used in construction;

(2) Statistical data on utility rates—schedules for different classes of market segments and rate structure analysis by specific jurisdictions;

(3) Sources of fuel supplies used or distributed—the impact on utilities of fuel supply mix, environmental requirements, fuel conversion programs and regulatory actions affecting the fuel adjustment clause(s);

(4) Revenue growth—contribution of volume and rate changes;

(5) Relationship with suppliers—loans and guarantees on loans made to suppliers;

(6) Asset valuation—consequences of underdepreciation and obsolescence of the physical plants and related salvage values; and

(7) Form and content of line of business or industry segment (electric or gas) reporting, including volume, dollar sales and operating profit.

Comments are also specifically invited as to whether disclosure should be required of both dollar and volume sales, where appropriate, of each class of similar products or services within a line of business or segment of a company's business if the total sales of such class of products or services comprises a certain percentage (i.e. 5 to 10 percent) of consolidated sales in the previous fiscal year.[4]

[1] Securities Act Release No. 5735 (August 31, 1976), (41 FR 39007).

[2] Securities Act Release No. 5692 and Securities Exchange Act Release No. 12224 (March 30, 1976), (41 FR 17374).

[3] Securities Act Release No. 5036 (Jan. 19, 1970), (35 FR 1233).

[4] The Advisory Committee recommended that in developing the industry guides the Commission give consideration to (a) requiring, as necessary, disclosure of both dollar sales and, where appropriate, volume of each material class of similar products or services within a segment and (b) developing on an industry basis the most effective breakdown for displaying such sales information. Minutes of the Sixth Meeting of the Securities and Exchange Commission Advisory Committee on Corporate Disclosure on February 7 and 8, 1977.

In addition, suggestions are requested on the most effective product line breakdown for displaying such sales information.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 19, 1977.

[FR Doc.77-15261 Filed 5-26-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 655]

TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE

Location of Public Hearing

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice changing public hearing location.

SUMMARY: The purpose of this notice is to inform the public that the public hearing on the Department's proposed regulations governing the temporary employment of aliens in agriculture, scheduled for Springfield, Massachusetts, on June 8 and 9, 1977, has been moved to a new location.

DATES: June 8 and 9, 1977.

ADDRESS: The hearing will be held at: Old Federal Building and Court House, 3rd Floor Court Room, 436 Dwight Street, Springfield, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. William E. Daly, United States Employment Service, (Attn. TET), Employment and Training Administration, U.S. Department of Labor, 601 D Street N.W., Washington, D.C. 20213. Tel.: 202-376-6297.

SUPPLEMENTARY INFORMATION: The purpose of the public hearing will be to allow the public to comment and testify on the Department of Labor's proposed regulations on the labor certification process for the use of temporary foreign labor in the United States in agricultural employment (including logging and sheepherding). The proposed regulations were published in the FEDERAL REGISTER on January 25, 1977 at 42 FR 4670. For further information regarding the public hearings, see the FEDERAL REGISTER notices of April 19, 1977 at 42 FR 20312 and May 3, 1977 at 42 FR 22378. The notice of May 3, 1977 stated that the Springfield, Mass. hearing would be held at the Holiday Inn. This notice, as set forth above, changes the location of the Springfield, Mass. hearing.

Signed at Washington, D.C., this 20th day of May 1977.

WILLIAM B. LEWIS,
Administrator, United States Employment Service.

[FR Doc.77-15272 Filed 5-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 101]

[Docket No. 77N-0067]

FOODS THAT ARE NOT MEANINGFUL SOURCES OF NUTRIENTS

Withdrawal of Proposal and Termination of Rule Making Procedure; Establishment of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Termination of proposal.

SUMMARY: The Commissioner of Food and Drugs withdraws a proposal to exempt from certain requirements of nutritional labeling, foods that are not meaningful sources of nutrients. Comments indicate that the abbreviated format is unsatisfactory to consumers and manufacturers. This document also sets an effective date for labeling compliance.

EFFECTIVE DATE: July 1, 1979 for all products initially introduced into interstate commerce on or after this date.

FOR FURTHER INFORMATION CONTACT:

Howard Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION: The Commissioner issued a proposal in the FEDERAL REGISTER of March 6, 1974 (39 FR 8621) to amend § 1.17 (21 CFR 1.17) by adding new paragraphs (h) (11) and (12). Section 1.17 was recodified as § 101.9 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302); hereafter it will be referred to as its new designation, § 101.9. Proposed paragraph (h) (11) would have exempted from the full nutrition labeling format, foods that provide per serving (portion) less than 2 percent of the U.S. Recommended Daily Allowances (U.S. RDA) of protein, vitamins, and minerals and foods that provide less than 25 calories. Proposed paragraph (h) (12) would have similarly exempted foods that provide calories derived from only a single component, i.e., from protein, carbohydrate, fat, or any other safe and suitable compound not classified as one of these, e.g., alcohol, and foods that provide less than 2 percent of the U.S. RDA per serving of vitamins and minerals. These proposed exemptions would have allowed for a shortened listing of nutrients not present in any amount or present at less than 2 percent of the U.S. RDA.

The Commissioner, after reviewing petitions submitted by General Foods Corp., National Soft Drink Association, National Coffee Association, and Borden, Inc., determined that the petitions were all similar in that they referred to products that either have a very low calorie content or are composed of one component that provides calories and no vitamins or minerals. Therefore, he issued on his own initiative a proposal for a modified statement for use in a limited number of situations.

Thirty-two comments were received. Four comments specifically supported the proposal. One comment endorsed the proposal in principle, but not the proposal itself. One comment expressed neither endorsement nor opposition, but requested clarification. Twenty-six comments opposed the proposal.

The Commissioner has considered each of the comments and has decided to withdraw the proposal and terminate the rule making on the proposed amendment to § 101.9 for the following reasons:

1. Three of the four original petitioners said that the proposal was not responsive to their respective petitions.

General Foods said that a simple declarative sentence, "Not a meaningful source of nutrients," together with a statement of the number of calories in a specified serving, should be the only labeling required. The National Coffee Association contended that any nutritional labeling for coffee would significantly contribute to consumer misunderstanding. Consequently, the association urged a further revision of § 101.9(h) (12) as follows:

> Coffee products, containing only pure coffee as an ingredient, may use the following statement in lieu of the labeling requirements in this section: This product is not a meaningful source of calories or nutrients.

The National Soft Drink Association said that the proposal would discourage, rather than encourage, nutritional labeling. It maintained that its proposal was less confusing than that offered by the Commissioner because compliance with appropriate sections in Part 125 (21 CFR Part 125, recodified under Part 105 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) followed by a declaration that the product "Contains no vitamins, proteins or minerals" is more meaningful to the consumer and provides for ready identification of nutritional value, or the lack thereof.

The Commissioner stated in the preamble to the proposal that "It is important, even where no vitamins, minerals or protein are present in the product that consumers have a statement of the actual caloric content." The Commissioner also indicated that retention of the standardized format is necessary to provide a uniform method of presenting nutrition information to the consumer at the point of purchase. Thus the Commissioner feels that the alternatives suggested in these comments do not provide sufficient information for consumers to readily identify the nutritional value of the product. The comments do suggest that the abbreviated format proposed offers little advantage over the full format. The Commissioner concludes that under these circumstances the consumer is best served by adherence to the standard format.

2. Nine other comments—from manufacturers and trade associations—op-

posed the proposal. Some comments objected to the requirement that products must contain less than 2 percent of the U.S. RDA per serving of all vitamins and minerals listed in § 101.9(c)(7)(iv) to be exempted from full nutrition labeling by proposed paragraph (h)(11). They urged a more flexible approach—for example, for products that contain more than 2 percent of the U.S. RDA per serving for one or two vitamins, a simply declared exception could suffice, for example, "Contains less than 2% of the U.S. RDA of vitamins and minerals, except for niacin, 6% of the U.S. RDA." Other comments, preferring a simple label such as "Not a meaningful source of nutrients" without any further elaboration, regarded the proposal as too detailed and restrictive, and contended that consumers would be confused with excessive labeling and that manufacturing costs would increase. The remaining comments requested format changes designed to suit a particular product. All of these latter comments sought authority to provide positive nutrition information in broad and simple terms without providing any negative information.

The Commissioner advises that in cases where foods contain less than 2 percent of the U.S. RDA per serving of five or more of the eight nutrients specified in § 101.9(c)(7)(iii), the manufacturer may choose the alternative form of declaration provided for in § 101.9(c)(7)(i). The Commissioner has concluded that when specific nutrients are declared, both positive and negative nutrition information must be provided to the consumer. Furthermore, it is the Commissioner's conclusion that publishing exceptions tailored to certain food categories, as suggested in the comments, would result in a proliferation in the number of ways vitamin and mineral content may be declared. This would only confuse the consumer and would not be consistent with a policy of uniform nutrition labeling, a concept vital to § 101.9.

3. The remaining 14 comments opposing the proposal came from consumers. The majority of these comments objected to any alteration in the nutrition labeling format and to any "watering down" of nutrition labeling. Several comments supported the position that negative information would inform, not confuse, the consumer. One comment opposed any labeling changes made only because the source of the calories is obtained from a single component, namely, carbohydrate, protein, or fat.

The Commissioner recognizes that most of the foods involved in the proposed exemptions are not used by consumers primarily for nutritional purposes. But some manufacturers and associations said that some nutrition labeling for these products is desirable. The Commissioner, in issuing his proposal, intended to explore the value of establishing an abbreviated nutrition labeling format that might be useful to the industry and still provide enough nutrition information to the consumer so as to be consistent with the general principles enunciated by the Commissioner in promulgating § 101.9. The Commissioner's principal reason for proposing the abbreviated nutrition labeling format was the hope that it might encourage the use of nutrition labeling. The comments have indicated that the abbreviated format is not satisfactory to either manufacturers or consumers.

The Commissioner, after considering all the comments, now believes that the proposal will not serve its intended purpose and that consumers will best be served by retaining the full nutrition labeling format under § 101.9. The Commissioner is therefore withdrawing the proposal, published in the FEDERAL REGISTER of March 6, 1974 (39 FR 8621), and terminating the rule making procedure regarding nutrition labeling for foods which are not meaningful sources of nutrients.

EFFECTIVE DATES

In the FEDERAL REGISTER of October 10, 1974 (39 FR 36501), products subject to this proposed rule making were granted an extension from the December 31, 1974 uniform effective date for labeling regulations. The October 10, 1974 notice further provided that the final regulation ruling upon the March 6, 1974 proposal would establish new effective dates for compliance for products subject to the proposal. Since this document terminates that proposed rule making, a new effective date must be established for those products subject to the March 6, 1974 proposal (39 FR 8621).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 CFR U.S.C. 321, 343, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner provides that all labeling for products subject to the March 6, 1974 proposal (39 FR 8621) may be changed to comply with § 101.9 and all other applicable regulations covered by the uniform effective date notice published in the FEDERAL REGISTER of October 10, 1974 (39 FR 36501) beginning May 27, 1977. All labeling for these products initially introduced into interstate commerce on or after July 1, 1979 shall comply with § 101.9 and all other applicable regulations.

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-14806 Filed 5-26-77;8:45 am]

[21 CFR Part 201]

[Docket No. 77N-0102]

THYROID, DIGITALIS, AND RELATED DRUGS FOR HUMAN USE

Proposed Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require that the physician labeling for thyroid, digitalis, and related drugs include a boxed warning against the use of those drugs in the treatment of obesity. These drugs were formerly promoted and advertised for, and continue to be used in, the treatment of obesity, but the safety and effectiveness of that use has never been established.

DATES: Comments by July 26, 1977. Proposed effective date—60 days after date of publication of a final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-5220).

SUPPLEMENTARY INFORMATION: Drugs with thyroid hormone activity together with digitalis and related drugs have formerly been promoted for, and continue to be used in, the treatment of obesity, although their safety and effectiveness for such use have never been demonstrated. In 1968, the Food and Drug Administration (FDA) seized a number of thyroid-digitalis combination drug products recommended for the treatment of obesity, alleging that they were misbranded under section 502 (a), (f)(1), and (j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (a), (f)(1), and (j)) or, in some cases, that they were new drugs marketed without the approved new drug applications (NDA's) required under section 505 of the act (21 U.S.C. 355). In addition, in the FEDERAL REGISTER of April 11, 1968 (33 FR 5616), FDA published a statement of policy in § 250.11 (21 CFR 250.11) stating that: (1) Combinations of thyroid or other thyrogenic drugs with central nervous system stimulants are regarded as misbranded when offered for the treatment of obesity not related to hypothyroidism, and (2) such combinations, when offered for the treatment of obesity related to hypothyroidism, are new drugs within the meaning of section 201 (p) of the act (21 U.S.C. 321(p)), requiring approval of an NDA prior to marketing. As a result of these actions, the marketing of these combination drug products for use in obesity was discontinued.

Despite FDA's removal from the market of combination drugs containing thyroid and digitalis, and thyroid and central nervous system stimulants, and the halting of overt promotion of thyroid and digitalis for use in the treatment of obesity, the Commissioner of Food and Drugs is concerned that some practitioners continue to dispense or prescribe the individual drugs for the treatment of obesity, and that this use of these drug products may produce serious or even life-threatening manifestations of toxicity.

Accordingly, he proposes that labeling for drugs with thyroid hormone activity (e.g., dessicated thyroid, liotrix, sodium dextrothyroxine sodium levothyroxine, sodium liothyronine and thyroglobulin) and digitalis and other related cardiotonic preparations (*e.g.*, acetyldigitoxin, digoxin, gitalin, and lanatoside C) be required to bear a boxed warning against their use in the treatment of obesity.

Under § 201.100(c)(2) (21 CFR 201.100(c)(2)) and § 201.160 (21 CFR 201.160), certain digitalis and thyroid drug products may omit from their dispensing packages the "full disclosure" labeling required by § 201.100(c)(1). Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is revoking the exemption for digitalis and is also proposing to revoke the exemption for thyroid. The Commissioner concludes, however, that the boxed warning for thyroid need not await the publication of a final regulation revoking § 201.160.

The Commissioner has also proposed regulations, published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392), revising the format for prescription drug labeling. In that document the Commissioner proposed that a specific warning relating to a use not provided for under the "Indications and Usage" section of the labeling might be required by FDA if a drug is commonly prescribed for a disease or condition, there is lack of substantial evidence of effectiveness for that disease or condition, and such usage is associated with serious risk or hazard. The boxed warnings for digitalis and thyroid drug products that are proposed in this document are the kinds of warnings at which the April 7, 1975 proposal was directed. Although the Commissioner expects to issue a final regulation on the 1975 proposal in the near future, he concludes that the boxed warnings proposed here should not be delayed until such final regulation is effective.

The Commissioner proposes that a final regulation published under this proposal be effective 60 days after its date of publication in the FEDERAL REGISTER. All drug products that are subject to this regulation, packaged on or after that date without labeling containing the boxed warnings against the use of these drugs in the treatment of obesity, would be misbranded.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 201 as follows:

1. By adding a new § 201.316, to read as follows:

§ 201.316 Drugs with thyroid hormone activity for human use; required warning.

(a) Drugs with thyroid hormone activity have been promoted for, and continue to be dispensed and prescribed for, use in the treatment of obesity, although their safety and effectiveness for that use have never been established.

(b) Drugs for human use with thyroid hormone activity are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following boxed warning at the beginning of the warnings section:

Drugs with thyroid hormone activity, alone or together with other therapeutic agents, have been promoted for the treatment of obesity. In euthyroid patients, doses within the range of daily hormonal requirements are ineffective for weight reduction. Larger doses may produce serious or even life-threatening manifestations of toxicity, particularly when given in association with sympathomimetic amines such as those used for their anorectic effects.

2. By adding a new § 201.317, to read as follows:

§ 201.317 Digitalis and related cardiotonic drugs for human use; required warning.

(a) Digitalis and related cardiotonic drugs have been promoted for, and continue to be dispensed and prescribed for, use in the treatment of obesity, although their safety and effectiveness for that use have never been established.

(b) Digitalis and related cardiotonic drugs for human use are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following boxed warning at the beginning of the warnings section:

Digitalis alone or with other drugs has been promoted for use in the treatment of obesity. This use of digoxin or other digitalis glycosides is unwarranted. Moreover, since they may cause potentially fatal arrhythmias or other adverse effects, the use of these drugs in the treatment of obesity is dangerous.

Interested persons may, on or before July 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–15090 Filed 5–26–77;8:45 am]

[21 CFR Part 201]

[Docket No. 77N–0104]

DRUGS; INFORMATION COMMONLY KNOWN

Revocation of Labeling Exemption

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would revoke the provision in the drug labeling regulations that permits the "full disclosure" labeling to be omitted from the dispensing package of certain prescription drugs for which directions, hazards, warnings, and use information are commonly known to physicians. This proposal would also revoke the regulation that lists those drugs for which the Commissioner of Food and Drugs has offered an opinion that the use information is commonly known. The Food and Drug Administration is taking this action because the agency's experience with these regulations has demonstrated that "full disclosure" labeling is necessary for the safe and effective use of prescription drugs.

DATES: Comments by July 26, 1977. Proposed effective date—180 days after date of publication of a final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–5220).

SUPPLEMENTARY INFORMATION: Section 201.100(c)(1) (21 CFR 201.100(c)(1)) requires that labeling on or within the package from which a prescription drug is to be dispensed bear adequate information for the safe and effective use of the drug by physicians. Section 201.100(c)(2) provides that such information may be omitted from the dispensing package of drugs for which directions, hazards, warnings, and use information are commonly known to physicians. The Commissioner of Food and Drugs has, upon written request, offered opinions that such information may be omitted from the dispensing package for the drugs listed in § 201.160(b) (21 CFR 201.160(b)).

The Commissioner last offered an opinion exempting a drug from the labeling requirements of § 201.100(c)(1) in an amendment to § 201.160 published in the FEDERAL REGISTER of June 8, 1962 (27 FR 5428), prior to enactment of the Drug Amendments of 1962. The experience of FDA over the last 15 years has demonstrated that drugs once thought to be safe and effective for a particular indi-

cation may later be found to be ineffective or present a greater risk than originally believed. Moreover, it is not uncommon for new information about drugs long used by physicians to become available which causes the directions, hazards, and warnings to require modification. Accordingly, the Commissioner concludes that current "full disclosure" labeling should be provided for all prescription drugs so that physicians have the information they need to use drugs safely and effectively.

The Commissioner has already taken certain steps in this direction. In the FEDERAL REGISTER of January 24, 1975 (40 FR 3783), he proposed to delete from the list in § 201.160(b) those drugs that have been the subject of Drug Efficacy Study Implementation (DESI) notices setting forth the conclusions of FDA on their effectiveness. An exemption for those drugs from the "full disclosure" labeling requirement on the ground that physicians had adequate information about their use was no longer appropriate. Accordingly, in the January 24, 1975, notice, the Commissioner concluded that exemptions from drug labeling requirements previously offered under §§ 201.100 (c) (2) and 201.160 should be revoked insofar as they applied to a drug that was the subject of a DESI notice. The FDA study of the effectiveness of new drugs approved prior to October 10, 1962, on the basis of safety found that many drugs whose claims were commonly known to practitioners in fact lacked substantial evidence of effectiveness. The Commissioner also suggested that the exemptions for the other drugs listed in paragraph (b) of § 201.160 that were not the subject of a DESI notice would be superseded by the anticipated promulgation of old drug monographs for those drugs. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is issuing a final regulation on the January 24, 1975, proposal. That final regulation requires "full disclosure" labeling for the drugs formerly listed in § 201.160(b) that were subject to DESI notices.

The Commissioner concludes, however, that full disclosure labeling is needed for the safe and effective use of all drugs and need not await promulgation of old drug monographs. Accordingly, he proposes to revoke the provision in § 201.100(c) (2) that permits the omission of the "full disclosure" labeling from the dispensing package of certain prescription drugs and to revoke the list of drugs in § 201.160 for which the Commissioner has previously indicated such labeling may be omitted.

The Commissioner proposes that a final regulation based on this proposal be effective 180 days after the date of publication of the final rule in the FEDERAL REGISTER. After that date, FDA would regard the drug as misbranded, and no person would be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any prescription drug product without "full disclosure" labeling. However, this prohibition would not apply to any drug product that had been received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent further distribution after the effective date by any person involved in the production of prescription drug products who has responsibility for the content of the labeling.

The requirements thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It would allow distributors (but not own-label distributors) and retailers to exhaust supplies on hand on the effective date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 201 as follows:

1. In § 201.100 by revising paragraph (c) (2) to read as follows:

§ 201.100 Prescription drugs for human use.

* * * * *

(c) * * *

(2) If the article is subject to section 505, 506, or 507 of the act, the labeling bearing such information is the labeling authorized by the approved new-drug application or required as a condition for the certification or the exemption from certification requirements applicable to preparations of insulin or antibiotic drugs:

§ 201.160 [Revoked]

2. By revoking § 201.160 *Drugs; information commonly known.*

Interested persons may, on or before July 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–15091 Filed 5–26–77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[21 CFR Part 500]

[Docket No. 77N–0152]

RESTRICTION ON SUBTHERAPEUTIC USE OF ANTIBACTERIALS IN ANIMAL FEEDS

Intent To Propose Rules and Call for Environmental Impact Data

AGENCY: Food and Drug Administration.

ACTION: Notice of intent to propose rules.

SUMMARY: The Commissioner of Food and Drugs intends to issue a series of proposals to restrict the subtherapeutic use of penicillin and tetracyclines in animal feeds, and he calls for information concerning the potential environmental impact of the proposed restrictions. These actions are based on the analyses and recommendations of experts concerned with the safety of widespread use of antibacterial drugs in animal feeds and the development of drug-resistant bacteria in the environment. Environmental data and information are needed to complete an analysis for a determination of the need for the preparation of an Environmental Impact Statement.

DATE: Comments and/or data by July 26, 1977.

ADDRESSES: Written comments and data to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Susan E. Feinman, Bureau of Veterinary Medicine (HFV–5), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–1414).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is announcing his intention to implement decisions reached after evaluating the information collected under § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (21 CFR 558.15). The grounds for the decisions are the analyses and recommendations of the Food and Drug Administration Task Force on the Use of Antibiotics in Animal Feeds, the Bureau of Veterinary Medicine, the Subcommittee of the National Advisory Food and Drug Committee, and the National Advisory Food and Drug Committee. Based on the foregoing, the Food and Drug Administration will propose to restrict the subtherapeutic use of antibacterials in animal feeds. Although each step in the overall process has not yet been precisely defined, in general the Bureau of Veterinary Medicine will propose:

1. To terminate all subtherapeutic use of penicillin in all feed;

2. To restrict the use of the tetracyclines to situations where there are no viable alternatives;

3. To impose restrictions on the distribution and use of the remaining uses of penicillin and tetracycline; and

4. To expedite implementation of the drug efficacy study implementation (DESI) notices proposing to withdraw approval of all penicillin and tetracycline combination products that lack evidence of effectiveness.

The agency will assess the environmental impact of each separate action in the implementation procedure. But the proposed actions will restrict the subtherapeutic use of antibacterials in animal feeds in a manner that will minimize any potential public health problems that are associated with the development and spread of drug-resistant bacteria in the environment. For these reasons, it may be possible to consider the class of actions as a single program.

Under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 (1970)), the Commissioner is required to assess the environmental impact of the agency's major actions to determine whether there is a significant effect on the quality of the human environment and decide if an environmental impact statement (EIS) is necessary. Moreover, the Council on Environmental Quality (CEQ) guidelines suggest that agencies carefully define the scope of the actions that will most appropriately serve as the subject of an EIS (40 CFR 1500.6(d)). Several factors in this case favor gathering information and preparing a comprehensive EIS on the general use of antibacterial drugs in animal feeds. Briefly, they are as follows:

1. The subtherapeutic use of antibacterials in animal feeds is widespread.

2. Although the presence of bacteria that are resistant to one or more antibacterials has been demonstrated, the importance of this is strongly debated. Further, the magnitude of any effects on the public health stemming from the development of drug-resistant bacteria in the environment is largely unknown but potentially significant.

3. Although some antibacterials, e.g., tetracyclines, are primarily excreted intact by the target animal, the effect of drug residues on soil microflora, including the possible development of drug-resistant nonenteric bacteria, is largely unknown.

4. The proposed actions may cause a shift in drug production and drug use to alternative antibacterials that are not extensively used today.

Proposed Action

Based on these facts, the agency has concluded that it is required to determine whether its proposed actions will significantly affect the quality of the human environment. This determination is necessary to the evaluation of the need for the preparation of an EIS, and the CEQ guidelines suggest that an agency begin public discussion and gathering information as soon as possible. For these reasons, the Commissioner is electing to publish a single call for information on the preparation of a comprehensive EIS on the subtherapeutic use of antibacterials in animal feeds. If a statement is necessary, it would first seek to determine the environmental impact of the antibacterials currently approved for subtherapeutic use; then it would examine any changes in the impact that can be expected from the agency's proposed actions. In this manner, an EIS would be able to evaluate comprehensively the cumulative environmental effects of such antibacterial use in the environment. This approach is superior to preparing EIS's limited to individual drugs involved in separate actions because each individual impact may be so closely related that they cannot always be separated. For example, the spectra of antibacterial activity overlap; cross-resistance may occur; and transferable, plasmid-mediated, multiple resistance has been demonstrated. Furthermore, these drugs are all used in the same local environments for the same purposes, i.e., principally for preventing the same diseases and for promoting growth and improving feed efficiency.

Drugs Affected

The drugs targeted for direct agency action and most of the drugs that may be used as replacements were initially approved for marketing before enactment of the National Environmental Policy Act and promulgation of the agency's implementing regulations. To supplement the extensive information that the agency has already gathered on these drugs, therefore, the Commissioner is requesting information about the potential environmental impact of all drugs that will be affected by the agency's proposed actions either directly or indirectly.

Accordingly, the Commissioner is requesting environmental impact information on the following drugs:

(1) Drugs directly affected:

(a) Penicillin;

(b) Tetracyclines; and

(c) Combination drugs containing penicillin or tetracycline, e.g., chlortetracycline-sulfamethazine (or sulfathiazole)-penicillin, oxytetracycline-neomycin, and penicillin-streptomycin.

(2) Drugs indirectly affected:

(a) Bacitracin (zinc and methylene disalicylate);

(b) Erythromycin;

(c) Flavomycin;

(d) Carbadox;;

(e) Oleandomycin;

(f) Tylosin;

(g) Poloxalene;

(h) Sulfaquinoxaline;

(i) Hygromycin;

(j) Sulfadimethoxine-ormetoprim;

(k) Arsenicals; and

(l) Lincomycin, for use in poultry.

The environmental information on the potential alternatives monensin, virginiamycin, and lincomycin (for swine) has been submitted, but the Commissioner welcomes any supplementary data that may be available. In addition, he requests environmental information on any other antibacterial drugs approved for subtherapeutic use in animal feed.

Format for Submission

The agency has the authority to refuse to file or approve a new animal drug application (NADA) unless it is accompanied by an appropriate environmental impact assessment report (EIAR), and this requirement is being applied to all previously approved new animal drugs as appropriate supplemental NADA's are filed (for a discussion of the agency's authority, see the Federal Register of April 15, 1977 (42 FR 19986)). Therefore, the Commissioner requests that all holders of NADA's for the above listed drugs who have never filed an EIAR for the subtherapeutic use of their product submit such reports at this time. For holders who have previously submitted EIAR's, the Commissioner requests any additional environmental information gathered since the EIAR was filed. All submissions should follow the format in the environmental regulations (21 CFR 25.1(j)—see the Federal Register of April 15, 1977 (42 FR 19990)), with specific emphasis on the following topics:

1. *Introduction into the environment.* (a) Total quantity of the drug produced for all uses, portion used subtherapeutically in animal feeds, and the relative magnitude of other uses, including any uses in humans; (b) pollutants generated and resources consumed by the manufacture of the drug, premix, and medicated feed, including energy usages; (c) routes through which the drug may pass into the environment, and any data to quantify the amounts of the drug and its primary metabolites passing through each route. (Possible source points for such routes include releases during manufacture of the drugs, preparation of premixes and medicated feeds, animal feeding, and excretion by target animals).

2. *Fate in the environment.* (a) Mobility of the drug and its primary metabolites in the environment, measured by such factors as leaching potential, vaporization, and adsorption to soils; (b) stability and persistence of the drug and its primary metabolites in those environments where it is determined that they are introduced or those environments to which it is subsequently transported; (c) potential for the drug or its primary metabolites to be accumulated or bioconcentrated by plants, animals, and microorganisms, measured by such factors as lipid/water partitioning or studies with animals.

3. *Environmental effects.* (a) Effects of the drug and its primary metabolites on organisms functionally important to key ecological processes, such as freshwater algae, nitrogen-fixing and nitrifying bacteria, soil fungi, and bacteria responsible for nutrient mineralization, higher plants, and soil invertebrates; (b) effects on fish, mammals, and other vertebrates that are important to man as food or food for human food-producing animals, or organisms that are of aesthetic interest to man, or of interest for their

uniqueness or rarity (such as organisms listed in the Endangered Species List); (c) indirect effects on populations of organisms and communities that might arise from the subtherapeutic use of the drug.

In addition to the data submitted, information should be supported to the extent possible by the published references or unpublished submitted studies. Statements or opinions that are unsupported by factual information are acceptable, but of less use to the Commissioner.

Any interested persons who have information relating to any of the specific requests listed above, regardless of whether they can supply data relating to all the requests, are encouraged to respond. Interested persons may, on or before (July 26, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this notice. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–15093 Filed 5–26–77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

APPROVED CALIFORNIA STATE PLAN

Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Proposed rule.

SUMMARY: This notice invites comment on a Supplement to the California Occupational Safety and Health Plan submitted as a State initiated change under Subpart E of Part 1953 of this Chapter. The supplement, submitted December 26, 1976, adds a program for control of occupational hazards from carcinogens. Part 1953 of this Chapter prescribes procedures for the review of changes in State plans which have been approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act).

DATES: Comments and requests for a hearing should be submitted by June 27, 1977.

ADDRESSES: Written comments and requests for a hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3112, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Daniel Hoeschen, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3112, Washington, D.C. 20210.

A copy of the supplement, along with the approved plan, may be copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N–3620, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, 450 Golden Gate Avenue, San Francisco, California 94102; and the California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California 94102.

SUPPLEMENTARY INFORMATION:

DESCRIPTION OF THE SUPPLEMENT

The supplement concerns a new State program relating to occupational hazards from carcinogens which is to be included within the California Occupational Safety and Health Plan. This new program resulted from the enactment of the California Occupational Carcinogens Control Act of 1976 which became effective January 1, 1977 (Senate Bill 1678, Chapter 2, Division 20, California Health and Safety Code). The supplement contains copies of the Occupational Carcinogens Control Act, current California standards concerning vinyl chloried, asbestos, and a group of 14 other carcinogenic substances, and an interagency agreement between the Division of Industrial Safety of the California Agriculture and Services Agency and the Occupational Health Branch of the California Department of Health. The State anticipates that the carcinogen compliance program will involve 24 industrial hygienists in the field, 2 senior industrial hygienists, 1 supervisory industrial hygienist, 1 staff counsel and 1 man-year of compliance safety engineer time.

The California Carcinogen Program has three minor components. The first component of the program is a special carcinogen enforcement program. The Division of Industrial Safety within the Agriculture and Services Agency, which is the designated agency responsible for the administration of the CAL/OSHA program, will have responsibilities for the enforcement of this program. The Occupational Health Branch of the Department of Health, utilizing reports from carcinogen users, is to establish priorities for inspections and perform as many inspections of the use of carcinogens as resources permit. The Division of Industrial Safety is to establish an inspection fee schedule ranging from $25 to $500, based on the number of affected employees and the time required for inspecting. On July 1, 1977, the CAL/OSHA penalty schedule will be modified so that failure to report the use of any carcinogen as required by the carcinogen standards carries a civil penalty of not less than $500, a serious violation involving the use of a carcinogen will be $1,000, and there will be a penalty of not less than $5,000 for a repeated violation of standards or special orders involving the use or failure to report the use of a carcinogen. In addition, the definition of a serious violation under the CAL/OSHA Act (Section 6432, California Labor Code) has been modified to include the violation of a standard or special order respecting the use of a carcinogen. This new provision will become effective July 1, 1977.

The second component of the Carcinogen program centers on standards requirements. Each employer using any carcinogen, currently defined as the 16 substances listed in the legislation, is required to submit a report to the Division of Industrial Safety regarding such use. The legislation also provides the same reporting requirement for all standards involving carcinogens which the State promulgates following promulgation at the Federal level. The Division of Industrial Safety is to transmit reports of users to bargaining and other representatives of the affected employees of a reporting employer. Employers are required to post a copy of these reports in a location conspicuous to affected employees. Every employer using carcinogens must provide for medical examinations of affected employees where required by standards. In addition to providing that the Occupational Safety and Health Standards Board adopt standards at least as restrictive as the comparable Federal standards on carcinogens, the program provides for the adoption of standards concerning substances for which there is a preponderance of evidence establishing carcinogenicity but for which no Federal standards have been promulgated.

The third component of the Carcinogen Program is an education and consultation program. The Department of Health and the Division of Industrial Safety will utilize all appropriate means of communication to inform all affected employees, employers and the public about the requirements of the Carcinogens Control Act by July 1977. In addition, the Department of Health will provide consultation services for employers using carcinogens. Particular emphasis will be placed on education and consultation activities during the first six months of the Carcinogen Program.

PUBLIC PARTICIPATION

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Director of the Office of Federal Compliance and State Programs at the above address. If, in the opinion of the Assistant Secretary of Labor for Occupational Safety and Health, substantial objections are filed which warrant public discussion, an informal hearing on the subjects and issues involved may be held.

DECISION

The Assistant Secretary will consider all revelant comments, arguments and

requests submitted concerning the supplement and will thereafter issue a decision approving or disapproving it. The Assistant Secretary's decision will be published in the FEDERAL REGISTER and the appropriate section of Subpart K of 29 CFR Part 1952 will be amended.

Signed at Washington, D.C., this 23d day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-15267 Filed 5-26-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 703-4]

APPENDIX N—EMISSION REDUCTIONS ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

Correction

In FR Doc. 77-12296 appearing at page 22177 in the issue for Monday, May 2, 1977 the comment date now given as "August 1, 1977" should have read "July 1, 1977".

[40 CFR Part 52]

[FRL 735-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules of the Following Air Pollution Control Districts in the State of California: Del Norte County, Humboldt County, Mendocino County, and Trinity County

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The purpose of this notice is to advise the public of receipt of proposed revisions to the California State Implementation Plan and to request public comments concerning the proposed revisions.

DATES: Public comments will be received for thirty (30) days from publication of this notice.

ADDRESSES: Copies of the proposed SIP revisions are available for public inspection during regular business hours at the following locations:

Environmental Protection Agency, Region IX Enforcement Division, 100 California Street, San Francisco, CA 94111.

State of California, Air Resources Board, 1709 11th Street, Sacramento, CA 95814.

Del Norte County APCD, Courthouse, Crescent City, CA 95531.

Humboldt County APCD, 5600 S. Broadway Street, Eureka, CA 95501.

Mendocino County APCD, 890 N. Bush Street, Ukiah, CA 95482.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

Interested persons may participate in the rulemaking process by submitting comments to:

Regional Administrator, Attn: Enforcement Division (E-4-3), EPA Region IX, 100 California Street, San Francisco, CA 94111.

Comments received will be available for public inspection during regular business hours at:

EPA, Region IX, Room 309, 100 California Street, San Francisco, CA 94111.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mike Pollock, Enforcement Division, Permits Branch, EPA, Region IX, 100 California Street, San Francisco, CA 94111, Phone 415-556-4723.

SUPPLEMENTARY INFORMATION: Since EPA's approval of portions of the California State Implementation Plan (SIP) in 1972, the State of California has submitted, periodically, proposed revisions to the SIP. These proposed revisions have been submitted as local air pollution control districts (APCD) have adopted new or amended existing regulations. Included in the submissions have been the regulations of four APCDs located in the California North Coast Air Basin. These are the Mendocino County APCD, the Humboldt County APCD, the Del Norte County APCD and the Trinity County APCD. In several cases, the submissions for the four abovementioned districts have included regulations relating to permits for new sources of air pollution. The table below summarizes the dates upon which such permit regulations were submitted for these districts.

Submission date:	*Air Pollution Control Districts*
July 25, 1973	Mendocino, Trinity, Humboldt, Del Norte.
July 19, 1974	Mendocino, Trinity, Humboldt.
Oct. 23, 1974	Trinity, Del Norte.
Jan. 10, 1975	Mendocino.
Apr. 10, 1975	Humboldt, Del Norte.
July 27, 1975	Mendocino, Trinity.

On May 13, 1976, complete revised air quality control rules were adopted by the Basin Coordinating Council of the North Coast Air Basin. Subsequently, identical rules were adopted in toto by the four abovementioned Air Pollution Control Districts. On November 10, 1976, the State of California submitted these rules to the Regional Administrator, Region IX, as proposed revisions to the California SIP. As revised, Chapter II, Rules 200, 210, 220, 230, 240, 250 and 260 and Chapter III, Rules 300 and 310 provide a procedure by which persons who wish to construct, erect, modify, replace, operate or use any equipment which may cause, potentially cause, reduce, control or eliminate the emission of air contaminants may be granted a permit to do so. A permit shall be granted only after the district control officer determines that the new or modified stationary source of air contaminants will not prevent the attainment, interfere with the maintenance, or cause a violation of any state or national ambient air quality standard.

The State of California has certified, by letter of November 10, 1976, that the revisions to its SIP for the four abovementioned air pollution control districts, submitted on the same date, were adopted after a public hearing was held after notice conforming to 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans was given.

The decision of the Administrator to approve or disapprove the proposed revisions to the SIP discussed above will be based on whether or not they meet the requirements of Clean Air Act Section 110(a)(2)(A)-(H), the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans, and particularly 40 CFR 51.18.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: May 17, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-15136 Filed 5-26-77;8:45 am]

[40 CFR Part 52]

[FRL 735-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California: Proposed Approval of Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In order to satisfy the requirements of the Clean Air Act, the State of California has submitted to the Environmental Protection Agency (EPA) a State Implementation Plan (SIP) for the control of air pollution. Portions of the Plan have been approved by EPA and are now enforceable by EPA as Federal regulations. On April 18, 1977, the designated representative of the Governor of California submitted to EPA compliance schedules for sources found to be in violation of the approved SIP. This publication proposes to approve these compliance schedules as revisions to the California State Implementation Plan, thereby making the schedules federally enforceable.

DATES: (1) Final compliance dates: See table below. (2) Comments must be postmarked by June 27, 1977.

ADDRESSES: (1) Schedules are available for inspection at the following addresses:

State of California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.

(2) Comments should be addressed to:

Environmental Protection Agency, Region IX, Director, Enforcement Division, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

William Rhea, Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, CA 94111, (415-556-0970).

SUPPLEMENTARY INFORMATION: On May 21, 1972 (37 FR 10842), September 22, 1972 (37 FR 19812), and May 14, 1973 (39 FR 12702), pursuant to Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5) and 40 CFR Part 51, the Administrator approved and promulgated portions of the California plan for the implementation of national ambient air quality standards. On April 18, 1977, after notice and public hearings, the Governor of California through his designee submitted to the Environmental Protection Agency (EPA) fourteen compliance schedules, all of which have been found to satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. This publication proposes that these fourteen schedules be approved as revisions to the state compliance schedule portion of the approved plan pursuant to 40 CFR 51.8 and Section 110 of the Clean Air Act.

Each proposed compliance schedule revision establishes a new date by which the individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." In some cases, the schedule includes incremental steps toward compliance with the specified regulations. While the table below does not include these interim dates, the actual compliance schedule does. The increments of progress, as well as the final compliance date, are legally enforceable by the Administrator pursuant to Section 113 of the Clean Air Act as amended.

An evaluation report setting forth EPA's position on each of the schedules is available at the office of EPA, Region IX. Interested persons are encouraged to submit written comments on any proposed compliance schedule. All comments will be available for public inspection during business hours.

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

Dated: May 17, 1977.

PAUL DE FALCO, JR.,
Regional Administrator,
Region IX.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart F—California

1. In § 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(39 Supplemental information (compliance schedules) was submitted by the California Air Resources Board on April 18, 1977.

2. In § 52.240, paragraph (f) is amended by adding the following schedules to the table in subparagraph (1):

§ 52.240 Compliance schedules.

* * * * *

(f) * * *

(1) * * *

Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Sun Valley Oil Co. No. 76-9	Kern	412, 412.1	Oct. 14, 1976	Immediately	May 31, 1977
Mohawk Petroleum Corp., Inc. No. 76-11	do	412.1	Nov. 22, 1976	do	Do.
Moore Petroleum No. 76-47-R1	San Joaquin	411.1	Oct. 21, 1976	do	Do.
Atlantic Richfield Co. No. 76-50	do	411.2	Nov. 18, 1976	do	Do.
Atlantic Richfield Co. 76-51	do	411.2	do	do	Do.
Atlantic Richfield Co. No. 76-52	do	411.2	do	do	Do.
Atlantic Richfield Co. No. 76-53	do	411.2	do	do	Do.
Delta Fleet Service No. 76-54-R1	do	411.1, 411.2	do	do	Do.
Diamond International No. 76-55	do	411.2	do	do	Do.
Reilly's Car Wash No. 76-56	do	411.1, 411.2	do	do	Do.
Three Palms Service Station, No. 76-57-R1	do	411.2	Dec. 16, 1976	do	Do.
Al's Nightengale Chevron Service, No. 76-58-R1	do	411.1	do	do	Do.
Flame Liquors No. 76-60-R1	do	411.2	do	do	Do.
J. D. General Store No. 76-61-R1	do	411.2	do	do	Do.

[FR Doc.77-15055 Filed 5-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21246; RM-2851]

FM BROADCAST STATION IN HEIDELBERG, MISSISSIPPI

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action proposing to assign a first Class A FM channel to Heidelberg, Mississippi. Petitioner, New Laurel Radio Stations, Inc., stated that an FM station would stimulate the economy of Heidelberg and would provide local weather and agricultural information as well as good music and news.

DATES: Comments must be received on or before June 27, 1977, and reply comment must be received on or before July 18, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 13, 1977.

Released: May 24, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Heidelberg, Mississippi), Docket No. 21246. RM 2851.

1. PETITIONER, PROPOSAL AND COMMENTS

(a) Petition for rulemaking,[1] filed March 9, 1977, by New Laurel Radio Station, Inc. ("petitioner"), proposing the assignment of Channel 257A to Heidelberg, Mississippi, as a first FM assignment to that community.

(b) The channel could be assigned in full conformity with the minimum distance separation requirements provided the transmitter site for Channel 257A is located 6.4 kilometers (4 miles) southwest of Heidelberg. There were no oppositions to the proposal.

(c) Petitioner states that he intends to apply for a station if the channel is assigned and build a station if authority is granted.

2. COMMUNITY DATA

(a) *Location.* Heidelberg is located in Jasper County approximately 24 kilometers (15 miles) northeast of Laurel, Mississippi, and 153 kilometers (95 miles) northwest of Mobile, Alabama.

(b) *Population.* Heidelberg—1,112; Jasper County—15,994.[2]

(c) *Local Broadcast Service.* There is no local broadcast service in Heidelberg.

3. *Economic Data.* Petitioner states that Heidelberg, which is the center of much oil activity, showed a 6 percent gain in population between 1960-1970. We are told that it contains several firms having total annual retail sales of approximately $4,751,900. Petitioner asserts that an FM station would stimulate the economy of Heidelberg and would provide local weather and agricultural information as well as good music and news.

4. In light of the above information and the fact that the proposed FM station would provide the community with a first full-time local broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Heidelberg, Mississippi, as follows:

[1] Public Notice of the filing of the petition was given on March 28, 1977 (Rept. No. 1033).

[2] Both population figures are taken from the 1970 U.S. Census.

City	Channel No. Present	Proposed
Heidelberg, Miss.		237A

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

6. Interested parties may file comments on or before June 27, 1977, and reply comments on or before July 18, 1977.

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

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponents(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denal of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in intial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-15263 Filed 5-26-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING

Cancellation of Public Meeting

The May 31, 1977, meeting of the Shippers Advisory Committee, announced in the May 12, 1977, issue of the FEDERAL REGISTER (42 FR 24074) is canceled. The committee is established under Marketing Order No. 905 (7 CFR Part 905), which regulates the handling of oranges, grapefruit, tangerines, and tangelos grow in Florida. This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). At its meeting of May 24, 1977, the committee recommended regulations it deemed appropriate to current and anticipated demand conditions for the balance of the season, and requested that the meeting scheduled for May 31 be canceled.

Dated: May 25, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77–15307 Filed 5–26–77;8:45 am]

Forest Service

ILLINOIS WILD AND SCENIC RIVER

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Illinois Wild and Scenic River, Forest Service Report Number USDA–FS–DES (Leg). 77–03.

The environmental statement concerns a proposal to include 50.4 miles of the Illinois River in the National Wild and Scenic Rivers System. The recommended segment of river is all within the Siskiyou National Forest and flows through Josephine and Curry Counties, Oregon. The proposal provides the means to preserve and enhance the river in its free-flowing status and to minimize adverse environmental effects on the river and adjacent lands.

This draft environmental statement was transmitted to CEQ on May 23, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204.

USDA, Forest Service, Siskiyou National Forest, 1504 NW. Sixth Street, Grants Pass, Oregon 97526.

A limited number of single copies are available upon request to the offices listed above.

Copies of the environmental statement have been sent to various Federal, State and local agencies and private individuals as outlined in the CEQ guideline.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to the Regional Forester, Multomah Building, 319 SW. Pine Street, P.O. Box 3623, Portland, Oregon 97208. Comments must be received by *August 27, 1977*, in order to be considered in the preparation of the final environmental statement.

Dated: May 23, 1977.

EINAR L. ROGET,
Acting Deputy Chief.

[FR Doc.77–15249 Filed 5–26–77;8:45 am]

Rural Electrification Administration

UNITED POWER ASSOCIATION

Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a proposed loan guarantee commitment from the Rural Electrification Administration for United Power Association (UPA) of Elk River, Minnesota, to construct three combustion turbines in Minnesota. The proposed loan guarantee commitment will assist in obtaining financing to purchase three 25 MW combustion turbines to be located at the existing Maple Lake and Cambridge diesel sites and the new Pine City site.

An on-site investigation on the proposed sites was conducted by REA. REA has prepared an Environmental Assessment on the proposed action. UPA has prepared an Environmental Analysis of the proposed action in which REA had extensive input. The Environmental Analysis is in compliance with REA's environmental guidelines and numerous commitments have been made by UPA to satisfy Federal, State, and local requirements.

Installation permits have been obtained from the Minnesota Pollution Control Agency. Rare and endangered species, prime and unique farmlands, archaeological and historic sites and other potential impacts of the project are adequately considered, and we do not anticipate any significant effects as a result of this project.

Our independent evaluation of the proposed project leads us to conclude that REA's proposed financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our Environmental Assessment, our review of the Environmental Analysis and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of REA Bulletin 20–21.

Copies of the Environmental Assessment and Environmental Analysis may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after June 13, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 20th day of May 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77–15009 Filed 5–26–77;8:45 am]

Office of the Secretary

CLOSED MEETING ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Reports

Pursuant to the provisions of the Department of Agriculture's Committee Management regulations, those advisory committees of the Department which held unannounced meetings have prepared reports on the activities of those meetings. Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Microform Reading Room, Room MB–104B, Main Building, 10 First Street, SE., Washington, D.C.

Department of Agriculture, Office of Management and Finance, Room 115A, Administration Building, 14th Street and Independence Avenue, SW., Washington, D.C.

The names of the subject committees are listed below:

Montezuma Section, San Juan Grazing Advisory Board
Lincoln National Forest Grazing Advisory Board

J. PAUL BOLDUC,
Assistant Secretary for Administration.

MAY 24, 1977.

[FR Doc.77-1510 Filed 5-26-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30055; Ordered No. 77-5-112]

PHOENIX-LAS VEGAS-RENO COMPETITIVE NONSTOP SERVICE PROCEEDING

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of May 1977.

By Order 77-3-53, March 9, 1977, the Board expanded the scope of the *Las Vegas-Reno Competitive Nonstop Service Proceeding*, Docket 30055, to include the Las Vegas-Phoenix market in the same proceeding. The purpose of this proceeding, the *Phoenix-Las Vegas-Reno Competitive Nonstop Service Proceeding*, Docket 30055, is to determine whether the public convenience and necessity require additional nonstop service between Las Vegas and Reno, Nevada, and Las Vegas, Nevada, and Phoenix, Arizona.

Applications within the expanded scope of this proceeding have been filed by Western, TWA, American,[1] and Continental together with appropriate motions to consolidate the applications herein.

The Reno Parties have petitioned for reconsideration of Order 77-3-53, requesting that the scope of this proceeding be expanded to include the Reno-Phoenix, Reno-San Francisco, Reno-Albuquerque, Reno-Denver, and Reno-Dallas/Ft. Worth markets. Continental and Texas International Airlines have filed answers in support of the petition.

The Bureau and TWA oppose the petition, although TWA urges that the two markets be the subject of separate, expedited hearings.

Hughes Airwest opposes the consolidation of the applications of American and Continental unless the Board consolidates its application filed in Docket 29554 in this proceeding. In the alternative, Airwest requests that the applications of American and Continental be made subject to a prehearing restriction prohibiting through-plane service between Las Vegas and El Paso, San Antonio, Houston and New Orleans, cities which are the subject matter of its application in Docket 29554.[2]

The Board has duly considered the pleadings and all the relevant facts. The four participating Members are equally divided as to whether the petition of the Reno Parties should be granted and whether American's application should be consolidated in its entirety in this proceeding.

The consolidation of Docket 29554 in this proceeding will result in a significant expansion of the case and a significant delay in the resolution of the basic issues; namely, whether the Las Vegas-Reno and Las Vegas-Phoenix markets require competitive nonstop authority. Accordingly, we do not believe that the consideration of multiple-markets, unrelated to those basic issues, is appropriate in this proceeding. We will thus deny Airwest's motion to consolidate.

Finally, we will deny Airwest's request for a prehearing restriction on Continental and American. The imposition of such restrictions, absent special and unusual circumstances, is not desirable as a matter of policy and not required as a matter of law. If there is, in fact, a need for such restrictions it can be shown at the hearing.

Accordingly, *it is ordered*, That:

1. The petition for reconsideration of Order 77-3-53 of the Reno Parties be and it hereby is denied;

2. The amended application of Western Air Lines, Inc., in Docket 29197 be and it hereby is consolidated in Docket 30055;

3. The application of Trans World Airlines, Inc., in Docket 30649 be and it hereby is consolidated in Docket 30055;

4. The application of Continental Air Lines, Inc., in Docket 30643 be and it hereby is consolidated in Docket 30055;

5. The application of American Airlines, Inc., in Docket 30642, to the extent that it conforms to the scope of this proceeding, be and it hereby is consolidated in Docket 30055.

6. The motion of Continental Air Lines, Inc., for leave to file an otherwise unauthorized document be and hereby is granted;

7. The motion of Hughes Airwest, insofar as it requests consolidation of its application in Docket 29554 or the imposition of pre-trial restrictions, be and it hereby is denied; [3]

8. This order shall be served upon Hughes Airwest, Western Air Lines, Trans World Airlines, Delta Air Lines, American Airlines, Continental Air Lines, the Las Vegas Parties, and the Reno Parties, the Governor of Arizona, the Mayor of Phoenix, and the Arizona Department of Transportation, Aeronautics Division; and

9. Except to the extent granted or otherwise disposed of herein, all motions, petitions, and requests for relief be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-15226 Filed 5-26-77;8:45 am]

[1] American's application appears to contemplate nonstop authority between Reno and Phoenix, authority not in issue in this proceeding. Its application will be consolidated to the extent that it conforms to the scope of this proceeding.

[2] Continental has filed an answer and a reply opposing the consolidation of Docket 29554 herein and the imposition of the requested prehearing restriction. Continental's reply is accompanied by a motion for leave to file an otherwise unauthorized document. We shall grant the motion.

[3] The request for immediate hearing on the application filed in Docket 29554 will be separately considered.

[Order 77-5-119; Dockets 30732, 30771, 30305]

SEABOARD WORLD AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 23rd day of May 1977.

By tariffs filed April 8, 1977, for effect May 9, 1977, Seaboard World Airlines, Inc. (Seaboard), proposes a new general commodity rate (GCR) for carriage of unit load device (ULD) cargo from New York to Frankfurt.[1] The ULD rate, set at 91 cents/kilogram, would require cargo be tendered in minimum-sized shipments of 15,000 kilograms.

In support of the filing, Seaboard contends that its proposal is intended as an experimental rate designed to offer shippers an alternative means to ship intermediate-size shipments and to fill a void in the present North Atlantic rate structure. The carrier argues that the rate is consistent with the Board's policy and will produce many benefits both to itself and to shippers through lower ground-handling costs and lower shipping rates. The carrier believes the rates will also encourage and promote use of its 10- and 20-foot intermodal containers by attracting shippers who cannot accumulate enough cargo at one time to ship under the existing 34,000-kilogram bulk GCR and by enticing present shippers to add volume to their present traffic. The carrier suggests that its proposed rate, which would yield approximately 21.4 cents per revenue ton mile (RTM), is economic in light of its forecast 1977 average cost of 16.01 cents per available ton mile (ATM) and expected handling cost savings (estimated to be at least four cents per kilogram) and other savings in sales and administrative costs resulting from the tender of pre-loaded containers by the shipper.

In a complaint filed April 13, 1977, Trans World Airways, Inc. (TWA) requests that the proposed rate be sus-

[1] Air Tariffs Corporation, Agent, C.A.B. No. 52, 15th Revised Page 78.

pended, pending investigation.[2] TWA contends that the proposal would produce a yield five percent below the average of Seaboard's forecast costs per ATM submitted in Docket 27573 in support of the recent IATA North Atlantic rates agreement, and thus is uneconomic; that there is no measurable cost savings per kilogram for containerized loads exceeding one pallet unit; that the proposed rate undercuts existing general commodity container rates by up to 30.6 percent; that there is no evidence to support Seaboard's argument that the rate will attract bulk shipments to containers; that the present rate structure offers savings to shippers tendering as little as 800 kilograms of cargo in containers; and that the spread of Seaboard's rate to other European points would dilute TWA's revenue by an estimated $164,000.

We will also deal herein with complaints by TWA and Pan American[3] in Docket 30305 against a Seaboard-proposed GCR at 82 cents per kilogram for minimum-sized shipments of 34,000 kilograms between New York and Frankfurt. Filed in December 1976, the rate became effective February 1, 1977 for eastbound shipments; the German Government has rejected this application westbound from Germany.

Briefly the complainants allege that the rate is inadequately justified, is uneconomic, undercuts existing charter/high weightbreak (HWB) rate relationships, and would spread to and adversely affect their operations in neighboring countries. Seaboard disputes the complaintants' allegations and maintains that the filing is not a new rate but rather an increase to an existing 34,000 kilogram HWB rate in effect for two years which comports with enunciated Board policy and directives on HWB rates and had been agreed to continue in effect at the level proposed herein by carriers serving U.S.-Germany at a meeting held under supervision of the two affected Governments; that the level of the instant rate has been recently approved by the Board in the context of an IATA North Atlantic rates agreement; and that it is fully justified as in the public interest.

Upon consideration of the proposals, the complaints and all other relevant matters, the Board has determined to dismiss the complaints.

The Board has frequently expressed the view that higher weightbreaks for general commodity shipments should be introduced into the North Atlantic rates structure, but has stressed that such high weightbreak rates should be set at economic levels, consistent with demonstrable cost savings. Seaboard's Form 242 data for calendar year 1976 indicate that the carrier's operating cost per RTM in its North Atlantic operations was 25.30 cents, while the proposed rate would yield only 21.4 cents per RTM. However, Seaboard alleges containerization cost savings of four cents per kilogram from application of its proposed rate. In our judgment, the cost savings trat Seaboard anticipates through containerization appear to be achievable. Accordingly, the complaint in Docket 30732 will be dismissed.

We will also dismiss the complaints of TWA and Pan American in Docket 30305. The level of the rate was approved by the Board in Order 76-12-98, December 16, 1976, as part of the IATA-proposed North Atlantic rate structure. Although specified in that structure as a 34,000 kilogram specific commodity rate (SCR), the Board's order expressed disappointment that the agreement had not proposed high weightbreak freight-all-kinds (FAK) rates instead. Seaboard's filing merely extends the application of the approved high weightbreak SCR's to all commodities in the U.S.-Germany market and as such, is consistent with Board policy objectives. Further, as noted in Order 76-12-98, the level approved therein for the high weightbreak specific commodity traffic is 11 percent above the then existing high weightbreak FAK rate levels.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof;

It is ordered, That:

1. The complaints of Pan American World Airways, Inc., and Trans World Airlines, Inc., in Docket 30305 and the complaint of Trans World Airlines, Inc., in Docket 30732 be and hereby are dismissed;

2. The complaint of Pan American World Airways, Inc., in Docket 30771 be and hereby is not accepted;

3. The motion of Seaboard World Airlines, Inc., to file an otherwise unauthorized document in response to Pan American be and hereby is denied;

4. The motion of Pan American World Airways, Inc., in Docket 30305 to file an otherwise unauthorized document be and hereby is granted; and

5. Copies of this order be served upon Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15227 Filed 5-26-77;8:45 am]

[2] Pan American World Airways, Inc. (Pan American), filed a complaint against the proposed rate in Docket 30771 on April 21, 1977, eight days after complaints were due. The complaint was not accompanied by a motion to file a late-filed document and, accordingly, Pan American's complaint will not be accepted. Seaboard's motion to file an otherwise unauthorized document answering Pan American's late-filed complaint similarly will be denied.

[3] Pan American filed late but with a motion to file an unauthorized document which will be granted.

CIVIL SERVICE COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

Notice of Revocation of Authority to Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Director, Office of Technical Analysis, Office of Assistant Administrator for Enforcement and General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15207 Filed 5-26-77;8:45 am]

FEDERAL TRADE COMMISSION

Notice of Grant of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15208 Filed 5-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, National Highway Traffic Safety Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15209 Filed 5-26-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NORTHWESTERN UNIVERSITY ET AL.

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 Cul-

tural Materials Importation Act of 1966 (Pub. L. 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, on or before June 16, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) 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. 20230.

Docket Number: 77–00220. Applicant: Northwestern University, 311 E Chicago Ave., Chicago, Illinois 60611. Article: Woehler Fatigue Testing Machine, Type 1B with US type Motor. Manufacturer: GTG Engineering Co., United Kingdom. Intended use of article: The article is intended to be used for studies of fatigue properties of endodontic files and reamers. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00221. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Travelling Wave Oscilloscope, Model TSN 660 4GHZ and Accessories. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used to observe electrical signals generated by a picosecond response x-ray diode during fast x-ray emission from a laser irradiated deuterium-tritium filled glass microballoon. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00222. Applicant: University of Florida, College of Engineering, Chemical Engineering, 227 CHE, Gainesville, Florida 32611. Article: NMR Spectrometer, Model JNM–C–60–HL.

Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by staff members and students for studies of biological materials such as lipids, proteins, hormones, vitamins, and membranes, as well as, engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The following are the major projects which will be carried out with the article: (a) The structure of water in microemulsions. (b) The mechanisms of phase inversion of micro- and macro-emulsions. (c) Molecular motions in liquid-crystalline structures. (d) The equilibrium rate of exchange of molecules at the air-liquid interface. (e) Micelle formation and solubilization in surfactant solutions. (f) Molecular interactions in biological membranes. (g) The structure of absorbed phases as solids. (h) The structure of fluid mixtures and electrolyte solutions. (i) NMR spectroscopy for fluorocarbon studies. (j) Application for NMR spectroscopy in asphalt research. (k) Mechanisms, reactions, and activity of thiolsulfonates and disulfides. (l) Synthesis of new polymers for use in extreme environments. (m) Donor-acceptor complexes of fluorine compounds. (n) Nonclassical aromaticity in hydrogen-bonded systems. (o) The effect of meal ions of unsaturated hydrocarbons in relation to boundary lubrication. (p) Interaction of oxygen with fluorocarbons. (q) NMR spectroscopic studies of polymeric fluids. In addition, the article will be used for teaching and training of graduate students in Chemistry. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00223. Applicant: Duke University Medical Center, Box 3094, Durham, N.C. 27710. Article: Gas Analyser, Model 200 MGA. Manufacturer: Twentieth Century Electronics, United Kingdom. Intended use of article: The article is intended to be used to analyze up to eight individual gases simultaneously either in a breathing mixture or in blood or other tissue fluids following, on a moment-to-moment basis, changes in gas composition in a given respired gas mixture. In addition, the article will be used to identify and subsequently, to analyze a wide variety of gases in both hyperbaric and operating room environments. This not only includes gaseous contaminants but also includes all general anesthetic gases and vapors. Water vapor content in the breath will also be analyzed on a moment-to-moment basis. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00224. Applicant: East Tennessee University, College of Medicine, Johnson City, Tennessee 37601. Article: Electron Microscope, Model H–500–L with Waterchiller and recirculator, Model HX75. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projects which will include:

(a) Studies of the ultrastructural characteristics of normal and diseased cells and tissues (including those requiring the detection of viral inclusions with cells).

(b) Experimental studies involving the localization of antigens and antibody-forming cells by the horseradish peroxidase procedure and the unlabeled antibody enzyme method of Sternberger.

(c) Detection of various enzymes at the ultrastructural level, including phosphatases, esterases, and NAD-pyrophosphorylase, and to localize biogenic amines (adrenaline, noradrenaline, depamine, and serotonin) by the procedure of Tranzer and Richards, and

(d) Experimental studies of nonhistone proteins and nucleoprotein organization in chromatin and chromosomes following various manipullations, including critical-point drying, acid and/or salt extractions, denaturation, etc.

Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00225. Applicant: University of Wisconsin-Platteville, Platteville, Wisconsin 53818. Article: Electron Microscope, Model HS–9–1, and Haskris Company Water Recirculator, Model R033, and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research in the following projects:

1. Mesosome formation of Gram: Negative bacterial cells during division.
2. Septa and clamp connections in fungi.
3. Mitotic cycle of slime molds.
4. Effects of penicillin on bacterial cell wall formation.
5. Use of ferritin-conjugated antibody to investigate the production and maturation of mammalian viruses.
6. Diatom cell wall structure for purposes of taxonomy.
7. Effect of protein inhibitors in bacteriophage maturation.
8. Microtuble involvement in cell wall formation and cytokinesis of plant cells.
9. Cytological changes of a 8-nucleate developing megagametophyte and the egg nucleus.
10. Host-parasite relationships with tissue cells and intracellular bacteria.
11. Relationship of peroxisomes and spherosomes with other cytoplasmic organelles such as chloroplasts and mitochondria.
12. Sclerotia structure of slime molds and fungal plant pathogens.
13. Comparative study of epithelial tissue of mammals and amphibians.
14. Shadow casting and surface replication of pollens and spores.
15. Cytological changes induced in host cells by plant pathogens.
16. Cellular de-differentiation and degeneration of defunct megaspores after megasporogenesis.
17. Relationship between calcium and sporulation in bacteria.
18. Chloroplast structure in *Spirogyra* and *Zygnenm*.

The article will also be used for educational purposes in the course Cytology 403 which will include the teaching and application of electron microscopic techniques and interpretation of ultrastructure as part of the course sequence. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00226. Applicant: University of Utah College of Medicine, 50 North Medical Drive, Salt Lake City, Utah 84132. Article: Tubinger Perimeter and accessories. Manufacturer: Oculus, West Germany. Intended use of article: The article is intended to be used for static and kinetic visual field examination which is necessary for the clinical management of patients with glaucoma. In addition, the article will be used to provide comprehensive clinical material relating to static perimetry for use in teaching conferences. The article will also be used to provide ophthalmology residents in training understanding of static perimetry techniques. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00227. Applicant: Rockford School of Medicine of the University of Illinois, 1601 Parkview Avenue,

Rockford, Illinois 61101. Article: Electron Microscope, Model H–500 and Accessory. Manufacturer: Perkin-Elmer (Hitachi), Japan. Intended use of article: The article is intended to be used for studies of basic chemicals (i.e., Bence-Jones protein), viral particles and other organisms including bacteria, tissue being evaluated from research work on animals as well as from biopsy material obtained from humans. Specific projects to be conducted include the study of Bence-Jones protein, relationship of structure to clinical condition of patient and the evaluation of the fine structure of membrane alteration in the course of platelet aggregation. In addition, the article will be used for educational purposes in an electron microscopy course. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00228. Applicant: University of Texas Medical Branch, Department of Physiology and Biophysics, Galveston, Texas 77550. Article: Ultrotome, Model LKB 2128–010 UM IV and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin sections of retinas (or part of them) which have been embedded in hardened epoxy resins such as Epon or Spurr media. The neuronal organizations in the vertebrate retinas are to be studied to correlate functions of retinal neurons with their structures. The article will also be used in a graduate program in neurophysiology in which students will be trained in the morphological (electron microscopic) functional identifications of neurons in the central nervous system. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00229. Applicant: Auburn University, Department of Anatomy and Histology, School of Veterinary Medicine, Auburn, Alabama 36830. Article: Ultrotome III Ultramicrotome, Modal LKB 8800A and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of normal tissues, organs, and organ structures of major species of domestic animals and selected species of laboratory animals and wildlife. Comparative studies will be focused on determining, at the subcellular level, morphologic features of organs which contribute to the establishment of blood-organ barriers. Among the areas in this category to be investigated are the blood-retinal barrier, blood-thymic barrier, and blood-brain barrier. The article will also be used for educational purposes in the following courses:

VM 326 Microscopic Anatomy I—Microscopic anatomy of the form, structure, and characteristics of the basic tissues of animals.

VM 327 Microscopic Anatomy II—Microscopic anatomy of the tissue, composition of organs and organ systems.

VM 328 Microscopic Anatomy III—Microscopic anatomy of the reproductive organs.

VAH 570 Histological Techniques—A detailed study of the techniques employed in the preparation of cytological and histological materials.

VAH 623 Neuroanatomy—Structure of the central and peripheral nervous systems.

VAH 626 Anatomy of the Special Senses—Study of taste, smell, sight, and hearing.

VAH 627 Advanced Histology of Domestic Animals—A detailed study of the basic tissues.

VAH 628 Advanced Organology of Domestic Animals—A detailed study of organs and organ systems, utilizing the light microscope and electron micrographs to interpret morphology.

Application received by Commissioner of Customs: May 6, 1977.

Docket Number: 77–00230. Applicant: University of Utah, University and 200 South, Salt Lake City, Utah 84112. Article: Automatic Recording Spectropolarimeter, Model J–40A with Standard Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of nucleosides, nucleic acids, peptides and proteins. Experiments will be conducted to obtain circular dichroism spectra at various concentrations and temperatures for solutions of nucleosides, polynucleotides and polynucleotide complexes, peptides, proteins, and proteins in the presence of various membranes. These experiments frequently involve the measurement of very small changes in ellipticity (rotation of a beam of polarized light) in the presence of high absorbance of the light beam. The article will also be used in the course Medicinal Chemistry 797, Thesis Research to train Ph. D. candidates in the techniques and skills required for the conduct of original research in Medicinal Chemistry. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00233. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Photochron I Image Converter Tube, Model C73435T. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 9, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–15133 Filed 5–26–77;8:45 am]

THAT MAN MAY SEE, INC., ET AL.

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 (Pub. L. 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, on or before June 16,1977.

Amended regulations issued under cited Act, (15 CFR Part 301) 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. 20230.

Docket Number: 77–00231. Applicant: That Man May See, Inc., 95 Kirkham Street, San Francisco, California 94122. Article: Electron Microscope, JEM 100C/SEG with side entry goniometer, with eucentric goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for studies of the following materials and phenomena:

(1) Ocular tissues from clinical and experimental studies in order to elucidate the pathogenesis of such diseases as glaucoma, retinitis pigmentosa, viral infections, tumors, etc.

(ii) The nature of junctional complexes forming the various ocular barriers will be studied with special attention given to the subcellular components of such junctions, and

(iii) Ocular tissues afflicted with diseases of unknown cause will be studied at high magnification searching for viruses or other causative organisms, etc.

The experiments to be conducted have a two-fold objective: determination of the pathogenesis of such diseases as glaucoma and determination of better modes of therapy. In addition, the article will be used for teaching electron microscopy techniques to investigators, ophthalmology residents, and medical students. Application received by Commissioner of Customs: May 9, 1977.

Docket Number: 77–00232. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Streak Camera Tube—S1 Photocathode Photochron I. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Applications received by Commissioner of Customs: May 9, 1977.

Docket Number: 77–00234. Applicant: Baylor College of Medicine, 1200 Mour-

sund, Houston, Texas 77030. Article: Cryokit, Model 14800–1 with all accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the molecular structure of three minimally denatured and minimally extracted membranes (the plasma membrane of photoreceptors, the plasma membrane of pigment epithelium, and outer segment disc membranes); and the unaltered locus of labeled lipid precursors in photoreceptor membranes. Application received by Commissioner of Customs: May 10, 1977.

Docket Number: 77–00236. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Image Converter Tube, Model C73435T. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 10, 1977.

Docket Number: 77–00239. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: (3) Three Ultrafast Streak Cameras and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. The article converts the laser photons to electrons and then sweeps the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 11, 1977.

Docket Number: 77–00240. Applicant: University of Illinois at the Medical Center, College of Nursing, Department of General Nursing, Room 516, 845 South Damen, Chicago, Illinois 60612. Article: Ultrotome IV Ultramicrotome, Model 2128–010 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparation of thin sections of biological materials including plants, normal and pathological tissues/cells of animal and/or human origin, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on nervous and endocrine systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions, synaptic components, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses ultrastructure and cytochemistry to train individual students in the use and application of electron microscopy and in the use of the microtome, in solving individual research problems. Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00241. Applicant: Virginia Polytechnic Institute and State University, Biology Department, Derring Hall, Blacksburg, Virginia 24061. Article: Electron Microscope, Model JEM–100C/SEG and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the following materials:

(a) The gametophytic and sporophytic tissues of the fern Dawsonia,

(b) The cultured callus tissue of Nicotiana tabacum (tobacco), and

(c) Crystalline materials, mainly rock-forming silicates, especially those showing domain textures and exsolution.

The article will also be used extensively in the following courses:

1. Introduction to Electron Microscopy—a graduate and advanced undergraduate level research course intended to acquaint potential investigators with the basic procedures of fixation, staining, embedding, sectioning, operation of a basic transmission microscope and ultrastructural interpretation.

2. General Cytology—an undergraduate/graduate course designed to familiarize biology students and those in other life sciences with basic cytological techniques.

3. Advanced Cytology—a graduate course concentrating on organelle structure and function.

4. Crystal Chemistry of the rock-forming Minerals; Crystallography and Crystal Structure Analysis—to teach methods of investigating atomic and unit-cell scale structures of crystalline matter, particularly rock-forming minerals and sulfides.

Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00242. Applicant: University of California San Francisco, Department of Otolaryngology, Coleman Memorial Laboratory HSE–863, 3rd & Parnassus Streets, San Francisco, California 94143. Article: Electron Microscope, Model JEM–100S with plate camera and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine biological material including mammalian cochlea, the organ of Corti and adjacent nuceliar tissue in the spiral ganglion in order to study the interrelationship of cochlear hair cells and their neural projections. The article will also be used in an introductory course to biological electron microscopy for residents and research fellows in otolaryngology to teach techniques of specimen preparation and transmission electron microscope operation. Other students, postdoctoral fellows, and faculty will be trained on an informal basis. Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00243. Applicant: Northern Regional Research Center ARS–USDA, 1815 N. University Street, Peoria, IL 61604. Article: Electron Microscope, Model HU–12A and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in support of the following research:

(1) Study of the prevalence of fungal viruses in agriculturally important fungi,

(2) Examination of insect tissue in researching alternative biological methods for controlling fest insect populations,

(3) Examination of spore wall ornamentation on all Actinomycetales in the Culture Collection (ca. 4,000 strains),

(4) Examination of two different aspects of yeast ultrastructures to clarify taxonomic and phylogenetic problems, and

(5) Study of the oval inclusion of the paraspore of *Bacillus thuringiensis*, to determine if the inclusion is structurally different or similar to the paraspore.

Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00244. Applicant: U.S. Department of Agriculture—Agricultural Research Service, 359 Main Rd., Box 365, Delaware, Ohio 43015. Article: Scanning Electron Microscope, Model S–500 and Dual Magnification Module, Model DMS–11. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for studies of nursery crops and etiological agents (i.e. fungi, bacteria, mycoplasma-like organisms) in order to (1) differentiate between cultivars with scanning electron microscopy (SEM) on the basis of unique micromorphological characters, (2) identify and describe with SEM morphological characters, (2) identity and describe with SEM morphological changes to nursery crops exposed to ozone and sulfur dioxide, (3) devise SEM techniques for rapid, accurate identification of pathogenic organism, and (4) elucidate hostparasite relationships to improve control methods. Application received by Commissioner of Customs: May 12, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–15134 Filed 5–26–77;8:45 am]

UNIVERSITY OF NORTH CAROLINA-CHARLOTTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00292. Applicant: University of North Carolina at Charlotte, Department of Biology, UNCC Station, Charlotte, North Carolina 28223.

Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for educational purposes in the following courses:

Biology 231: Cell Biology—The structual, functional, and genetic aspects of cells as well as the principles underlying living systems.

Biology 474: Virology—The fundamental aspects of some sub-microscopic organisms including methods of study, identification and classification, replicative cycles and selected topics in viral genetics.

Biology 395C: Advanced Microbiology—A highly laboratory oriented course designed to follow general microbiology. Emphasis is on application of techniques and planning and execution of an individual research project.

Biology 497: Investigations in Biology—Individual research projects.

Non-credit: Short course in Electron Microscope Technique—Intensive instruction in scope operation, maintenance, and photographic technique.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 20, 1975).

Reasons: This application is a resubmission of Docket Number 75-00552-33-46040 which was denied without prejudice to resubmission on September 29, 1975 for informational deficiencies. In response to Question 8, the applicant alleges the foreign article provides the following pertinent characteristics:

(1) Full resolution is maintained with chromatic change of magnification and image rotation even with up to 100 electron volts lost. Image sharpness is retained by compensating for electrons which lose energy while traversing thick sections. Thicker than normal sections can be taken for biochemical assay.

(2) Ease of Operation.—No day to day alignment is needed since the four lenses are pre-aligned in the column. The gun alignment is by electromagnetic controls, and the illumination and image are always centered. The beam and image is never lost during switching through the entire range of magnification.

(3) Entire magnification range is viewed without a pole-piece change with a continuous view of the specimen.

(4) A specimen airlock which functions smoothly and adequately.

(5) Good illumination at higher magifications providing simpler focusing and recording of images.

(6) A guaranteed resolution of 4 Angstroms point (Å point) or .4A line at the user's site with 2.5Å attainable.

(7) Image distortion is 1.5 percent (%) over the entire magnification range.

(8) Magnification reproducibility is within 1%.

(9) Reduced downtime for repairs.

The most closely comparable domestic electron microscope available at the time the article was ordered was the Model EMU-4C manufactured by the Adam David Company. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 22, 1976 that this application be denied because the applicant provides no pertinent specification within the meaning of § 301.2(n) of the regulations upon which duty-free entry could be based. As to the specific allegations made by the applicant, in the order listed above, the following is noted:

(1) HEW advises that the EMU-4C has equivalent resolution to that of the article for the planned work and that thick section compensation is a convenience which is not pertinent.

(2) With respect to ease of operation, HEW advises that the planned work includes both research and teaching so that a simple instrument would be inadequate and neither the EMU-4C nor the article can be described as simple instruments. For these reasons, HEW advises that basic simplicity and ease of operation are not pertinent. In this connection, HEW advises that ease or stability of alignment and image centering stability are conveniences which are not pertinent. As indicated above, the balance of the features which the applicant lists as conferring ease of operation are also not pertinent.

(3) The EMU-4C provides magnifications of 1400 to 240,000× with 400× or less for scanning. The article provides a magnification range of 1500 to 200,000× with 200× for scanning. No pole-piece change is necessary for either instrument although both provide for a change to another pole-piece for low magnification work. HEW advises that the magnification range of the EMU-4C is equivalent to that of the article for the applicant's work. We note that the requirement for the use of the entire magnification range with continuous view of the specimen is related by the applicant in response to Question 8(c)(3) to ease of operation which HEW advises is not pertinent.

(4) HEW advises that the EMU-4C and the article provide specimen airlock chambers which are equivalent for the work.

(5) HEW advises that the EMU-4C and the article provide equivalent illumination for the work.

(6) Section 301.11(a) of the regulations stipulates that guaranteed specifications [as opposed to those obtainable] of the foreign article and the most closely comparable domestic instrument shall be utilized in the determination of scientific equivalency. The EMU-4C provides a guaranteed resolution of 5Å point and the article provides a guaranteed 4Å point. HEW advises that for the applicant's intended work both instruments provide equivalent resolution.

(7) HEW advises that for the planned work both instruments provide equivalent image distortion.

(8) HEW advises that magnification reproducibility is a convenience which is not pertinent.

(9) HEW advises that downtime or reliability projections are cost related and not pertinent.

In general, information which can lead to a direct quantitative comparison of the reliability (i.e., ability to conform to specifications without excessive breakdown) of two instruments is almost never available. When a specification is "guaranteed" the manufacturer is stating, in effect, that the necessary steps have been taken to verify ability to meet this obligation. Thus a guaranteed specification presupposes a determination of reliability to some "engineered-in" degree. Customarily, manufacturers neither issue quantitative specifications on reliability nor guarantee reliability. Moreover, the reliability of a single instrument can, and frequently does, improve abruptly with time (for example, as the manufacturer gains experience and makes minor modifications dictated by such experience). No two instruments of the same model supplied by the same manufacturer will have identical records insofar as reliability is concerned and a documented history of poor reliability does not mean that such performance will not vastly improve with the very next instrument (and subsequent instruments) produced. Without strong and substantive supporting evidence in the record that the reliability of two instruments were measurably different and the difference in reliability precluded performance of the work intended, reliability could not be considered a justifiable basis for duty-free entry under Pub. L. 89-651. While reputations with respect to reliability which are derived from subjective, word-of-mouth allegations or even personal experience may, reasonably or otherwise, enter into a person's decision to buy a particular instrument, such a yardstick could not serve as a clear-cut objective basis for duty-free entry.

Moreover, we would reemphasize that reliability is considered a cost-related consideration for duty-free entry purposes which by regulation and by Congressional intent is not a sufficient basis for the granting of duty-free entry.

For these reasons, we find that the Model EMU-4C was of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-15135 Filed 5-26-77;8:45 am]

Economic Development Administration
Office of Planning and Program Support

CARTER LEATHER GOODS COMPANY, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Carter Leather Goods Company, Inc., 41 East Eleventh Street, New York, New York 10003, a producer of billfolds, purses and key cases, was accepted for filing on May 17, 1977, pur-

suant to Section 251 of the Trade Act of 1974 (P.L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77–1544 Filed 5–26–77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Meetings

Notice is hereby given of meetings of the North Pacific Fishery Management Council's Scientific and Statistical Committee and Advisory Panel.

The North Pacific Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Scientific and Statistical Committee and Advisory Panel established by Section 302(g) of the Act, provide assistance to the Council in the development and amendment of fishery management plans.

1. The Scientific and Statistical Committee will meet in Juneau, Alaska at the Juneau Hilton Hotel on June 15, 16, and 17, 1977. The purpose of this meeting will be to review drafts of the Council's management plans with the drafting teams.

2. The Scientific and Statistical Committee and the Advisory Panel will meet independently in the Post Office Mall Building, Suite 32, 333 West 4th Street, Anchorage, Alaska, on June 22, 1977 to discuss the Council's management plans and other business.

3. The Scientific and Statistical Committee and the Advisory Panel will meet in the Post Office Mall Building, Suite 32, 333 West 4th Street, Anchorage, Alaska, on July 27, 1977, to discuss Council management plans and other business.

The meeting will convene at 8:30 a.m. and adjourn at approximately 5:00 p.m. The meetings may be extended or shortened depending upon progress of the meeting.

The June 22nd and July 27th meeting precede regular scheduled Council meetings by one day. Formal notice for Scientific and Statistical Committee and Advisory Panel joint attendance with the North Pacific Fishery Council at those meetings will be published separately in the FEDERAL REGISTER.

The meetings will be open to the public and there will be seating for approximately 65–75 public members available on a first come, first serve basis.

Members of the public having an interets in the meetings are advised that agenda changes are at times made prior to the meetings. To receive information on chages, if any, made to the agenda, interested members of tre public should contact:

Mr. Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

At the discretion of the Scientific and Statistical Committee and the Advisory Panel, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business.

Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim Branson at the above address. To receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda should be received within 10 days after the close of the meeting. Other written statements may be submitted at any time before or after the meeting.

Dated: May 24, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77–15248 Filed 5–26–77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE ADVISORY PANEL

Public Meetings

Notice is hereby given of meetings of the South Atlantic Fishery Management Council, established by Section 302, and the Council's Scientific and Statistical Committee and Advisory Panel, established by Section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

The Council and Scientific and Statistical Committee will meet jointly Tuesday through Thursday, June 21, 22, and 23, 1977, at the Holiday Inn, North Lumina Avenue, Wrightsville Beach, North Carolina. The Meeting will convene at 1:30 p.m. on June 21 and adjourn at about noon on June 23. The daily sessions will start at 9:00 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Meeting of the South Atlantic Council Steering Committees for the billfish, snapper-grouper, and King and Spanish mackerel management plans to finalize plan development procedures and appoint plan development teams.

2. Orientation of Advisory Panel members.

3. Consideration of administrative and technical matters as may be deemed appropriate.

The Advisory Panel will meet jointly with the Council and the Scientific and Statistical Committee on June 21 and 23 and in separate session at the same facility on June 22 beginning at 9:00 a.m. and adjourning at approximately 5:00 p.m.

Proposed Agenda:

1. Election of Chairman and Vice Chairman.

2. Review of charter and development of operational procedures.

3. Other management business.

These meetings will be open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about June 17, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, No. 1 Southpark Circle, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be

permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: May 24, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-15247 Filed 5-26-77;8:45 am]

Patent and Trademark Office

PATENT AND TRADEMARK OFFICE ADVISORY COMMITTEE

Meeting

The Patent and Trademark Office Advisory Committee will meet from 10:00 a.m. to 5 p.m. on June 17, 1977 in Room 3-11C28 (Commissioner's Conference Room), Patent and Trademark Office, Crystal Plaza Building 3, Arlington, Virginia. This committee was established on December 15, 1975 to advise the Patent and Trademark Office on matters concerning the patent system and the administration of the Office. The agenda for the June 17 meeting is:

(1) Status report on Patent and Trademark Office studies and activities concerning topics previously considered by the Committee.

(2) Further consideration of draft recommendation for a system for reexamination of issued patents.

(3) Further discussion of problems of the independent investor and small business patentee.

(4) How to disseminate more widely the technological information contained in patents.

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first-come, first-served basis. A period will be set aside for oral comments or questions by public observers of 3 minutes per individual on each of the agenda items. More extensive comments or questions should be submitted in writing before June 15. Other public statements may be submitted at any time before or after the meeting.

Copies of the minutes will be available on request 45 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Herbert C. Wamsley, Office of the Commissioner of Patents and Trademarks, Washington, D.C. 20231, telephone: 703-557-3071; or to the Executive Secretary, David B. Allen, Office of Legislation and International Affairs, Patent and Trademark Office, Washington, D.C. 20231, telephone 703-557-3065.

Dated: May 23, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved:

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

[FR Doc.77-15102 Filed 5-26-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERLY HANDICAPPED

PROCUREMENT LIST 1977

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 27, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On April 1, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 17510) of proposed deletion from Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1977:

Class 8440

Neckties, 8440-00-926-6604, 8440-00-926-4933, 8440-00-426-1999.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-15165 Filed 5-26-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 30, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 6695

Sampling Kit, Spectrometric, Oil Analysis, 6695-NC-609-651P.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-15164 Filed 5-26-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from May 16 through May 20, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 11, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Big Creek Dam, Selway Bitteroot Area, Ravalli County, Mont., May 20: Proposed is the reconstruction of the existing Big Creek Dam in the 1,239,840-acre Selway-Bitteroot Wilderness, Montana. The statement discusses the importance of stored water provided by the dam in maintaining agricultural production on 5,250 acres of land owned by the 44 shareholders who operate the dam under special use permit. Alternative methods of reconstruction are analyzed, and the use of motorized equipment is proposed both for transporting materials to the site and in construction. Adverse impacts include disturbance of vegetation and soil, and subjection of the lake system and its fishery to unnatural water level fluctuations. (ELR Order No. 70613.) Vegetation Management w/ Herbicides, ORE/WAS/CAL, Oregon, Washington, California, May 19: The proposed action is the reduction of unwanted vegetation, with herbicides, as a part of resource management activities on National Forest lands. The action covered by this EIS involves the use of the following herbicides: 2,4–D, 2,4,5–T, silvex, atrazine, dicamba, dalapon, amitrole-T, picloram, monosodium methanearsenate, Krenite and cacodylic acid. All counties in the states of Oregon and Washington which contain Forest Service lands plus Del Norte and Siskiyou Counties of California are involved. (ELR Order No. 70603.)

Final

Mount Hebgen Management Alternatives, Gallatin County, Mont., May 18: Proposed is the issuance of a special use permit to Ski Yellowstone, Inc., to develop ski facilities on Mount Hebgen, Montana. The plan consists of the construction of a mountaintop restaurant, an 8,300-foot long gondola, and 11 double chair lifts, serving 637 acres of ski slopes and trails. The facility, to be built over a 10-year period, will have a capacity of 6,500 skiers. Negative impacts include minor slope instability, soil erosion, increased demands on existing facilities and degradation of air due to increased automobile emissions. Comments made by: FEA, FPC, USDA, COE, DOI, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70600.)

Ophir-Dog-Macdonald Pass, Helena National Forest, Powell, Lewis, and Clark Counties, Mont., May 19: The proposed action is the preparation and implementation of an intensive Multiple Use Plan for Ophir-Dog-Macdonald Pass Planning Unit, Helena National Forest. The action will affect 50,600 acres of forest land and include the following major changes: a slight reduction in the harvest of timber, more emphasis on production of red meat, and more specific direction on management of recreation and unroaded areas. Adverse impacts include soil movement, damage to residual vegetation, and restriction of motorized traffic in some areas. Comments made by: HUD, AHP, EPA, DOI, USDA, OEO, and State and local agencies and concerned citizens. (ELR Order No. 70607.)

W. Spruce Budworm Suppression and Evaluation, Sandoval, Rio Arriba Counties, N. Mex., May 18: Proposed is the evaluation of the western spruce budworm and its effects on forestry resources on 74,848 acres of Federal and Indian lands. To properly conduct this evaluation, it will be necessary to chemically treat 37,450 acres of the total acreage; 34,000 acres on the Santa Fe National Forest and 3,450 acres on the Jemez Pubio Indian Reservation, New Mexico. Carbaryl (Servin R–4–Oil) will be the insecticide used, and will be applied at the recommended dosage rate of 1 lb. of active ingredient in an oil carrier to make up 64 ounces of material per acre. Pesticide impacts are evaluated. Comments made by: USDA, DOI, DOT, COE, EPA, HEW, and State organizations, concerned citizens. (ELR Order No. 70602.)

DEPARTMENT OF DEFENSE

ARMY

Contact: Col. Charles Sell, Chief, Environmental Office, Department of the Army, Room 1E673, Pentagon Chief of Staff, Washington, D.C. 20310, 202–694–4269.

Draft

Operation RMT, Chemical Materiel Transport, Colorado, Utah, May 19: The proposed action involves the movement of GB nerve agent filled Weteye Bombs from Rocky Mountain Arsenal, Denver, Colorado, to Tooele Army Depot, Tooele, Utah. The munitions will be moved across the Arsenal by truck convoy to Stapleton International Airport, then loaded onto USAF C–141 cargo aircraft and flown to the Michael Army Airfield at Dugway Proving Ground. The movement from Dugway Proving Ground to Tooele Army Depot will be by truck convoy. The potential for an accident resulting in release of the chemical agency has been evaluated and is considered to be minimal. (ELR Order No. 70611.)

Final

Ground Squirrel Control, Fort Ord Complex, Monterey, San Luis Obispo County, Calif., May 20: Proposed is the significant reduction of ground squirrel populations occupying large areas of grassland and woodland-grassland on Fort Ord, Fort Hunter Liggett and Camp Roberts, located in Monterey and San Luis Obispo Counties. This action would treat the open range ground squirrel habitat at Fort Hunter Liggett and Camp Roberts with 1080-treated bait from the air. Zinc phosphide would be applied by hand to open-range ground squirrel habitat on Fort Ord. Environmental impact include the reduction of non-target populations such as other seed-eating rodents like meadow voles, kangaroo rats, field mice, and seed-eating birds due to secondary poisonin. Comments made by: DOI, DOT, USDA, DOD, HEW, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70617.)

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Ave, S.W., Washington, D.C. 20314, 202–693–6795.

Draft

Hartwell Lake, GEO/SC, O & M, South Carolina, Georgia, May 19: Proposed is the continuance of the operation and maintenance program on Hartwell Lake, Savannah River. The operation and maintenance activities consist of reservoir regulation, flood control, hydroelectric power generation management of land resources and facilities, management of leases, easements and other outgrants, and project management and maintenance activities. Adverse effects associated with the operation of Hartwell Lake are: soil erosion and/or compaction, damage to or loss of vegetation, and alterations of the natural environment through recreational development. (Savannah District.) (ELR Order No. 70608).

Final

Pebble Beach-Indianola Development Permit, Ocean County, N.J., May 20: The Statement concerns the permit application by the Mayer Corp. for the dredging and bulkheading of the Pebble Beach-Indianola area. The proposed action will allow the construction of approximately 88 single family residences in the northern portion of the largely completed site. Adverse impacts include destruction of marsh salt, elimination of vegetation and habitat on wetlands and low and upland forests, and temporary turbidity, noise and erosion. (Philadelphia District.) Comments made by: USDA, DOC, DOI, EPA, HUD, HEW, and State and local agencies, concerned citizens. (ELR Order No. 70612.)

Red River Chloride Control, Texas, Oklahoma, May 18: Proposed is the construction of five low-flow dams, three subsurface cutoff walls, two shallow wells collection systems, and installation of associated pumps and pipelines for collecting, transporting and storing brine-laden waters. There will be a total of about 11,900 acres of land eventually inundated with brine. The brine will cause a progressive degradation of the soil and vegetation, causing displacement of land animals. The aesthetic conditions surrounding the brine pools may be regarded as an encroachment upon a wild landscape by manmade features. (Tulsa District.) Comments made by: AHP, DOI, HEW, DOC, HUD, DOT, USDA, EPA, and State agencies. (ELR Order No. 70604.)

Supplement

Inland Waterway, Delaware River, Chesapeake Bay (S–1), Delaware, Maryland, May 16: This statement supplements a final EIS filed with CEQ in May 1974, and addresses discussion which has taken place since the completion of the Final EIS between the Corps, EPA, the Maryland Department of Resources, and interested public concerning the maintenance dredging program and its environmental effects. The suppliment synopsizes the results of two, ad hoc studies of the maintenance dredging program. (ELR Order No. 70596.)

NAVY

Contact: Mr. Ben Montoya, Department of the Navy, Room 12N45, Washington, D.C. 20350.

Final

Ready Missile Test Facility, Project P–875, Ventura County, Calif., May 18: The proposed action is entitled Military Construction Project P–875: "Ready Missile Test Facility." This action involves the construction of 15 small buildings on 5 acres of mudflat at the Pacific Missile Test Center, Point Mugu, California. It will involve dredging about 25,000 cubic yards of mud out of an intertidal mudflat and filling it in with about 100,000 cubic yards of sand. The purpose of the project is to provide facilities for testing air-launched missiles with line warheads and motors. Few adverse effects are anticipated.

Comments made by: DOD, EPA, DOI, AHP, COE, DOC, and State and local agencies, concerned citizens. (ELR Order No. 70599.).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

CSDOC Wasterwater Management Plan, Orange County, Calif., May 20: The proposed

action is the construction of additional treatment facilities at the County Sanitation Districts of Orange County, California. The recommended alternative water pollution control projects consist of expansion of primary and secondary treatment capacity at two regional wastewater treatment plants through the year 1996. The capacity of Plant No. 1, located in Fountain valley, would be increased from 46 mgd to 126 mgd. Proposed additions to Plant No. 2, in Huntington Beach, would add 36 mgd of primary treatment to the present capacity of 138 mgd. Adverse effects include construction and operational impacts. (Region IX.) (ELR Order No. 70619.)

South Kennebec Valley Water Quality Plan, several counties, Maine, May 20: Proposed is the implementation of a two-year area-wide water quality plan for the Southern Kennebec Valley area in Maine. The planning process is subdivided into the following four major areas: (1) water quality, (2) waste reduction, (3) land use, and (4) management planning. One of the major goals of the plan is to maintain, or obtain for certain substandard waters, a quality capable of supporting water contact recreation. Waste reduction studies are included and address both point and non-point sources. Impacts vary according to the alternate selected. (Region I.) (ELR Order No. 70618.)

Draft

Jackson Wastewater Treatment System, Teton County, Wyo., May 17: Proposed is the provision of Federal matching funds for wastewater treatment for the town of Jackson, Wyoming, through the authority of the Federal Water Pollution Control Act. The town of Jackson proposes to build a stabilization lagoon system in the state-owned South Park Elk Feedground five miles south of the town. Because there are various difficulties associated with this option, EPA has decided not to fund the option. Alternative systems, which include lagoon systems located at three sites other than the Elk Feedground, are discussed extensively. (Region VIII.) (ELR Order No. 70598.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308.

Draft

Sherwood Trails Subdivision, Harris County, Tex., May 19: Proposed is the development of 200.592 acres into a community composed of single-family homes in Kingwood, Texas. The development will be designed to accommodate approximately 3,234 persons. Adverse effects include the loss of wooded land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70605.)

Final

Northeast Suisan, 983-acre Development, Suisan and Solano Counties, Calif., May 18: The proposed action consists of the development of 953 acres of land in the northeastern portion of Suisan, Solano County, California. The project calls for the construction of 2,468 single family units, 1,220 medium density apartments, 1,500 high density apartments, 2 potential schools, and commercial services. Potential adverse impacts include increased noise levels, and stress on the existing water system. (170 pages.) Comments made by: DOT, GSA, ERDA, VA, AHP, USDA, USAF, HEW, State and local agencies, concerned citizens. (ELR Order No. 70601.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 5311, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF INDIAN AFFAIRS

Draft

Vekol Hills Project, Papago Reservation, Pinal County, Ariz., May 19: The proposed action is the approval by the Secretary of the Interior of (a) a Mining Lease Indian Lands, and (b) a Business Lease (Water Well Sites) on lands within the Papago Indian Reservation, Arizona. The Lessee of both leases will be the Vekol Copper Mining Company, a wholly owned subsidiary of the Newmont Mining Company; the Lessor will be the Papago Tribe of Arizona. The leases will be for the purpose of mining and producing copper, molybdenum, gold, and silver by conventional open pit methods. Approximately 1,600 acres of natural desert and foothill terrain will be affected. (ELR Order No. 10609.)

Lower Truckee-Lower Carton R. Basins, Nev., May 19: Proposed is the reduction of the amount of water diverted by the Newlands Reclamation Project from the Truckee River watershed into the Carson River watershed, and the accomplishment of certain improvements in operation and management. (Under the long-term implementation of operating criteria for the Newland Reclamation Project, the amount of water the project may use each year is reduced from 406,000 acre-feet to 288,100 acre feet.) As a result of this action, an annual average increase of 127,000 acre-feet in inflow to Pyramid Lake will occur and provide the basis for stabilization of the lake. (ELR Order No. 70601.)

BUREAU OF RECLAMATION

Final

Colorado River Water Quality Program, Utah and Nevada, May 20: Proposed is the construction of four salinity control units as a part of the initial stage of the Colorado River Water Quality Improvement Program. These units include Paradox Valley Unit, Colorado; the Grand Valley Unit; Colorado; the Crystal Geyser Unit, Utah; and the Las Vegas Wash Unit, Nevada. This statement presents cumulative impacts of the program and detailed impacts of the Las Vegas Wash and Crystal Geyser Units. Implementation of all salinity control units will reduce the salinity of the Colorado River at Imperial Dam by about 150 milligrams per liter. Comments made by: DOI, AHP, USDA, HEW, STAT, FPC, FEA, DOT, EPA, State and local agencies, concerned citizens. (ELR Order No. 70614.)

De Luz Heights Municipal Water System, San Diego County, Calif., May 16: The statement refers to the proposed construction of a pipe distribution system to convey water from the San Diego Aqueduct for the irrigation of 1,825 acres of potential avocado lands. Approximately 14 acres will be committed to the project; 1,625 acres of presently undeveloped land will be used for agricultural purposes, disturbing existing wildlife habitat and stimulating rural development. Comments made by: DOI, EPA, State and local agencies, concerned citizens. (ELR Order No. 70595.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

South Midtown Freeway (Route 71), Jackson County, Mo., May 20: The proposed 10.2 mile highway improvement consists of an 8-lane freeway, constructed on a new location with limited access right-of-way from the Interchange of Route I–35—I–70 in the downtown loop to 95th Street, Jackson County, in Kansas City, Missouri. Approximately 1,630 individuals have been relocated and 1,650 more will be displaced. Thirteen school districts and nine fire districts will be affected by the improvement. A 4(f) statement is included for Spring Valley Park and Hagerwood Park. (Region 7.) (ELR Order No. 70616.)

U.S. COAST GUARD

Contact: Captain Frederick P. Schubert, Office of Marine Environment and Systems, U.S. Coast Guard, Washington, D.C. 20590, 202–426–2010.

Draft

Ohio R. Bridge and U.S. 22, Ohio and West Virginia, May 20: The proposed action is the granting of a U.S. Coast Guard permit for construction of a toll-free bridge and approaches in Ohio and West Virginia. The 2.5-mile project begins at a connection to existing U.S. 22 (Stoney Hollow Boulevard) in Steubenville, Jefferson County, Ohio, and continues across the Ohio River to Main Street (U.S. 22 and W. Va. 2) in Weirton, Brooke County West Virginia. Two alternate locations were considered: (1) a site across the Ohio River at Alikanna, and (2) an alignment in which the West Virginia approach would be the same but the Ohio approach would be skewed to the north. The action will result in the relocation of 63 families and 6 businesses (ELR Order No. 70615.)

VETERANS ADMINISTRATION

Contact: For Housing Programs—Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202–389–2691. For all other programs—Mr. Nicholas Clark, Civil Engineer, Technical Services Division, Engineering Service, Veterans Administration, Washington, D.C. 20420, 202–389–2086.

Draft

VA Replacement Hospital, Richmond, Va., May 19: Proposed is the construction of an 820-bed replacement Veterans Administration Hospital to be located on the existing 130-acre Veterans Administration property in Richmond, Virginia. The proposed new construction will replace a functionally inadequate and outmoded facility presently existing at the Veterans Administration Hospital, Richmond. Adverse effects include impacts on soil erosion and increased dust and noise levels. (ELR Order No. 70606.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77–15311 Filed 5–26–77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of Public Law 92–463, effective January 5, 1973, notice is hereby given that the Chemical Propulsion Advisory Committee (CPAC) will meet in open session at 0930 hours on Wednesday, June 22, 1977 at the Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Maryland 20810. The meeting will be held in Room L–2 of the R.E. Gibson Library.

At this meeting the CPAC will summarize for the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee the current status of reviews by its Working Groups in fields of technical interest relating to the chemical propulsion of rockets, missils, and gun projectiles. The activities of the Working Groups for the past year and those projected for the coming year will be discussed.

Attendees outside of CPAC membership will be admitted as observers to the proceedings.

Due to the limited time and space availability, it is requested that persons interested in attending the CPAC meeting provide written notice to the address listed below by June 15, 1977. Notice should include information with respect to interest and degree of participation.

Mr. Ted Gilliland, Chemical Propulsion Information Agency, The Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Maryland 20810.

Telephone inquiries may also be made to Mr. Gilliland at 953–7100, extension 7804.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 12, 1977.

[FR Doc.77–15086 Filed 5–26–77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Notice of Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014 on June 15 and 16, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 25, 1977.

[FR Doc.77–15142 Filed 5–26–77;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C^3)

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C^3) will meet in closed session on 20 and 21 June 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C^3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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

MAY 24, 1977.

[FR Doc.77–15170 Filed 5–26–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

FUEL SWITCHING FORUM

Notice of Conference

The Energy Research and Development Administration/Fossil Energy is sponsoring a Forum on Industrial Fuel Switching to Coal on June 6–7, 1977, at the William Penn Hotel, Pittsburgh, Pennsylvania.

The purpose of this forum is to provide industrial fuel users with the opportunity to learn of the techniques and experiences used successfully by other firms in the major energy consuming industrial categories to rapidly increase their direct utilization of coal in lieu of dependence on oil and natural gas. Attendees will be briefed by representatives of selected industries pioneering in the switch to coal use.

For further information, contact Mr. Jack Gordon, MITRE Corporation, Westgate Research Park, McLean, Virginia 22101, telephone 703–790–6152.

PHILIP C. WHITE,
Assistant Administrator for Fossil Energy.

[FR Doc.77–15309 Filed 5–26–77;8:45 am]

LONG-TERM MANAGEMENT OF DEFENSE HIGH-LEVEL RADIOACTIVE WASTES (SAVANNAH RIVER PLANT, AIKEN, S.C.)

Preparation of Environmental Impact Statement and Availability of Technical Alternatives Defense Waste Document

Notice is hereby given that in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) intends to prepare a programmatic environmental impact statement (EIS) concerning the long-term management of the high-level radioactive wastes that are generated as part of the national defense effort at the Savannah River Plant (SRP) located near Aiken, South Carolina. Currently, large quantities of these radioactive wastes in liquid and solid forms are stored at the SRP site.

The environmental impacts of the continuing waste management operations at the plant were assessed in ERDA–1537, a draft environmental impact statement issued in October 1976 (41 FR 47284, October 28, 1976). This new programmatic statement will assess the environmental impacts associated with the reasonably available alternatives for ultimate storage or disposal of the wastes in an environmentally acceptable manner for periods of time required for the radioactivity to decay to safe levels, i.e., hundreds to thousands of years. Research and development programs are being performed at the Savannah River Plant on alternative waste forms and storage modes for the long-term management of these defense wastes.

The purpose of this notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. In order to provide background regarding the state-of-the-art of various technologies to be considered for use in disposal of the wastes, ERDA has prepared a Defense Waste Document (DWD), "Alternatives for Long-Term Management of Defense High-Level Waste" (ERDA–77–42). The preparation of this DWD was announced October 18, 1976 (41 FR 45901). This DWD describes the alternative technologies with respect to their probable relative costs, risks, and uncertainties. A total of 23 plans are included in the DWD including alternatives ranging from continuing the storage as salt cake and sludge in tanks on the SRP site (which is the "no action" alternative) to conversion of the waste

to a glass form before shipping it to an off-site Federal repository.

The EIS will assess the environmental impact of the main alternative candidate plans using the DWD as a reference source of input. The EIS will provide the environmental input into decisions related to the research, development, demonstration activities and engineering design studies required to establish an environmentally acceptable mode of disposal for these high-level radioactive wastes.

Interested agencies, organizations or persons desiring to submit comments or suggestions should submit them to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301-353-4241, on or before August 1, 1977. Those desiring a copy of the DWD for use in preparing comments or suggestions, or a copy of the draft EIS when it is issued, should notify Mr. Pennington.

Copies of the DWD, the existing Savannah River draft EIS (ERDA-1537), and other documentation to be used in the preparation of the new EIS are available for public inspection at the public document room located at the Savannah River Operations Office at the SRP. Copies of the DWD and ERDA-1537 are also available for public inspection at ERDA's public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue, NW., Washington, DC 20545.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, NM 87115.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439.
Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401.
Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114.
Richland Operations Office, Federal Building, Richland, WA 99352.
San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Dated at Germantown, Maryland, this 23rd day of May 1977. For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-15200 Filed 5-26-77;8:45 am]

[ERDA-1555]

PORTSMOUTH GASEOUS DIFFUSION PLANT SITE

Availability of Final Environmental Impact Statement

Notice is hereby given that the Final Environmental Impact Statement, Portsmouth Gaseous Diffusion Plant Site, Piketon, Ohio, ERDA-1555 (May 1977), has been issuued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of the continued operation of the Portsmouth facility including the offsite production of electric power.

Copies of the final statement are available for public inspection in the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue, Washington, D.C.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Richland Operations Office, Federal Building, Richland, Washington.
San Francisco Operations Office, 1333 Broadway, Oakland, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Copies have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration as ERDA-1555-D on February 10, 1977, and participants of the public hearing, which was held on the draft statement on April 5, 1977. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37830, (615) 483-8611, Extension 34672. The statement is also available from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Germantown, Maryland, this 23rd day of May 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77-15099 Filed 5-26-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 733-8]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of March 1, 1977 and March 31, 1977.

Appendix I below contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II below, and the EPA source for copies of the comments as set forth in Appendix VI below.

Appendix II below contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I below.

Appendix III below contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI below.

Appendix IV below contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI below.

Appendix V below contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI below.

Appendix VI below contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V below.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202-755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: May 18, 1977.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statement which comments were issued between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
DS-COE-A32037-MO	Smithville Lake, Little Platte River, replacement of the Trimble Wildlife area, Mo.	LO-1	H
D-COE-B36013-MA	Knightville Dam modification project, Huntington and Chesterfield, Hampshire County, Mass.	LO-1	B
D-COE-B36014-MA	Leominster local protection project, Monoosnoc Brook, Worcester County, Mass.	ER-1	B
D-COE-C36024-00	Flood control project, Mamaroneck and Sheldrake River basins, Mamaroneck, N.Y. and Byram River Basin, Greenwich, Conn. and Port Chester, N.Y.	ER-2	C
D-COE-C39002-NY	Hudson River project, Northeast U.S. water supply study, metro area, New York.	3	C
DS-COE-E30004-FL	Beach erosion control and hurricane protection, Panama City beaches, Bay County, Fla.	LO-2	E
D-COE-E30005-FL	Beach erosion control and shoreline protection, survey report, Indian River County, Fla.	LO-2	E
D-COE-F08004-OH	Coal transfer facility, Ohio River mile 314.5, Lawrence County, Ohio.	ER-2	F
DS-COE-F32035-00	Interim survey report, Great Lakes-St. Lawrence Seaway navigation season extension.	3	F
D-COE-H34014-KS	Wilson Lake, operation and maintenance, Russell and Lincoln Counties, Kans.	LO-1	H
DS-COE-H36029-NB	Papillion Creek and tributaries, Nebr.	ER-3	H
D-COE-J39005-00	Missouri River main stem system, operation and maintenance, Mont., N. Dak., S. Dak., Nebr., Colo., Wyo., Kans., Iowa, Miss., and Minn.	ER-3	I
D-COE-L36045-ID	Lucky Peak modification, Boise River, Idaho.	LO-2	K
	Department of Agriculture		
D-AFS-B61007-VT	Timber management plan, Green Mountain National Forest, Vt.	LO-1	B
D-AFS-B82003-ME	Cooperative spruce budworm suppression project, 1977 Maine.	ER-2	B
D-AFS-D65005-WV	Monongahela National Forest, land management plan, W. Va.	LO-2	D
D-AFS-J65058-CO	Boulder-Grand Divide unit, Arapaho and Roosevelt National Forests, Colo.	ER-2	I
D-AFS-L61086-OR	Badger-Jordan land use plan, Mount Hood National Forest, Wasco and Hood River Counties, Oreg. (USDA-FS-R6-DES-ADM-77-5).	LO-1	K
D-AFS-L67003-AK	U.S. Bora Mining access road, Quartz Hill project, east of Ketchikan, Alaska (USDA-FS-R10-DES-ADM-77-04).	3	K
D-REA-D08001-MD	Chalk Point to Lexington Park, transmission line 230 KV, St. Marys County, Md.	LO-2	D
	Department of Commerce		
D-NOA-B91006-00	Fishery management plan, groundfish, haddock, cod, yellowtail flounder.	LO-1	B
D-NOA-L90010-00	Proposed implementation of the fishery management plan for commercial troll and recreational salmon fisheries off the coasts of Wash., Oreg. and Calif.	LO-1	K
	Department of Defense		
D-USA-K82000-CA	Ground squirrel control, Fort Ord complex, Calif.	ER-2	I
	Department of Interior		
D-BLM-J99002-CO	San Luis resource area, grazing management, Colo.	LO-2	I
DS-IBR-G07001-NM	El Paso coal gasification, El Pas County, N. Mex.	LO-1	G
D-IBR-L36049-00	Touchet division, Walla Walla project, Wash. and Oreg.	LO-2	K
D-IBR-L36050-WA	Bumping Lake enlargement, supplemental storage division, Yakima project, Wash.	LO-1	K
D-NPS-E61019-AL	General management plan, Tuskegee Institute National Historic Site, Ala.	LO-1	E
	Department of Transportation		
D-FAA-D51008-PA	Proposed radar facility, (ARSR/ISS), joint surveillance system, Pine Township, Clearfield County, Penn.	LO-2	D
D-FHW-C40029-NJ	Ocean Boulevard, Morris to Ocean Ave., Long Branch, Monmouth County, N.J.	LO-2	C
DS-FHW-D40028-MD	Air quality analysis, MD-51, Cumberland to North Branch, Allegheny County, Md.	LO-2	D
D-FHW-E40096-GA	I-85 improvements, Fulton-DeKalb County line to I-285, DeKalb County, Ga. (FHWA-GA-EIS-76-06-D).	ER-2	E
D-FHW-E40097-NC	Relocated U.S. 321, Dallas to Hickory, Gaston, Lincoln and Catawba Counties, N.C.	ER-2	E
D-FHW-F40083-OH	I-675, Montgomery and Greene Counties, Ohio.	ER-2	F
D-FHW-F40084-IN	U.S. 24 relocation, U.S. 24 bypass to IN-37, Wabash and Huntington Counties, Ind.	LO-2	F
D-FHW-F40085-WI	University Avenue, Cedar St. to Humboldt Rd., Brown County, Wis.	LO-2	F
D-FHW-F40086-OH	Akron Interbelt, OH-59, I-76/77 to OH-8, Summit County, Ohio.	ER-2	F
D-FHW-H40066-IA	Arterial Highway 500, IA-5 to I-80, Polk County, Iowa (FHWA-IA-EIS-77-02-D).	LO-2	H
D-FHW-K40049-AZ	Roosevelt-Payson Highway, AZ-188, junction of AZ-88 and AZ-87, Gila County, Ariz.	LO-1	J

Federal Energy Administration			
D-FEA-F01001-OH	Strategic petroleum reserve, Ironton mine, Lawrence County, Ohio.	ER-2	F
D-FEA-G03008-TX	Bryan Mound salt dome, strategic petroleum reserve, Brazoria, Tex.	LO-2	G
Department of Housing and Urban Development			
D-HUD-F85014-IL	Proposed complex, Oak Tower, Oak Park, Cook County, Ill.	LO-2	F
D-HUD-F85015-IN	Merrillville Terrace multifamily project, Lake County, Ind. (HUD-R05-EIS-77-02-D).	3	F
D-HUD-F85016-IL	Finger Lake estates, unincorporated, Will County, Ill.	ER-2	F
D-HUD-F85018-IL	Indian Oaks subdivision, Will County, Ill.	LO-2	F
D-HUD-G85023-TX	Williamsburg subdivision, Harris County, Tex.	LO-1	G
D-HUD-G85024-TX	Settlers Village subdivision, Harris County, Tex.	LO-2	G
D-HUD-K85006-CA	Clovis Heights and Cougar estates development, Clovis, Fresno County, Calif.	LO-2	J
DS-HUD-K88001-CA	Merced, Atwater, Castle Air Force Base and environs, Merced County, Calif.	LO-1	J
D-HUD-K89017-CA	Irvington redevelopment project, Fremont, Calif.	ER-2	J
Department of Labor			
RD-OSH-A99130-00	Proposed standard for occupational exposure to cotton dust (41 FR 56498).	LO-1	A
National Aeronautics and Space Administration			
D-NAS-D09004-VA	Refuse-fire steam generating facility, Langley Research Center, Hampton, York County, Va.	LO-1	D

APPENDIX II—DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requestd more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Mar. 1, 1977 and 31, 1977*

Identifying No.	Title	General Nature of Comments	Source for Copies of Comments
Corps of Engineers			
F-COE-E35001-FL	Panacea Harbor project, maintenance dredging, Wakulla County, Fla.	EPA's concerns were adequately addresssed in the final EIS. However, EPA believes that future dredging operations should be planned around improved environmentally oriented equipment.	E
F-COE-E36007-00	Nonconnah Creek, Shelby County, Tenn. and Desoto and Marshall Counties, Miss.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that the land treatment techniques for agricultural land will need to be supplemented with appropriate controls for storm water retention and control of erosion and siltation from construction activities.	E

Identifying No.	Title	General Nature of Comments	Source for Copies of Comment
F-COE-F32036-MI	Confined disposal facility, Clinton River, maintenance dredging, Macomb County, Mich.	EPA's concerns were adequately addressed in the final EIS.	F
F-COE-K32008-CA	Navigation improvement project, Humboldt Harbor and bay, Humboldt County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K35007-HI	Honolulu Harbor, Oahu County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K39004-CA	Port Sonoma development project, permit, Sonoma County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K80003-CA	Redwood shores regional shopping center, permit, Sonoma County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
	Department of Agriculture		
F-AFS-J65044-WY	Savage run planning unit, Medicine Bow National Forest, Albany County, Wyo.	EPA continues to have environmental reservations on the proposed project. EPA expressed concern that the conversion of much of the roadless area within the planning unit to timbering activities does not seem to be consistent with the goal of maintaining water quality.	I
F-AFS-K65013-AZ	Woods planning unit, Coconino National Forest, Yavapai County, Ariz.	EPA's concerns were adequately addressed in the final EIS.	J
	Department of Interior		
F-IBR-G07001-NM	El Paso coal gasification, El Paso County, N. Mex.	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that adequate plans be developed to mitigate the potential adverse secondary impacts.	G
FS-SFW-A64021-WI	Goose observation development plan, Horicon National Wildlife Refuge, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
	Department of Transportation		
F-DOT-A41193-MI	MI-21, relocation, MI-24 to near Wadhams, Lapeer and St. Clair Counties, Mich. (FHWA-MI-EIS 75-04-F).	In general, EPA's concerns were adequately addressed. However, EPA recommended that appropriate mitigation be considered for those noise sensitive receptors which may experience significant increased noise levels, even though the FHWA recommended standard may not be exceeded.	F
F-FAA-F51006-WI	Development at Rhinelander-Oneida airport, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-A42417-NY	N.Y.-209, Spring Glen to Hurley Ulster County, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
F-FHW-E40086-NC	U.S. 74, Lauringburg bypass, Scotland and Robeson Counties, N.C. (FHWA-NC-EIS-76-18-F).	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA suggested two categories of noise impacted sites should be catalogued: those which receive levels in excess of the FHWA design maximums and those that receive an increase of 10 dba or greater over existing levels.	E
F-FHW-F40055-OH	OH-5, Southeasterly to OH-82, Trumbell County, Ohio.	EPA's review of the final EIS indicates the FHWA was unresponsive to EPA's comments on the draft EIS. Furthermore, EPA continues to have environmental reservations based upon adverse wetland impacts and the lack of consideration given to alternatives that would minimize flood plain and wetland impacts.	F
F-FHW-F40056-WI	WI-35, River Falls to Hudson Rd., Pierce and St. Croix Counties, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-H40034-NB	I-680, Omaha, Douglas County, Nebr.	EPA continues to have environmental reservations on the proposed project. Specifically, the projected noise levels if unabated, will exceed the noise standards contained in the Federal aid highway program manual (FHPM) 7-7-3. In addition, information contained in the air pollution assessment suggests carbon monoxide conditions may be higher than currently predicted.	H
F-FHW-K40003-HI	Piilani Highway, Kihei to Makena Rd., Kula Highway, Maui County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J

Identifying No.	Title	General Nature of Comments	Source for Copies of Comments
F-FHW-K40009-HI	Salt Lake Boulevard, Puuloa Rd. to Halawa Heights Rd. extension, Honolulu County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
	Department of Housing and Urban Development		
F-HUD-A61246-GA	Lake Alma project, Alma-Bacon County, Ga. (HUD-R04-EIS-76-PE-01-F).	The proposed action was determined to be environmentally unsatisfactory because the lake, once created, would be of questionable water quality and would be eutropic and short-lived. Pursuant to EPA's responsibility under section 309(B) of the Clean Air Act, the matter is being referred to the Council on environmental quality with a recommendation that CEQ appoint and chair a study team to review the project and that the release of CDBG funds for the project be postponed. Further, when the section 404 process is activated by an application for a permit to dredge and fill, it will be the recommendation of the agency to deny issuance of the permit.	A
F-HUD-C85012-PR	Los Caobos development, Ponce, PR.	In general, EPA's concerns were adequately addressed in the final EIS.	C
F-HUD-J85009-CO	Habitat, planned unit development, Boulder County, Colo.	EPA continues to have environmental reservations on the proposed project concerning air quality impacts. Individually these projects may be insignificant, however, the cumulative impacts may be adverse.	I
	National Aeronautics and Space Administration		
F-NAS-D84003-VA	Langley Research Center Institution, National transonic facility, Hampton, Va.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that mitigating measures be incorporated into the project if any unexpected problems develop during operation.	D
F-NAS-J99001-UT	Space shuttle solid rocket motor DDT&E program, Thiokol/Wasatch Division, Promontory, Utah.	EPA's concerns were adequately addressed in the final EIS.	I
	Nuclear Regulatory Commission		
F-NRC-B06000-MA	Montague nuclear power station, units 1 and 2, Northeast Nuclear Energy Co., Franklin County, Mass. (NUREG-0034).	In general, the final EIS was found to be responsive to EPA's concerns and presently EPA drafting the discharge permit under section 402 of the Federal Water Pollution Control Act, as amended.	B
F-AEC-A09018-00	Use of recycle plutonium in mixed oxide fuel in light water cooled reactors, GESMO (NUREG—0002).	EPA indicated that, since all the necessary technolcgy to close the mixed-oxide fuel cycle had not been demonstrated, the incentive for recycle and the advisability of a prompt commitment to full-scale commercial implementation are in question. However, EPA saw no environmental reason for not proceeding with essential pilot or limited demonstration efforts to resolve various technical questions. EPA advocated anaylyses of technological alternatives to mixed-oxide utilization and consideration of other feasible options to assure domestic safeguards and avoid foreign proliferation. Further, EPA indicated that prior to final decisions on commercialization a high-level waste management plan should be put into effect. Finally, EPA, in reviewing the cost/benefit aspects of the statement, found that the economic viability of plutonium recycle cannot be judged with any certainty.	A

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	Source of review
	Corps of Engineers	
FS-COE-A32043-00	Red River Waterway, La., Ark., Tex. and Okla	G
FS-COE-A32312-LA	Atchafalaya River and Bayous Chene, Boeuf, and Black, La	G
F-COE-E36020-NC	Deep Creek flood control project, Edgecombe County, N.C	E
F-COE-E36027-MS	Gordons Creek project, flood control, Forest County, Miss	E
F-COE-G34018-LA	Gulf Intracoastal Waterway, (GIWW), Petit Anse, Tigre and Carlin Bayous, and Bayou Grosse Tete, La.	G
F-COE-G34023-LA	Operation and maintenance, Bayou Teche, Bayou Teche and Vermilion River and Freshwater Bayou, La.	G
F-COE-L36007-00	McNary second powerhouse, Columbia River, Oreg. and Wash	K

Identifying No:	Title	Source of review
	Department of Agriculture	
F-AFS-J65056-MT	Warm Spring-Medicine Tree Planning Unit, Bitterroot National Forest, Mont.	I
F-AFS-L61061-OR	Chemult planning unit, Winema National Forest, Klamath and Lake Counties, Oreg. (USDA-FS-R6-FES(AVM)-76-6).	B
F-AFS-L61070-ID	Siwash planning unit, St. Joe National Forest, Idaho (USDA-FS-R1-OR-FES-ADM-76-14).	K
F-AFS-L65024-AK	North Irish Creek timber sale, Tongass National Forest, Alaska (USDA-FS-R10-FES-ADM-76-04).	K
	Department of Defense	
F-UAF-G11002-00	Closure of Craig Air Force Base, Ala. and Webb Air Force Base, Tex	G
F-UAF-G81008-OK	AWACS Beddown, Tinker, AFB, Okla	G
F-USN-D03002-VA	Pol Bulk pipelines, Naval Supply Center, Norfolk, Va	D
	Department of Transportation	
F-FAA-J51001-UT	ADAP Project, Vernal Airport, Vernal, Utah	I
F-FHW-A40619-KY	U.S. 31E and U.S. 231, Tennessee State line to Scottsville and Glasgow Rds., Allen County, Ky. (FHWA-KY-EIS-75-04-F).	E
F-FHW-A50125-CT	CT-156, Bridge and approaches, East Lyme to Waterford, Conn. (FHWA-CT-EIS-73-01-F).	B
F-FHW-E40052-00	Louisa-Fort Gay Bridge, Lawrence County, Ky. and Wayne County, W. Va. (FHWA-KY-EIS-75-03-F, FHWA-CT-EIS-75-02-F).	E
F-FHW-G40041-TX	LOOP 201, TX-146, Harris County, Tex	G
F-FHW-G40045-TX	U.S. 90, I-10 to TX-146, Harris and Liberty Counties, Tex	G
F-FHW-G40050-NM	Bridge Stadium overpass, Bernalillo County, N. Mex	G
F-FHW-H40045-NB	West Cornhusker Highway, Lincoln, Lancaster County, Nebr	H
	General Services Administration	
F-GSA-L61006-AK	Haines Border station, Haines Borough, Alaska Dalton Cache at United States and Canadian Border, mile 42 Alaska (EAK 77001).	K
	Department of Housing and Urban Development	
F-HUD-E28018-AL	Castleberry Water system improvements, Ala	E
F-HUD-E61018-GA	Dublin Park, neighborhood park facility, Augusta, Ga. (CDBG)	E
F-HUD-E85015-FL	Leslie estates, Dade County, Fla	E
F-HUD-G85018-TX	Trailwood subdivision, Dallas County, Tex	G
	Nuclear Regulatory Commission	
FS-NRC-A00121-00	Personnel neutron dosimeters that contain natural thorium, Docket PRM 40-19 (NUREG-0137).	A

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Department of Commerce		
R-NOA-A99127-00	50 CFR pts. 217, 223, endangered and threatened fish and wildlife, interagency cooperation.	EPA believes the proposed regulations need further clarification of what actions constitute Federal control, should integrate NEPA more fully into section 7 procedures, and should allow Federal agencies to delegate administrative responsibilities under section 7.	A
	Department of Interior		
R-BLM-A65125-00	43 CFR pts. 4100, 4200, 4300, 4700, 9230, range management and technical services, grazing administration and trespass.	EPA does not believe that BLM's proposed regulations give proper recognition to "No Grazing" alternatives as integral parts of an overall range management strategy. Since the EIS "Livestock Grazing Management on National Resource Lands" listed a no grazing option as one of the tools available to BLM, EPA suggests this tool be incorporated into section 4120.2.	A
R-SFW-A99128-00	50 CFR pt. 17, endangered and threatened wildlife and plants, proposed provisions for interagency cooperation (42 FR 4868).	EPA believes the proposed regulations need further clarification of what actions constitute Federal "Control," should integrate NEPA more fully into section 7 procedures, and should allow Federal agencies to delegate administrative responsibilities under section 7.	A

Identifying No.	Title	General nature of comments	Source for copies of comments
	Department of Transportation		
R-CGD-A52107-00	33 CFR Pt. 164, proposed navigation safety requirements Loran-C on vessels of 1600 gross tons or more (CGD-77-002) (42 FR 5966).	EPA expressed no comments on the proposed rule at this time.	A
A-DOT-A52106-00	International air transportation policy statement.	EPA indicated no objections to the contents of the plan. However, EPA recommended an additional item calling for the assisted development of international air emission standards, practices, and guidance materials. Also, the statement was made that if noise or air standards are adopted by ICAO which are less stringent than EPA believes necessary to meet the health and welfare protection requirements of the U.S. Domestically these standards should not be used to justify the adoption of similarly less stringent domestic standards.	A
R-FAA-A52100-00	CFR Pt. 36, noise standard aircraft type and airworthiness certification, proposed alternative noise reduction stages and acoustical change requirements.	EPA stated that it had no objections to the proposed rule's promulgation, but the FAA should complement it with requirements such as those contained in EPA's earlier proposal (NPRM76-22) for aircraft to be certificated in 1980 and beyond.	A
A-FRA-A53042-00	Procedures for considering environmental impacts notice of proposed procedures (FRA docket No. EP-1) (42 FR 5171).	EPA found that the proposed procedures generally addressed the requisite procedural and substantive areas appropriate to NEPA regulations. EPA did offer a number of suggestions, however, which it believed would strengthen the procedures from an environmental perspective.	A
	Department of Agriculture		
R-SCS-A86101-00	7 CFR 650 compliance with NEPA preparation of environmental impact statements, guidelines.	EPA's comments expressed concern that the revised regulations delete important criteria contained in the current SCS NEPA regulations concerning the need to prepare an EIS.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A.—Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 922, Waterside Mall SW., Washington, D.C. 20460.

B.—Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C.—Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D.—Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E.—Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30308.

F.—Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G.—Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H.—Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I.—Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J.—Director of Public Affairs, Region 9, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K.—Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.77-14953 Filed 5-26-77;8:45 am]

[FRL 737-1]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Amended Notice of Open Meeting

Pursuant to Public Law 92-463, notice was given in the May 17, 1977, issue of the FEDERAL REGISTER (p. 25348) that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held June 6-7, 1977, beginning at 9 a.m., the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

This amended notice is to advise of a change in location to Crystal Mall Building 2, Conference Room 1112, Crystal City, Arlington, Virginia.

This is the twelfth meeting of the Ecology Advisory Committee. The agenda includes a report on the Science Advisory Board activities; responses to the Committee's review of EPA's draft "National Ecological Effects Research Program 1978-1982" and to the Committee's Advisory Statement, Ecosystem Research Can Save Money; discussions relative to the "Draft Sulfates Research Plan—Ecological Effects," and to the program plan, "Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification"; presentations on selected extramural research projects; discussions on collection and maintenance of scientific specimens, items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee (703-557-7720).

Dated: May 20, 1977.

LLOYD T. TAYLOR,
Acting Staff Director,
Science Advisory Board.

[FR Doc.77-15271 Filed 5-26-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 859]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 23, 1977.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed appli-

cation for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21259-CD-P-(10)-77 Waco Communications, Inc. (KLB498), C.P. to change antenna system and replace transmitter operating on 152.03, 152.09, 152.15, 152.18, 454.025, 454.075, 454.200 MHz located 2 miles ESE of Moody; and two additional sites. Loc. No. 4 to operate on 454.100, 454.150 MHz to be located off Highway 81, approximately 5 miles south of city limits of Waco; Loc. No. 5 to operate on 152.21 MHz to be located 1200 Block of North of 46th Street, Texas.

21326-CD-P-(2)-77 The Pacific Telephone and Telegraph Company (KMD999), C.P. to relocate, change antenna system and replace transmitter operating on 152.54, 152.78 MHz (standby facilities) from location No. 2; to a new site described as Loc. No. 3 to be located 3.5 miles NE of San Marcos, California.

21327-CD-MP-(2)-77 Radio Paging & Telephone Answering Service of Charlotte, Inc. (KIM905, modification permit to change antenna system operating on 35.22 MHz at loc. No. 1; located 300 South College Street, Charlotte; and Loc. No. 2; located 5950 Fairview Road, Charlotte, North Carolina.

21328-CD-P-77 Phone Depots of Connecticut, Inc. d/b as Liberty Communications KCI310), C.P. for additional facilities to operate on 72.12 MHz to be located at a new site described as Loc. No. 6; Video Lane, Trumbull, Connecticut.

21329-CD-AL-(5)-77 Radio Telephone, Inc. Consent to Assignment of License from Radio Telephone, Inc., assignor to General Communications Service, Inc., assignee. Stations: KIJ356, KRM948, KTS269, KIY-509 and KIY583, Atlanta, Georgia.

21330-CD-MP-77 Dodge County Telephone Company (KWH346), modification permit to relocate facilities operating on 158.10 MHz (Loc. No. 2) to be located 3.75 miles SSE of Jackson, Wisconsin.

21331-CD-P-77 Professional Answering Service of Olean, New York, Inc. (new), C.P. for a new 2-way station to operate on 152.21 MHz to be located at White Glen, approximately 2.5 miles S. of Olean, New York.

21332-CD-P-77 The Ohio Bell Telephone Company (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located 121 west Hardin Street, Findlay, Ohio.

21333-CD-MP-(4)-77 South Central Bell Telephone Company (KKI455) modification permit to change antenna system to operate on 454.425, 454.525,, 152.57, 152.78 MHz at Loc. No. 1; 3 miles South of Erath, Louisiana.

21334-CD-P-77 Western Communication Service, Inc. (new), C.P. for a new 2-way station to operate on 152.06 MHz to be located 5 Miles W. Junct. Hwy. US 66 and State 6, 1¼ miles West ¼ mile North Elk City, Oklahoma.

21335-CD-MP-77 Pine Telephone Company, Inc. (KLB702), modification permit to relocate facilities operating on 152.54 MHz to be located approximately 6.5 miles NE of Broken Bow, Oklahoma.

21336-CD-AL-77 Auto Phone, Inc. Consent to Assignment of License from Auto Phone, Inc., assignor to L & L Services, Inc. d/b as Metro Communication Service, assignee. Station: KUC906, Decatur, Alabama.

21337-CD-P-77 Susquehanna Mobile Communications, Inc. (KGC599), C.P. for additional facilities to operate on 152.18 MHz to be located at a new site described as Loc. No. 3; 2005 S. Queen Street, York, Pennsylvania.

21338-CD-AL-77 Alvin D. Escue d/b as Telpage of Dothan. Consent to Assignment of License Alvin D. Escue d/b as Telpage of Dothan, assignor to Communications Specialist, Inc. d/b as Radio-Telpage, assignee. Station: KTS276, Dothan, Alabama.

21341-CD-MP-77 Minnesota Communications Corporation (KDN408), C.P. to change antenna system and relocate facilities operating on 454.175 Loc. to be located 80 South 8th Street, Minneapolis, Minnesota.

21342-CD-MP-(3)-77 Minnesota Communications Corporation (KRS663), C.P. to change antenna system operating on 454.250, 454.300, 454.350 MHz to be located 80 South 8th Street, Minneapolis, Minnesota.

21343-CD-MP-77 Neil E. Stone d/b as Stone's Mobile Radio and Dial-A-Page (KWU507), modification permit to change antenna system operating on 152.24 MHz located 511 North Atlantic Avenue, Thief River Falls, Minnesota.

21344-CD-P-L-77 Neil E. Stone d/b as Stone's Mobile Radio and Dial-A-Page (new), C.P. for a new 2-way station to operate on 152.15 MHz to be located 511 Atlantic Avenue, North, Thief River Falls, Minnesota.

21345-CD-P-77 Salinas Valley Radio Telephone Company (new), C.P. for a new 1-way station to operate on 43.22 MHz to be located 8333 Swanston Lane, Gilroy, California.

21346-CD-P-77 Metrotec, Inc., (KTS283), C.P. to change antenna system and replace transmitter operating on 35.22 MHz located 0.2 mile N. of Hann Road, 0.7 mile W. of S.R. 44, Canton, Ohio.

21348-CD-TC-77 Raco, Inc. Concent Transfer of Control from Philip E. Sledge, transferor, to Billie R. Simmons, transferee. Station: KUS339, Forrest Park, Georgia.

21349-CD-TC-77 Raco Inc. Consent Transfer of Control from Philip E. Sledge, transferor, to Billie R. Simmons, transferee. Station: KQZ787, Rome, Georgia.

CORRECTION

21560-CD-P-77 Mid State Telephone Company, Stanley, North Dakota (new), correct base frequency of major amendment 152.69 MHz to read 152.60 MHz. All other particulars are to remain as reported on PN No. 855 dated April 25, 1977.

20997-CD-P-(6)-77 Michigan Bell Telephone Company (KQK579), correct PN to read: C.P. for additional facilities to operate on 152.54, 152.75, 454.450, 454.550, and 454.650 MHz. All other particulars to remain as reported on PN No. 852 dated April 4, 1977.

INFORMATIVE

Pursuant to Section 21.32(d) of the Commission's Rules, Edward C. Smith, doing business as Answerite Professional Telephone Service, has rejected the partial grant of his application, File No. 21648-C2-P-(4)-74, issued by memorandum opinion and order of the Commission and released on April 5, 1977. The application has been amended to eliminate co-channel electrical interference on the frequencies 454.325, 454.350 MHz.

RURAL RADIO

60273-CR-P/L-77 The Mountain States Telephone and Telegraph Company (new), C.P. for a new Rural Subscriber Fixed station to operate on 157.80, 157.89 MHz to be located 8.5 miles SW of Manitou Springs, Colorado.

60274-CR-P/L-77 Fresno Mobile Radio, Inc., doing business as Coaling Radio Telephone Service (new), C.P. for a new Rural Subscriber-Fixed station to operate on 459.175 MHz to be located at temporary fix location.

60275-CR-P/L-77 The Mountain States Telephone and Telegraph Company (new), C.P. for a new Rural Fixed station to operate on 157.77 MHz to be located 3.9 miles south-southwest of Table Rock, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2393-CF-MP-77 The Offshore Telephone Company (WAU231), WC513B, Block 513, West Cameron, Gulf of Mexico (lat. 28°23'-53" N., long. 93°12'38" W.): Mod. of C.P. (4792-CF-77) to change frequency 2178.4H to 2176.8H MHz toward WC605A on azimuth 172.6 degrees.

2394-CF-MP-77 Same (WBB283), WC605A, Block 605, West Cameron, Gulf of Mexico (lat. 28°04'36" N., long. 93°09'48" W.): Mod. of C.P. (4795-CF-P-77) to change frequency 2128.4H to 2126.8H MHz toward WC 513B on azimuth 352.6 degrees.

2397-CF-P-77 Lafourche Telephone Company, Inc. (WBB219), Larose No. 2,117 W. 9th Street, Larose, Louisiana (lat. 29°33'-53" N., long. 90°22'50" W.): C.P. to change transmit station name and to add new point of communication on frequencies 5945.2V, 6063.8V MHz toward Golden Meadow, Louisiana, on azimuth 150.2 degrees.

2398-CF-P-77 Same (KKM31) Golden Meadow, Louisiana (lat. 29°23'13" N., long. 90°-15'51" W.): C.P. to change location of receive station and replace antenna on frequencies 6197.2V, 6315.9V MHz toward Larose No. 2 on azimuth 330.2 degrees.

2414-CF-P-77 Southwestern Bell Telephone Company (new), 215 S. New Orleans, Brinkley, Arkansas (lat. 34°53'05" N., long. 91°11'32" W.): C.P. for a new station frequencies 2112.0H MHz toward Clarendon, Arkansas, on azimuth 207.3 degrees.

2471-CF-P-77 The Mountain States Telephone and Telegraph Company (KAQ85), renewal of radio station license expired June 12, 1977; term: June 12, 1977, to June 12, 1978.

2464-CF-P-77 Southwestern Bell Telephone Company (WGI79), Monroe and Highway 4, McGehee, Arkansas (lat. 33°37'41" N., long. 91°24'21" W.): C.P. to add a new point of communication on frequency 2112.0H MHz toward Arkansas City on azimuth 97.7 degrees.

2465-CF-P-77 Same (new), Spragg and A Street, Arkansas City, Arkansas (lat. 33°-36'19" N., long. 91°12'17" W.): C.P. for a new station on frequency 2162.0H MHz toward McGehee on azimuth 277.8 degrees.

2498-CF-MP-77 Florida Telephone Company (KIO67), 111 South 9th Street, Dade City, Florida (lat. 28°21'49" N., long. 82°-11'28" W.): Mod. of C.P. to add a new point of communication on frequency 6063.8V MHz toward Eva on azimuth 102.3 degrees.

2396-CF-P-77 Eastern Microwave, Inc. (WOR 74), off Brush Run Road, 2 miles South of Bethel Park, Pennsylvania (lat. 40°17'36" N., long. 80°03'05" W.): Construction permit to change antenna structure and to add 10735.0V MHz toward Mt. Lebanon, Pennsylvania, via power split, on azimuth 3 degrees.

2399-CF-P-77 Western Tele-Communications, Inc. (WHA 93), Rattlesnake, 11 miles North of Sunnyside, Washington (lat. 46°29'11" N., long. 119°59'28" W.): Construction permit to change receive station location—5960.0V 5989.7H, and 6137.9V MHz toward Kima-TV, via Kima Passive

Reflector, (lat. 46°36'22" N., long. 120°27' 47" W.): both in Washington, on azimuths 34.6 and 290.4 degrees respectively.

2440-CF-P-77 First Television Corporation (KGN 76), 2 miles North of Cambridge, Maryland, on Route 50, Trappe, Maryland (lat. 38°36'50" N., long. 76°03" 18" W.): Construction permit to change antenna structure and to add 6241.7V MHz toward Salisbury, Maryland, on azimuth 122 degrees.

2436-CF-P-77 CPI Microwave, Inc. (WPE 39), 2.7 miles West of Axtell, Texas (lat. 31°39'20" N., long. 96°59'49" W.): Construction permit to replace transmitter and antenna structure and to change frequency to 6241.7H MHz toward Waco KWTX, Texas.

2457-CF-P-77 Pacific Telatronics, Inc. (KPQ 91), Blanton Heights, 3.5 miles South of Eugene, Oregon (lat. 44°00'05" N., long. 123°06'18" W.): Construction permit to change antenna structure and to add 5960.0V MHz toward Vineyard Hill, Oregon, on azimuth 349.6 degrees.

2458-CF-P-77 Pacific Telatronics, Inc. (KPQ 90), Vineyard Hill, 6 miles North of Corvallis, Oregon (lat. 44°38'45" N., long. 123°16'13" W.): Construction permit to add 6390.0V MHz toward Salem, Oregon, on azimuth 15.1 degrees.

2459-CF-P-77 American Television & Communications Corporation (WBA 759), Ellis Road, Northwest of Glover Road, Durham, North Carolina (lat. 35°57'43" N., long. 78°52'17" W.): Construction permit to add 6019.3H MHz toward Raleigh, North Carolina.

2460-CF-P-77 American Television & Communications Corporation (WBA 760), 1609 Old Louisburg Road, Raleigh, North Carolina (lat. 35°48'12" N., long. 78°37'27" W.): Construction permit to add 6241.7H MHz toward Durham, North Carolina, on azimuth 128.2 degrees.

2463-CF-P-77 Mountain Microwave Corporation (new), 0.8 mile North-Northwest of Valentine, Nebraska (lat. 42°53'25" N., long. 100°33'23" W.): Construction permit for new station—6226.9V, 6286.2V, and 6345.5V MHz toward Ainsworth, Nebraska, on azimuth 120.9 degrees.

2478-CF-P-77 Eastern Microwave, Inc. (KEM 58) Helderberg Mountain, Beaver-Dam Road, 1.8 mile Northwest of New Salem, New York (lat. 32°48'12" N., long. 73°59'45" W.): Construction permit to add 6271.4V MHz toward Black Spruce Mountain, New York, via power split, on azimuth 12.1 degrees.

CORRECTIONS

2326-CF-P-77 Eastern Microwave, Inc. (KTF 96), 1.5 mile North-Northwest of Italy Hill, New York (lat. 42°37'13" N., long. 77°15'17" W.): This entry appearing in Public Notice of May 16, 1977, is corrected to show coordinates as above. All other particulars remain the same.

2290-CF-P-77 Penn Service Microwave Company, Inc. (WQQ 37), Wyoming Mountain, 4 miles South-Southwest of Wilkes-Barre, Pennsylvania (lat. 41°11'53" N., long. 75°49'16" W.): This entry appearing in Public Notice of May 16, 1977, is corrected to show coordinates as above. All other particulars remain the same.

[FR Doc.77-15201 Filed 5-26-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 66—"Receiver Standards for the Maritime Mobile Service."

Notice of 40th Meeting: Tuesday, June 14—9:30 a.m. (All-day meeting.) Conference Room A-205, 1229 – 20th Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-66 Summary Record.
4. Continue preparation of MMS R-5, Standard for "General Purpose Marine Receivers".
5. Discussion of problem areas.
6. Solicitation of Work Assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway No. 1, Elizabeth, N.J. 07202, Phone: (201) 527-0300.

To: Members of Special Committee No. 65—"Ship Radar."

Subject: Notice of 56th Meeting.

Date/Time: Wednesday, June 15, 1977—1:30 p.m.

Location: Conference Room 8210, 2025 M Street, N.W., Washington, D.C.

Agenda for SC-65 Committee Meeting appears later in this notice.

SC-65 Working Group schedule. To be held at 2025 M Street, N.W., Washington, D.C.

Working Group: Collision Avoidance; Room: 8210; Date: June 15; Time: 9:30 a.m.

If other Working Group meetings are scheduled, Group Members will be notified.

NOTE.—Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur. May 18, 1977. Paper 74-77/SC 65-239.
3. Progress Report of Collision Avoidance Working Group.
4. Status Reports on Other Working Groups.
5. Report of Action of Executive Committee on Termination of SC-65.
6. Mini-meeting of REWG
7. Other business.
8. Establishment of next meeting date. (July 20, 1977)

For approval at this meeting.

Irvin Hurwitz, Chairman, SC-65, Federal Communications Commission, Washington, D.C. 20554; Phone: (202) 632-7197.

Executive Committee Meeting — Thursday, June 16, 1977.

The next Executive Committee Meeting will be on Thursday, June 16, 1977 at 1:30 p.m., in Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of Minutes of Executive Committee Meetings.
4. Committee Reports.
5. Report of Budget/Finance Working Group.
6. Appointment of Constitution Revision Working Group.
7. Summary Reports and Announcements.
8. New Business.
9. Establishment of next meeting date.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred by the previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-15203 Filed 5-26-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77-19; Agreement 10235]

CONSOLIDATED FORWARDERS INTERMODAL CORP.

Order of Investigation and Hearing

Agreement No. 10235 was filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, by the Consolidated Forwarders Intermodal Corporation (CONFICO) on behalf of CONFICO's shareholders, 49 of which are Commission licensed ocean freight forwarders. In 1967, shareholders of CONFICO had sought and were granted approval to incorporate and conduct operations as a non-vessel operating common carrier (NVOCC) at the Port of New York under Agreement No. 9646. This Agreement was cancelled as of August 1, 1970 following the cessation of NVOCC operations by CONFICO. Under Agreement No. 10235, the shareholders

of CONFICO request Commission approval to resume NVOCC operations and to consolidate and deconsolidate cargo in the foreign and domestic offshore export and import trades of the United States.

Under the terms of this Agreement, CONFICO, on behalf of its shareholders, will engage in either or both of the following activities at the Port of New York, and at other unspecified ports and inland points in the United States:

(1) Assemble and consolidate export cargo into containers or unit loads for tender to vessel operating carriers either as an NVOCC or as a "consolidator" working on a fee or allowance basis; and/or

(2) Break bulk or deconsolidate import cargo for distribution within local port areas or arrange for the transportation of containers or individual shipments to inland points of destination.

Approval of the Agreement would also permit the shareholders, acting through the corporation, to meet, discuss, and agree with any other person subject to the Shipping Act, 1916, on matters of mutual interest with the proviso that adoption of any agreement(s) would require a majority vote of the shareholders and Commission approval before implementation. Finally, membership in the corporation and participation in any activity contemplated by the Agreement would be restricted to current CONFICO shareholders and any other Commission licensed ocean freight forwarder who applies for membership.

Notice of the filing of Agreement No. 10235 and a request for interested persons to comment thereon, as published in the FEDERAL REGISTER on May 7, 1976. J. E. Bernard and Co., Boston Consolidation Service Inc., ocean freight forwarder/NVOCCs, Air-Sea Forwarders, Inc., and thirty-eight Conferences on behalf of their member lines filed comments with the Commission. Several commentators unconditionally requested the Commission to institute a formal hearing on the approvability of the Agreement. Other commentators foresaw the need to hold hearings only in the event additional information was not provided by CONFICO or its shareholders. To date, this information has not been provided by CONFICO or its shareholders.

The North Atlantic Mediterranean and Gulf/Australia-New Zealand Conferences and their member lines oppose approval of the Agreement on two principal grounds. First, these Conferences perceive the proposed CONFICO arrangement as a "joint venture" within the ambit of the anti-trust laws, particularly Section 7 of the Clayton Act, 15 U.S.C. § 18, which clearly lessen competition between the individual shareholders of CONFICO and in effect creates an identical but larger NVOCC/ocean freight forwarding operation capable of engaging in destructive competition with NVOCCs and ocean freight forwarders who are not affiliated with CONFICO. These Conferences would require the proponents of the Agreement to demonstrate under the standards enumerated in *F.M.C.* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), that the Agreement is required by a serious transportation need, is necessary to secure important public benefits or furthers a valid regulatory purpose of the Shipping Act, 1916. Second, these protestants point out that the provisions authorizing forwarding operations to inland points fall within the ambit of Section 402(a)(5) of the Interstate Commerce Act (49 U.S.C. § 1002(a)(5)) and would require CONFICO to obtain appropriate authority from the Interstate Commerce Commission before commencing operations. Without such authority, it is argued, CONFICO's contemplated service to inland points would violate a federal statute and that Commission approval of an unlawful activity is not in the public interest.

One issue repeatedly raised in the comments is the lack of specificity in the Agreement regarding the operations to be conducted thereunder and the relationship which exists or would exist between CONFICO and its shareholders. One commentator asserts that the Agreement does not appear to be the complete understanding of the parties since CONFICO has not filed any Articles of Incorporation or By-laws with the Commission. Another comment notes the disturbing lack of detail regarding CONFICO's and its shareholder's activities in view of the extensive number of services which would be provided.

Comments by the Far East Conference and Pacific West-bound Conference question the legality of CONFICO's proposed operations in conjunction with its shareholders under Section 44 of the Shipping Act, 1916, and Commission regulations promulgated in the Code of Federal Regulations governing ocean freight forwarders. They construe CONFICO's intended activity as "carrying on the business of forwarding" and, as such, submit CONFICO would be obligated to obtain a license if the "corporation" is to provide forwarding services within the ambit of Sections 1 and 44 of the Shipping Act, 1916 and 46 CFR § 516.2 (a), (f), and (c). Otherwise, violations of 46 CFR § 516.23(a) would occur if CONFICO provides forwarding services through the licenses of its shareholders. A further question is raised with regard to the status of any dividends which would be paid by CONFICO to its shareholders and whether these payments would be considered unearned compensation and thereby be prohibited under the provisions of Section 44(e) of the 1916 Act. (46 U.S.C. 841b.)

A further matter of concern to the Commission is whether CONFICO and its shareholders are conducting operations prior to the Agreement being approved. In this regard, the Commission's staff was informed by CONFICO that it will conduct operations in New York as a "consolidator" in spite of advice from the staff that such operations should await Commission approval.

Comments submitted by Conferences on behalf of member lines which serve Atlantic coast ports urge the Commission to evaluate the economic and competitive consequences which may result from the Commission approving Agreement No. 10235 as it is presently written. These Conferences point out that there are no assurances in the Agreement that carriers presently doing business with any individual shareholder of CONFICO will be given consideration to transport any shipments controlled or consolidated by or under the CONFICO arrangement on an impartial basis. It is further urged that the Commission seriously consider the potential economic power which would reside in the shareholders of CONFICO to control cargo and the impact such control would have on the transportation conditions which are currently in force in the foreign commerce of the United States.

Upon consideration of Agreement No. 10235 and the numerous factual and legal issues which surround its implementation and approvability, the Commission has determined that the Agreement should be made the subject of an adjudicatory proceeding, and that an investigation and hearing should be instituted to determine, among other things, whether Agreement No. 10235 should be approved, disapproved or modified pursuant to Section 15 of the Shipping Act, 1916.

It is therefore ordered, That pursuant to Section 15 (46 U.S.C. 814) and Section 22 (46 U.S.C. 821) of the Shipping Act, 1916 a proceeding is hereby instituted to determine:

(1) Whether Agreement No. 10235 is a true and complete copy of the understandings or arrangements between the parties;

(2) Whether the parties have in any manner entered into and implemented any agreement or agreements, understandings, and/or arrangements without prior approval, in violation of Section 15 of the Act; and

(3) Whether Agreement No. 10235, or agreements, understandings, or arrangements between the parties shall be approved, disapproved, or modified under the provisions of that section.

It is further ordered, That Consolidated Forwarders Intermodal Corporation, and the independent ocean freight forwarders listed in Appendix A hereto, are hereby made Proponents in this proceeding.

It is further ordered, That J. E. Bernard and Co., Boston Consolidation Service, Inc., Air-Sea Forwarders, Inc., and the conferences, on behalf of their members lines, listed in the Appendix B hereto, are hereby made Protestants in this proceeding.

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined and announced by the Presiding Administrative Law Judge, to commence no later than November 23, 1977.

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That this order be published in the FEDERAL REGISTER, and a copy thereof served upon Proponents, and Protestants and as listed in the Appendices hereto.

It is further ordered, That any person(s) other than Proponents, Protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for Leave to Intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties or counsel of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

Alltransport Incorporated
Allmac Shipping Co., Inc.
Amerford International
American Union Transport Forwarding Co.
Arncam Shipping Co., Inc.
Novo International Corp.
Albert E. Bowen, Inc.
Cosmos Shipping Co., Inc.
Dunnington & Arnold, Inc.
Export-Import Services, Inc.
Fabius & Co., Inc.
F. N. S. Corporation
Fort Forwarding, Inc.
Freedman & Slater, Inc.
Gaynar Shipping Corp.
Gerhard & Hey Co., Inc.
Globe Shipping Co., Inc.
C.S. Greene & Co., Inc.
Hensel, Bruckmann & Lorbacher, Inc.
Hirschbach & Smith, Inc.
Hudson Shipping Co., Inc.
Karr, Ellis & Co., Inc.
Leading Export Service Corp.
Lep Transport, Inc.
Lunham & Reeve, Inc.
Maron Shipping Agency, Inc.
Mohegan International Corp.
F.W. Myers & Co., Inc.
Natural Nydegger Transport Corp.
New Era Shipping Co.
Phoenix Shipping Co., Inc.
H. Stone & Co.
Taub, Hummel & Schnall, Inc.
Trans-World Shipping Corp.
Triangle Forwarding Corp.
United Forwarders Service, Inc.
United States Forwarding Corp.
Unsworth & Co., Inc.
Wedemann & Godknecht, Inc.
Daniel F. Young, Inc.
Pitt & Scott Corp.
C.H. Powell Co., Inc.
R.N. Forwarding Co., Inc.
Schenkers International Forwarders, Inc.
Karl Schroff & Associates, Inc.
Luigi Serra, Inc.
Milton Snedeker Corporation
Sobel Shipping Co.
Spartan Overseas Shipping Corp., c/o Gerald H. Ullman, Esq., 120 Broadway, New York, New York 10005

APPENDIX B

Pacific Westbound Conference
Far East Conference, % Edward D. Ransom, Esq., Lillick, McHose & Charles, Two Embarcadero Center, 26th Floor, San Francisco, California 94111
Atlantic and Gulf-Indonesia Conference
Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference
Atlantic and Gulf-Singapore, Malaya and Thailand Conference
Atlantic and Gulf/West Coast of Central America and Mexico Conference
Atlantic Gulf/West Coast of South America Conference
East Coast Colombia Conference
Leeward and Winward Islands and Guianans Conference
U.S. Atlantic and Gulf-Haiti Conference
U.S. Atlantic and Gulf-Jamaica Conference
U.S. Atlantic and Gulf-Santo Domingo Conference
U.S. Atlantic and Gulf-Venezuela and Netherlands Antilles Conference
West Coast South America Northbound Conference, % Wade S. Hooker, Jr., Esq., Casey, Lane & Mittendorf, 26 Broadway, New York, New York 10004
North Atlantic Mediterranean Freight Conference
U.S. Atlantic and Gulf/Australia-New Zealand Conference
Marseilles/North Atlantic U.S.A. Freight Conference
West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference
Iberian/U.S. North Atlantic Westbound Freight Conference (except Seatrain)
Mediterranean North Pacific Coast Freight Conference
Med-Gulf Conference, % John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006
Latin America Pacific Coast Steamship Conference
Pacific Coast Australasian Tariff Bureau
Pacific Coast European Conference
Pacific Coast River Plate Brazil Conference
Pacific Straits Conference, % David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111
Transpacific Freight Conference of Japan/Korea
Japan/Korea-Atlantic and Gulf Freight Conference, % Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036

[FR Doc.77-15253 Filed 5-26-77;8:45 am]

LION FERRY A/B AND BONNIERFORETAGEN A/B

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-86 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,081; Order of Revocation

WHEREAS, Lion Ferry A/B and Bonnierforetagen A/B c/o Prince of Fundy Cruises, P.O. Box 4216 Station A, Portland, Maine 04101, have ceased to operate the Prince of Fundy to and from United States ports; and

WHEREAS Certificate (Performance) No. P-86 and Certificate (Casualty) No. C-1,081 have been returned for revocation.

IT IS ORDERED, that Certificate (Performance) No. P-86 and Certificate (Casualty) No. C-1,081 issued to Lion Ferry A/B and Bonnierforetagen A/B covering the Prince of Fundy be and are hereby revoked effective May 18, 1977.

IT IS FURTHER ORDERED, that a copy of this Order be published in the FEDERAL REGISTER and served on certificants.

By the Commission May 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15251 Filed 5-26-77;8:45 am]

[Docket No. 77-18]

SEATRAIN GITMO, INC.

Rates on Government Cargo; Order of Investigation

On May 25, 1977, Seatrain Gitmo, Inc. (Seatrain) proposes to make effective certain rates and rules applicable to the carriage of government cargoes[1] between U.S. Atlantic Ports and Ports in Puerto Rico. The proposed tariff pages would establish three basic rates applicable to government cargo, viz.: Cargo N.O.S.; Refrigerated Cargo, and Vehicles. In order to take advantage of these rates, both the shipper and consignee must be a Government or Government Agency and the cargo must be tendered under a Shipping Order as opposed to a Commercial Bill of Lading. The Shipping Order is set forth in section 5 of Seatrain's Tariff FMC-F No. 1.

Upon consideration of the subject rates and rules and their potential conflict with the Congressional intent in the repeal of section 6 of the Intercoastal Shipping Act, 1933, the Commission is of the opinion that the proposed tariff matter should be made the subject of a public investigation to determine whether it is unjust, unreasonable or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

The Commission currently has pending an investigation of essentially identical tariff provisions in Docket No. 75-20, Puerto Rico Maritime Shipping Authority Rates on Government Cargo. The record in this proceeding is ripe for decision. Due to similarity of the issues herein and those in Docket No. 75-20, it is felt that any investigation in this proceeding should be delayed until the initial decision in the companion docket.

Therefore, *it is ordered,* That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, as amended, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, as amended, an investigation is hereby

[1] The applicable tariff matter is set forth in Appendix A hereto.

ordered into the lawfulness of the proposed tariff matter set forth in Appendix A hereto for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the tariff matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made part of this investigation;

It is further ordered, That pursuant to section 16, First of the Shipping Act, 1916, as amended, a determination shall be made as to whether Seatrain, by the subject rates and rules, is proposing to grant any undue or unreasonable preference or advantage to Government, Government agencies or Government cargoes or to subject any particular person or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever within the meaning of that section;

It is further ordered, That Seatrain Gitmo, Inc., be named respondent in this proceeding;

It is further ordered, That the parties submit to the Secretary, not later than 30 days after service of the initial decision in Docket No. 75–20 individual or joint recommendations to the Commission identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Commission will issue an appropriate order limiting the issues and establishing the procedure for their resolution or, alternatively, refer the matter to the Office of Administrative Law Judges for the establishment of such a procedure;

It is further ordered, That (1) a copy of this order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX A

Tariff	*Page*
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	1st Revised Page 93.
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	2nd Revised Page 321.
	Original Page 322.
	Original Page 323.

[FR Doc.77–15252 Filed 5–26–77;8:45 am]

UNITED STATES/EUROPE DISCUSSION AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 6, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10022–5, among the member lines of the above-named agreement, amends the basic agreement by extending its duration through September 5, 1977.

By Order of the Federal Maritime Commission.

Dated: May 23, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–15250 Filed 5–26–77;8:45 am]

FEDERAL RESERVE SYSTEM

ARK VALLEY BANKSHARES, INC.

Formation of Bank Holding Company

Ark Valley Bankshares, Inc., La Junta, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 83 per cent of the voting shares of The La Junta State Bank, La Junta, Colorado, and 56 per cent of the voting shares of The Empire State Bank, Rocky Ford, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 20, 1977.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–15155 Filed 5–26–77;8:45 am]

BANKAMERICA CORP.

Order for Hearing

On September 28, 1976, BankAmerica Corporation, San Francisco, California ("BankAmerica"), submitted to the Federal Reserve Bank of San Francisco ("Reserve Bank"), pursuant to § 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1843(c)(8)) and in the manner and form specified in Part 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), a proposal to expand geographically, and continue to engage in, the data processing activities of its data processing subsidiary, Decimus Corporation, San Francisco, California ("Decimus"), within a 500 miles radius of Piscataway, New Jersey. The market to be serviced would encompass Federal Reserve Districts 1 through 5, except for the State of Ohio. BankAmerica proposes, through Decimus, to engage in the activities of storing and processing banking, financial and related economic data, including deposit accounting, general ledger accounting, account reconciliation, loan accounting, credit union accounting and providing payroll, accounts receivable and payable, billing and similar data processing services. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(8)).

The Piscataway office of Decimus Corporation was established in October 1974 pursuant to the provisions of § 225.4(b)(1) of Regulation Y after BankAmerica published notice of its proposal in the Newark Star Ledger. In 1976, BankAmerica was advised that Decimus was without authority to conduct business activities from the Piscataway office for customers at locations at which the Star Ledger could not be considered to be a newspaper of general circulation. In response to this advice, in September 1976, BankAmerica published notice of its intention to expand the activities of Decimus in the eastern edition of The Wall Street Journal, The Washington Post, The New York Times, Boston Herald American, Philadelphia Evening Bulletin, The Richmond Times-Dispatch, Buffalo Courier-Express, Baltimore News American and The Pittsburgh Press.

Following publication of notice of the proposal, written submissions in opposition were filed by National Computer Analysts, Inc ("NCA") and other interested parties.[1] NCA and certain of the other protestants in this matter have requested that the Board require BankAmerica to file an application pursuant to § 4(c)(8) of the Act and order a formal hearing on the application.[2] BankAmerica raises a number of arguments to establish that no application is necessary or, that if an application is required, a hearing is neither necessary nor appropriate.

BankAmerica first contends that, by virtue of its 1974 proposal pursuant to § 225.4(b)(1) of Regulation Y, it has authority to serve the natural market area of the Piscataway office despite the fact that publication of the proposal did not appear in various local markets. In this regard, BankAmerica contends that the consistent administrative position of the Federal Reserve System has been to allow such activities with only local publication and that the Board is, therefore, precluded from taking the position that the activities are not authorized.

The Board does not agree that such has been the consistent administrative interpretation. Furthermore, § 225.4(b)(1) of Regulation Y is explicit that publication must occur in the communities to be served. Even if the Board had such an administrative practice as contended by BankAmerica, such a practice could not operate to deprive potential competitors of the opportunity to either contest the proposed expansion of activities or to contend that they were being carried on without authority. In this connection, the legislative history of the 1970 Amendments makes it abundantly clear that the purpose of the notice and opportunity for hearing provisions of § 4(c)(8) of the Act was to give potential competitors an opportunity to challenge the entry of bank holding companies into their market areas.[3] BankAmerica's contentions in this regard are, therefore, not well founded.

BankAmerica further points out that none of the protests was received within the 30-day comment period set forth in the newspaper notices it published and thus contends that the Board may not consider them. While it is true that none of the protests was received during the 30-day period, Form FR Y-4A, which is the format of the newspaper publication, states that comments "should" be received within 30 days of publication of notice, not that they "must" be so received. The purpose of this statement is to insure that comments by interested parties are received in time to be considered before the proposal automatically becomes effective at the conclusion of the 45-day period which starts on the date of applicant's submission of the notice to the Reserve Bank pursuant to § 225.4(b)(1) of Regulation Y. That period had not expired when the protests were received. Furthermore, submissions in opposition to the proposal were relevant and were received shortly after the Board published notification of the proposal in its H2 release for the week ending October 9, 1976. The purpose of the H2 release is again to give notice to interested persons. Since the 45-day period had not expired, the proposal had not become effective and the relevant comments in opposition received will be considered by the Board.

In a related argument, BankAmerica contends that NCA is not a proper party to the instant proceedings. BankAmerica and NCA are currently engaged in litigation over the propriety of the data processing activities carried out by Decimus. In this connection, BankAmerica points out that the United States District Court for the District of New Jersey has held that NCA was in a position to object to the 1974 proposal and had failed so to do. Thus, BankAmerica believes that NCA, having had actual notice of the proposal, was not affected by any defect in its original notice and should not benefit therefrom. The fact that a potential competitor may have neglected to exercise its rights with respect to an earlier proposal does not, in the Board's view, provide a ground for excluding the competitor from a further, legally required, proceeding. Furthermore, the Board does not believe that the fact that many of the issues raised by NCA are the subject of the pending litigation precludes the Board from considering their merits in this proceeding. Section 4(c)(8) of the Act requires that, in contested cases, the Board determine with respect to each proposal whether reasonably expected public benefits outweigh the possible adverse effects. If the contentions raise issues of fact material to this determination, the fact that those issues are the subject of a judicial proceeding does not affect the Board's responsibility under the Act.

BankAmerica argues that, since the proposals are for the geographic expansion of services commenced de novo, there is a presumption that there are no adverse effects that require outweighing and, therefore, no hearing is necessary and BankAmerica has no burden of demonstrating public benefits. The Board believes that NCA and the other protestants have raised substantive arguments of possible adverse effects that, if borne out at a hearing, would eliminate the presumption established by §§ 225.4(a) and 225.4(b)(1). Thus, under § 4(c)(8) of the Act, the Board's obligation is to separately determine, on the basis of the record, that the public benefits outweigh possible adverse effects in this specific case prior to allowing BankAmerica to expand Decimus' activities. In view of the foregoing, the Board has determined that a hearing is necessary and appropriate.

BankAmerica has indicated that it wishes to rely on the above-mentioned presumptions with respect to permissible activities. The Board has determined not to require that BankAmerica file a formal application pursuant to § 225.4(b)(2) and thus make an affirmative case relating to public benefits since much of the formal application form which relates to acquisitions of going concerns or activites not already on the permissible list would not apply to this proceeding. In this regard, the Board will regard BankAmerica's reliance on the presumption as well as any material it may choose to submit at the hearing as constituting an "application" and as part of a "record." However, it should be noted that the burden of establishing that reasonably expected public benefits outweigh possible adverse effects is upon BankAmerica in this proceeding and, furthermore, it is expected that the hearing officer will obtain more specific information as to BankAmerica's proposal than is contained in the newspaper notices.

BankAmerica has requested that the Board separate the proposal and allow the 45-day period to expire with respect to areas other than southern New Jersey and Pennsylvania, since these appear to be the primary areas in which protestants are interested. However, BankAmerica has contended that the natural market area of data processing services offered out of the Piscataway office would include a radius of at least 500 miles. If this is the case, protestants who are in the data processing business themselves would be potential competitors throughout the proposed service area and, in fact, NCA has amended its protest to cover all of the proposed areas. Furthermore, in view of the contentions raised by the protestants, the question whether there would be reasonably expected public benefits to outweight possible adverse effects would arise with respect to all areas to be served.

BankAmerica is intending to solicit business throughout the State of New Jersey and is continuing to service clients that it has previously contracted within other areas. NCA has requested that BankAmerica be directed to terminate these activities pending the results of the hearing.

While the Board believes that BankAmerica was without authority under Regulation Y to commence activities outside of New Jersey, BankAmerica has agreed to cease soliciting new customers in those areas and the Board believes that a requirement that it cease serving existing customers would not be equitable. The Board is aware of no information that would lead it to believe that BankAmerica's expansion of services to these customers was done in willful violation of the Bank Holding Company Act or in deliberate disregard to the provisions of Regulation Y. Furthermore, the customers have gone to a significant ex-

[1] Other protestants are: On Line Service Corporation, Philadelphia, Pennsylvania; The Denton National Bank, Denton, Maryland; National Association of Bank Services, Columbus, Ohio; Systems Development Corporation, Santa Monica, California; Datatel, Inc., Alexandria, Virginia; Bankputer, Inc., New Haven, Connecticut; and Virginia Data Center, Norfolk, Virginia.

[2] On Line Service Corporation; Systems Development Corporation; Datatel, Inc.; and The Denton National Bank.

[3] E.g., H.R. 91-1747, pages 15-22 (December 19, 1970).

pense to convert to BankAmerica's system, and to require termination would require a loss of that expenditure and consequent expense and dislocation to those customers in converting to other providers of the services. Such harm to third parties pending the outcome of the proceedings can only be justified where a violation was willful or where it is clear that the bank holding company would not be permitted to retain the activity, as for instance where the activity was not permissible for bank holding companies. For the Board to require a termination in advance of the outcome of this proceeding might well constitute a prejudgment of the issues and, depending on the outcome of the proceeding, might be an imposition of economic harm for no useful purpose.

With respect to the continuance of activities in New Jersey, as the District Court has stated, the Newark Star Ledger is a "paper of wide circulation in New Jersey." However, in light of certain information submitted by protestants, it is not clear whether or not it can be considered to be of general circulation in all of the communities to be served in New Jersey. However, the Board believes that NCA would certainly be charged with notice that BankAmerica at least intended to conduct the activity throughout New Jersey. Under these circumstances it would not appear necessary to require BankAmerica to terminate its activities in this area pending the outcome of the proceeding.

Accordingly, *it is hereby ordered,* That a hearing with respect to this matter be held before an Administrative Law Judge, to be designated by the Civil Service Commission. Such hearing shall be conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263); however, the Administrative Law Judge shall establish a schedule whereby Applicant and protestants shall submit their direct and rebutal testimony in written form. Public, oral cross examination shall then commence on a date designated by the Administrative Law Judge at the Federal Reserve Bank of Philadelphia, Philadelphia, Pennsylvania. The Administrative Law Judge may, in his discretion, convene a prehearing conference or conferences at any convenient time or place.

It is further ordered, That the basic issue to be considered at such hearing is whether the proposal of BankAmerica to expand the data processing operations of its subsidiary, Decimus, into the proposed market areas "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before June 15, 1977, a written request containing a statement of the nature of the Petitioner's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the Petitioner desires to give testimony or submit evidence, and the names and identity of witnesses who propose to appear. Such requests will be submitted to the designated Administrative Law Judge for his disposition.

By the order of the Board of Governors,[1] effective May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15156 Filed 5-26-77;8:45 am]

CITIZENS BANKERS, INC.

Formation of Bank Holding Company

Citizens Bankers, Inc., Baytown, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(1)) to become a bank holding company through acquisition of 100 percent, less directors' qualifying shares, of the voting shares of two banks: Citizens National Bank & Trust Company of Baytown, Baytown, Texas, and Baytown State Bank, Baytown, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 21, 1977.

Board of Governors of the Federal Reserve System, May 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15157 Filed 5-26-77;8:45 am]

INTERNATIONAL BANK

Order Granting Motion To Reopen the Record

In the matter of the determination of control over Financial General Bankshares, Inc.

On August 1, 1974, the Board entered an Order determining that International Bank, Washington, D.C., had not terminated its control over Financial General Bankshares, Inc., Washington, D.C., which International Bank admittedly had in 1966, and preliminary determining, pursuant to § 2(a)(2)(C) of the Bank Holding Company Act (12 U.S.C. 1841(a)(2)(C)), that International Bank exercises a controlling influence over the management and policies of Financial General Bankshares. International Bank requested a hearing to contest the Board's determinations of control and, by Order dated October 4, 1974 (39 FEDERAL REGISTER 36510), the Board ordered such a hearing before Frederick Denniston, Administrative Law Judge, to be conducted in accordance with the Board's Rules of Practice for Formal Hearings and the Board's Order of August 1, 1974.

On March 10, 1977, the Board ordered the Administrative Law Judge not to prepare a recommended decision but to submit and certify the record of the hearing to the Board not later than April 30, 1977. The Board further ordered that the record include (1) a statement of the issues for decision by the Board, jointly agreed to by the parties and separately stated as to those issues on which there is not agreement; (2) proposed findings of fact and conclusions of law on behalf of each party; (3) such brief and reply brief as each party may wish to file in support of those proposed findings of fact and conclusions of law. The hearing officer has complied with the Order and so certified the record.

At the time of his certification there was a pending motion by International Bank to reopen the record to introduce additional documents as well as a response by Board's counsel to that motion and a further response and motion of International Bank. The hearing officer, because of the time constraints, was not able to act on these motions and they were, therefore, certified to the Board for its action.

Among the issues certified by the hearing examiner is the question whether the proceeding is "moot" due to the then-proposed sale of International Bank's holdings in Financial General to a group of investors headed by J. William Middendorf II. The pending motion was obviously intended to provide information bearing on changes in the relationship between International Bank and Financial General and thus, on the "mootness" issue.

The Board believes that the use of the term "moot" misconstrues the issues involved in the proceeding. The fact that the relationship between International Bank and Financial General may have changed does not relieve the Board of the obligation to determine on the record of this proceeding whether control or a controlling influence existed at any point in time. Rather, if such control or a controlling influence existed, a subsequent change in that relationship may bear only on the nature of any affirmative relief that may be ordered by the Board.

However, in an attempt to expedite this proceeding and resolve all issues relating thereto at one time, the Board has determined to grant the motion in part.

It is hereby ordered, That the record in this proceeding is reopened and the matter is referred back to the Administrative Law Judge for such proceedings as may be consistent with this order. In this regard the parties are directed

[1] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

to develop additional facts, to formulate supplemental issues, and to submit to the Administrative Law Judge supplemental briefs and proposed findings of fact relating to whether, assuming control or a controlling influence over Financial General has been exercised by International Bank, such relationship has been terminated. In this regard the possible applicability of § 2(g)(3) of the Bank Holding Company Act and any relationship between the Middendorf group and International Bank should be explored. Furthermore, assuming the position is taken that any such control relationship has not been terminated, the question of what conditions should be imposed by the Board to insure such termination should be addressed. Further, if it is contended that control or a controlling influence existed at any point in time, the question of what affirmative relief, if any, should be ordered by the Board with respect to the future activities of International Bank and Financial General should be addressed.

It is further ordered, That the hearing officer shall set such schedules on this matter as shall allow him to certify the additional portions of the record to the Board not later than July 15, 1977. As with respect to the prior certification, the hearing officer shall certify such record without a recommended decision.

By order of the Board of Governors,[1] effective May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15158 Filed 5-26-77;8:45 am]

KICKERILLO CO.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by Kickerillo Company, Houston, Texas ("Company"), for a determination, with respect to its sale of 65,624 shares (representing 26.25 percent of the outstanding voting shares) of Southwest Bank of Fort Worth, Fort Worth, Texas ("Bank"), to Mr. Herman J. Smith, that neither Company nor any of its subsidiaries, affiliates, stockholders, or officers is or will be in fact capable of controlling Mr. Herman J. Smith or the transferred shares, notwithstanding the facts that Mr. Smith is indebted to Company by a promissory note that is secured by shares of Bank and by the collateral assignment of a vendor's lien note on certain specified real property owned by the purchaser.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 20, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15159 Filed 5-26-77;8:45 am]

PACESETTER FINANCIAL CORP.

Order Approving Acquisition of Bank

Pacesetter Financial Corporation, Grand Haven, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire all the voting shares of the successor by consolidation to First Security Bank of Grand Blanc, Grand Blanc, Michigan ("Bank"). The bank into which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of $306.1 million,[1] representing approximately one percent of the total commercial bank deposits in Michigan, and is the 17th largest banking organization in the State. Acquisition of Bank (deposits $15.0 million) would not result in a significant increase in the concentration of banking resources in Michigan, nor would it alter Applicant's Statewide ranking.

Bank is the tenth largest of fourteen banks located in the Flint, Michigan, banking market,[2] in which it controls less than one percent of commercial bank deposits. Four branches of one of Applicant's subsidiary banks are located in the relevant market, where they would be considered the twelfth largest bank represented in the market, controlling approximately 0.7 percent of total market commercial bank deposits. However, presently existing competition between the branches and Bank is slight. Consummation of the proposed transaction would not eliminate any meaningful existing competition.

The proposed acquisition is likely to promote a more vigorous and balanced competitive environment between Bank and the largest banks in the highly concentrated Flint banking market. It is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are considered to be satisfactory, particularly in view of Applicant's commitment to inject $300 thousand into Security First Bank & Trust Co., Grand Haven, Michigan, and $100 thousand into Bank during 1977. Applicant's capital injection will be made in a form acceptable to the appropriate Federal banking agency. Therefore, banking factors are consistent with approval of subject application.

Consummation of the proposed transaction is not expected to provide any immediate benefits to the public. However, Applicant's financial, managerial and other resources would be made available to Bank, which may ultimately increase its internal efficiencies and increase the quality of service to the public. Considerations relating to the convenience and needs of the community to be served are viewed as being consistent with approval of the application. It is the judgment of this Reserve Bank that consummation of the proposed transaction would be in the public interest and that the application should be approved.

[1] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

[1] All banking and deposit data are as of June 30, 1976.

[2] The Flint banking market is the relevant banking market and is approximated by the Flint RMA, except that portion which extends into Shiawassee County and Attica township east of Lapeer in Lapeer County.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective May 17, 1977.

FRANKLIN D. DREYER,
Vice President.

[FR Doc.77-15160 Filed 5-26-77;8:45 am]

PHILLIPSCO, INC.

Formation of Bank Holding Company

PHILLIPSCO, INC., Holyoke Colorado, has applied for the Board's approval under § 3(a) (1) of the Bank Holding Company Act (12 U.S.C. § 1842(a) (1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Holyoke, Holyoke, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 20, 1977.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15161 Filed 5-26-77;8:45 am]

[Docket No. TCR 76-140]

304 CORP.

Prior Certification Pursuant to the Bank Holding Company Tax Cut of 1976

304 Corporation, Omaha, Nebraska ("304"), has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale of all of the 1,050 issued and outstanding shares of common stock of Industrial Loan and Investment Company, Omaha, Nebraska ("Industrial"), now held by 304 to Industrial Investment Company, Omaha, Nebraska, is necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act").

In connection with this request, the following information is deemed relevant for the purposes of issuing the requested certification: [1]

1. 304 is a corporation organized under the laws of the State of Nebraska on February 18, 1970.

2. Industrial is an industrial loan and investment corporation organized under the laws of the State of Nebraska on August 18, 1938, and engaged in the business of an industrial bank. On February 14, 1967, Industrial acquired direct ownership and control of 81.4 per cent of the outstanding voting shares of Mid City Bank, Inc., Omaha, Nebraska ("Bank"). On March 13, 1970, 304 acquired direct ownership and control of 1010 shares, representing all of the outstanding voting shares, of Industrial, and thereby acquired indirect ownership and control on that date of 81.4 per cent of the outstanding voting shares of Bank.

3. 304 became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its indirect ownership and convirtue ofits indirect ownership and control at that time, through Industrial, of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on June 28, 1971.[2] 304 would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its indirect ownership and control, through Industrial, of more than 25 percent of the outstanding voting shares of Bank. 304 presently indirectly owns and controls 8,866 shares, representing 88.6 percent of the outstanding voting shares, of Bank.

4. 304 has not filed an application with the Board, or otherwise obtained the Board's approval pursuant to § 4(c) (8) of the BHC Act, to retain the shares of Industrial or engage in the activities carried on by Industrial.[3]

5. 304 has contracted to sell the shares of Industrial to Industrial Investment Company for cash. Prior to the sale of its shares of Industrial, 304 will purchase from Industrial all of the shares of Bank held by Industrial.

On the basis of the foregoing information, it is hereby certified that:

(A) 304 is a qualified bank holding corporation within the meaning of § 6158 (f) (1) and subsection (b) of section 1103 of the Code, and satisfies the requirements of that subsection;

(B) Industrial is "prohibited property" within the meaning of §§ 6158(f) (2) and 1103(c) of the Code; and

(C) the sale of Industrial is necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by 304 and upon the facts set forth above. In the event the Board should hereafter determine that facts material to this certification are otherwise than represented by 304 or that 304 has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 C.F.R. § 265.2(b) (3)), effective May 20, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-15154 Filed 5-26-77;8:45 am]

TRANS TEXAS BANCORPORATION, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g) (3)) ("the Act"), by Trans Texas Bancorporation, Inc., El Paso, Texas ("Trans Texas"), for a determination, with respect to the sale of 2,500 shares (comprising 10 percent of the outstanding voting shares) of C. F. Opel, Inc. ("Opel"), by El Paso International Company, a wholly owned nonbank subsidiary of Trans Texas, to Mr. Charles Frederick Opel, that neither Trans Texas nor any of its subsidiaries, affiliates, stockholders, or officers is or will be in fact capable of controlling Mr. Charles Frederick Opel individually or the transferred shares of C. F. Opel, Inc. This request for determination is made notwithstanding the fact that, at the time of the sale and thereafter, Mr. Charles Frederick Opel was an indebted customer of El Paso National Bank, El Paso, Texas, a subsidiary of Trans Texas.

Section 2(g) (3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g) (3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to

[1] This information derives from 304's correspondence with the Board concerning its request for this certification, 304's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.

[2] Industrial registered with the Board as a bank holding company on the same date.

[3] The operation of an industrial bank is a permissible activity for a bank holding company. See 12 CFR § 225.4(a) (2). However, in the absence of approval by the Board of an application by 304 to retain Industrial, 304 would have no authority for retaining Industrial beyond December 31, 1980. (Cf. Wachovia Corp., Docket No. TCR 76-132, 42 Fed. Register 24316 (May 13, 1977).)

the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 20, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15162 Filed 5-26-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 20, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of its new, semi-annual Form FEA-U524-P-O entitled Industrial Energy Conservation and Consumption Report. The FEA-U524-P-O is required by Section 375 of Part D of Title II of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). The FEA-U524-P-O provides the means for monitoring the progress by industry towards conservation targets set by FEA in accordance with Section 374 of the EPCA. FEA estimates respondents to the FEA-U524-P-O to number approximately 130 corporations and burden to average 30 hours per response.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc.77-15103 Filed 5-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77G-0099]

ARTHUR A. CHECCHI, INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: A petition has been filed by Arthur A. Checchi, Inc., proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in foods and the glucose isomerase enzyme are GRAS.

DATE: Comments by July 26, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of Gras status in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), notice is given that a petition (GRASP 7G0086) has been filed by Arthur A. Checchi, Inc., 1730 Rhode Island Ave. NW., Washington, D.C. 20036, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in foods and the glucose isomerase enzyme are GRAS.

Any petition which meets the format requirements outlined in § 170.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before July 26, 1977, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 18, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 77-15095 Filed 5-26-77;8:45 am]

[Docket No. 76N-0406; DESI 7504]

CORTICOTROPIN FOR PARENTERAL USE

Drugs For Human Use; Drug Efficacy Study Implementation Amended Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: This notice amends a notice published in the FEDERAL REGISTER of March 1, 1977, to correct the omission of an indication for use of parenteral corticotropin, to change the name of one of the new drug application holders, and to correct two other errors.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 7504; directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

John H. Hazard, Jr., Administrative Compliance Branch (HFD–32), Office of the Assistant Director for Regulatory Affairs, Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 7504) published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11891), several inadvertent errors appeared in the indications section on page 11892 in the third column: In item 10, *"Edematous states,"* the phrase "the idiopathic" should be inserted before the word "type." In item 12, "Miscellaneous," the words "concurrent by" should read "concurrently." Also under "Miscellaneous," the following indication should be added:

Trichinosis with neurologic or myocardial involvement.

In addition, the notice incorrectly stated that the holder of NDA 12–089, Purified Corticotropin-Gel/Injection was Elkins-Sinn, Inc., 2 Easterbrook Ln., Cherry Hill, NJ 08002. The holder of the NDA should be listed as Philadelphia Laboratories, Inc., formerly of 9815 Roosevelt Blvd., Philadelphia, PA 19114.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 10, 1977.

CARL M. LEVENTHEL,
Acting Director,
Bureau of Drugs.

[FR Doc.77–14961 Filed 5–26–77;8:45 am]

[Docket No. 77C–0126]

COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION, INC.

Color Additive Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402 (21 U.S.C. 376(d)), notice is given that color additive petitions (CAP's) have been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1130 15th St., NW., Washington, DC 20005, proposing the issuance of color additive regulations (21 CFR Part 73) to provide for the safe use and exemption from certification of the color additives specified below.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204. (202–472–5740).

SUPPLEMENTARY INFORMATION: The submitted color additive petitions are as follows:

CAP No.	Color additives	Uses
6C0117	Aluminum powder.	In externally applied drugs and externally applied cosmetics including those used in the area of the eye.
6C0118	Annatto.....	In externally applied drugs and in cosmetics, generally, including those used in the area of the eye.
6C0121	β-Carotene..	Do.
6C0122	Zinc oxide..	Do.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, during working hours Monday through Friday.

Dated: May 3, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.77–14964 Filed 5–26–77;8:45 am]

[Docket No. 77F–0077]

GENERAL FOODS CORP.

Filing of Food Additive Petitions

Correction

In FR Doc. 77–12971 appearing at page 23170 in the issue for Friday, May 6, 1977, the headings should read as set forth above.

[Docket No. 76N–0209; DESI 10070]

PANCREATIC DORNASE

Opportunity For Hearing on Proposal to Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

DATES: Hearing requests due on or before June 27, 1977.

SUMMARY: This notice reclassifies pancreatic dornase to lacking substantial evidence of effectiveness, proposes withdrawal of approval of the new drug application and offers an opportunity for a hearing on the proposal.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10070 and the docket number appearing in the heading of this notice, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Request for Hearing: Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301–443–3650.)

SUPPLEMENTARY INFORMATION: In a notice (DESI 10070) published in the FEDERAL REGISTER of July 30, 1970 (35 FR 12232), the Food and Drug Administration (FDA) announced its conclusion that the drug product described below is less than effective (probably effective) as an adjunct in the treatment of paranasal sinus infections, for tracheitis sicca, cystic fibrosis of the pancreas, and for reducing tenacity of pulmonary secretions in bronchopulmonary infections; and is less than effective (possibly effective) for its other labeled indications.

NDA 10–070; Dornavac Powder containing pancreatic dornase for inhalation or irrigation; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

Pursuant to the notice of July 30, 1970, Merck, Sharp & Dohme submitted data from three clinical studies. The studies are discussed below.

Dr. M. J. Dulfano evaluated the effect of pancreatic dornase on 30 male patients (14 on pancreatic dornase and 16 on placebo) who were suffering from an acute exacerbation of chronic bronchitis and had a mucopurulent sputum. The drug was administered twice daily for 3 days, and the investigator assessed pulmonary function by chest X-ray examinations and by determining the forced expiratory volume, the forced expiratory volume in 1 second, the maximum volume ventilation, and the maximum mid-expiratory flow. He also evaluated cough, dyspnea, and chest symptoms (all on a 3-point scale) and the sputum characteristics (quantity, viscosity in poises, elastic recoil in units, opacity on a 3-point scale, specific gravity, cell population on a 5-point scale, the cell differential, and bacteriology) before treatment, five times during the treatment, and once the day after the treatment was terminated. During the study two patients on Dornavac had to discontinue taking the drug, one because of wheezing and shortness of breath and the other because of the taste of the drug. Statistical analysis of the results by the sponsor indicated no significant differences in sputum characteristics and pulmonary function variables. The scores, however, for the chest symptoms during the last 2 days of the study showed a statistically significant difference in favor of the placebo. Merck Sharp & Dohme acknowledged that Dr. Dulfano's study did not show efficacy.

Dr. J. Bushnell evaluated the effect of pancreatic dornase on 40 patients (20 on pancreatic dornase and 20 on placebo) with paranasal sinus infection. The drug was administered once daily for 3 days, and the investigator assessed the results by X-ray examination, transillumination, and bacteriological cultures, and also by estimating the amount of discharge and pus in the sinus washings

and the degree of pain, swelling, and redness (on a 3-point scale) after each treatment. At the end he evaluated the overall effect of treatment (satisfactory or unsatisfactory). Statistical analysis of patient characteristics indicated that the two groups (20 placebo patients vs. 20 Dornavac patients) were comparable regarding age and sex, but they were not comparable in the duration of infection before the treatment was initiated, a critical variable that could affect the rate of healing and resolution of symptoms. 21 CFR 314.111(a) (5) (ii) (*a*) (2) (*iii*). The average duration of illness before treatment was started was 1.5 weeks in the Dornavac group, while it was 3 to 5 weeks in the placebo group ($p<0.05$). The results of this study indicated that there were no significant differences between the two groups regarding any of the parameters except that the Dornavac group felt less pain after the first treatment than did the placebo group ($p=0.04$) so that the reduction of pain from the pretreatment level was greater in this group ($p=0.1$). However, there were no significant differences in pain between the groups after the second and third treatments. In addition, the X-ray examinations indicated that more placebo patients had both antra clear at the second examination ($p=0.08$). In view of the fact that the placebo group and Dornavac group differed with respect to duration of illness, a critical variable it cannot be concluded that the initial faster reduction of pain in the Dornavac group indicates drug effectiveness. Merck Sharp & Dohme acknowledged that the Bushnell study did not demonstrate effectiveness.

Dr. W. E. Loch treated 16 patients suffering from sinusitis with Dornavac and 15 others with placebo in a claimed randomized double-blind parallel design for a period of 4 days. The sponsor claims that the treatment groups were comparable in age and sex, presence of local discharge prior to the study, presence of headaches, past history, and use of other therapies for headaches during the study, although significant pretreatment differences were observed in the frequency of allergy, use of regular prestudy medication, and presence of headaches influenced by cough. The investigator assessed the results by physical examinations, bacteriological cultures, nasal photographs, X-rays, and rhinometry. Observations were made of the patients' progress at each of the four treatment days and at a followup day 1 to 2 weeks after the last treatment. The investigator found that the patients who were treated with Dornavac had significantly more improvement in nasal discharges, swelling, and redness than did the patients treated with the placebo, and that this improvement was evidenced also in nasal photographs of the affected sinuses which were taken before and after treatment. The investigator also commented that treatment with Dornavac was satisfactory in all patients in all four evaluation periods, while treatment with placebo was unsatisfactory in all cases in all evaluation periods except in the last period for one patient, when he found the treatment satisfactory.

Copies of the nasal photographs have never been submitted to the agency. However, these were reevaluated for Merck Sharp & Dohme by Dr. James Snow, Jr., who found no significant differences between the Dornavac and the placebo group regarding the disappearance of the exudate. Similarly, reevaluation of the X-ray reports by FDA and by the sponsor showed no significant differences between the groups regarding improvement of the sinus condition. In addition, blind reevaluation of the original X-ray films by Dr. Wallace T. Miller at the request of the sponsor revealed no differences. Also not supportive of effectiveness were the results of the (a) bacteriological cultures, which showed no significant differences between the groups in the type, number, and sensitivity of the cultured bacteria to six antibiotics, and (b) rhinometry. The rhinograms, as reported by the sponsor, showed improvement only in two of the 16 Dornavac patients and in one of the 15 placebo patients. These results give a valuable of $p>0.5$.

The experimental and placebo groups in this study were not comparable regarding condition treated. 21 CFR 314.111(a) (5) (ii) (*a*) (*2*) (*iii*). Five patients in the placebo group had chronic pansinusitis that had lasted from 11 months to 8 years, with recurrent exacerbations. In five other placebo patients the pansinusitis was superimposed on viral infections. None of the 15 placebo patients had allergic manifestations at the time of the study, and only five of them had a history of allergy. In contrast, only two of the patients treated with Dornavac had chronic sinusitis, which had been of rather short duration (4 and 9 months respectively), and only one Dornavac patient had a viral infection. In further contrast, five Dornavac patients had allergic rhinitis during the period of the study while an additional six patients had a history of allergy, making a total of 11 Dornavac patients who had a history of allergy. Since allergic reactions can subside without treatment once the offending antigen is eliminated, the Dornavac-treated patients as a group were in a more favorable condition than the placebo patients in addition to having fewer chronic sinusitides to start with.

In this study the investigator's subjective evaluations of the patients' symptoms are in sharp contrast with the objective criteria and suggest that observer or analyst bias could have been present, perhaps because of breakdown of double-blind conditions. 21 CFR 314.111(a) (5) (ii) (*a*) (*4*). Included with the protocol that was sent to the Investigator was a chart that divided the medication numbers into two groups and identified them as Dornavac and placebo. It appears, therefore, that the study was not blind at all, at least for the investigator, who received a copy of the protocol before he treated any patient. His knowledge of the allocation schedule can explain the discrepancies between his subjective evaluations and the objective criteria of the study.

In summary, the Loch study cannot be considered adequate and well controlled and does not support the claim that the drug product is effective for the claimed indications.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a) (5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505 (e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s) evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or

pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 27, 1977, a written notice of appearance and request for hearing, and (2) on or before July 26, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearings as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate, with the Hearing Clerk, Food and Drug Administration (HFC-20). Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (Recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-14962 Filed 5-26-77;8:45 am]

[Docket No. 77N-0150]

PHENFORMIN HYDROCHLORIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Correction

In FR Doc. 77-12970 appearing at page 23171 in the issue for Friday, May 6, 1977, make the following changes:

1. In the second column, the 11th line of the second full paragraph, the last words should read "included".

2. In the 17th line of the same paragraph, the second word should be spelled "phenformin".

3. On page 23172, in the second column, in the material that precedes the first full paragraph, "phenforim", which appears in three places in this material, should be spelled "phenformin".

[Docket No. 77N-0107; DESI 8278]

PHENTOLAMINE MESYLATE FOR INJECTABLE USE AND PHENTOLAMINE HYDROCHLORIDE FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice offers an opportunity for a hearing on indications previously stated to lack substantial evidence of effectiveness for phentolamine mesylate injection phentolamine hydrochloride tablets, and announces the conditions under which the drugs may be marketed for the indications for which they continue to be regarded as effective.

DATES: Hearing requests due on or before June 27, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with reference number DESI8278, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30 Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20) Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Administrative Compliance Branch (HFD-32), Office of the Assistant Director for Regulatory Affairs, Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 8278) published in the FEDERAL REGISTER of April 6, 1971 (36 FR 6531), the Food and Drug Administration announced its conclusions that the drug products described below are (1) effective for use in diagnosis of pheochromocytoma; prevention or control of hypertensive episodes that may occur as a result of stress and manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; and to prevent or counteract dermal necrosis and sloughing caused by intravenous norepinephrine; (2) probably effective in the medical management of pheochromocytoma to prevent paraxysmal attacks during a period when postponement of surgical treatment may be necessary; and (3) possibly effective as adjunctive therapy in patients with vasospasm, with or without arterial occlusive disease.

A followup notice published in the FEDERAL REGISTER of July 6, 1972 (37 FR 13284), reclassified the probably effective and possibly effective indications to lacking substantial evidence of effectiveness. No opportunity for a hearing was offered at that time for those indications. The holder of the new drug application had previously deleted all less-than-effective indications from the labeling of the drug products.

NDA 8-278; Regitine Lyophilized Powder for Injection containing phentolamine mesylate; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

NDA 8-278; Regitine Tablets containing phentolamine hydrochloride; Ciba Pharmaceutical Co.

Accordingly, the April 6, 1971, notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug products named above, as defined in 21 CFR 316.8. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to the drug products named in this notice by writing to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drug products lack substantial evidence of effectiveness for all other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Phentolamine mesylate is in sterile powder form suitable for reconstitution for intramuscular or intravenous administration, and phentolamine hydrochloride is in tablet form suitable for oral administration.

2. *Labeling conditions.* (a) The label bears the statement "CAUTION.—Federal law prohibits dispensing without prescription."

(b) The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For use in the diagnosis of pheochromocytoma; prevention and counteraction of hypertensive episodes that may occur as a result of stress manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; prevention and counteracting dermal necrosis and sloughing caused by intravenous norepinephrine.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before July 26, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 27, 1977, a written notice of appearance and request for hearing, and (2) on or before July 26, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed

in quadruplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977, (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-14963 Filed 5-26-77;8:45 am]

[Docket No. 75N-0304]

ORAL CONTRACEPTIVE DRUG PRODUCT

Revision of Physician and Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Based on additional data, the Food and Drug Administration (FDA) is amending the text of physician and patient labeling of oral contraceptive drug products, with respect to those provisions describing the relative effectiveness of methods of contraception.

DATE: Compliance by July 26, 1977.

ADDRESSES: Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Edwin M. Ortiz, Bureau of Drugs (HFD–130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301–443–3490).

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53633) setting forth the text of physician and patient labeling for oral contraceptive drug products. The Commissioner of Food and Drugs invited comment on the labeling and stated that if upon reviewing the comments he concluded that revisions in the labeling were necessary, he would publish a followup notice giving the revised text of the physician and patient labeling. He is currently in the process of reviewing the comments. Several of the comments reviewed thus far involve objections to the information summarizing the comparison of effectiveness of various methods of contraception—the comments particularly question the accuracy of the figures representing the pregnancies per 100 woman-years for the various methods of contraception.

On September 30 and October 1, 1976, members of the agency's Obstetrics and Gynecology Advisory Committee discussed the physician and patient labeling for oral contraceptives. During their discussion of the summary of the effectiveness of the various methods of contraception, they emphasized that this is a controversial subject because of the wide variability of the effectiveness rates reported for the different methods of contraception. They advised FDA that several issues of "Population Reports" (published by the Population Information Program, The George Washington University Medical Center, 2001 S St. NW,. Washington, D.C. 20009) combine to cover what is available in the published literature on this subject. They advised FDA to review the cited "Population Reports" issues and to use the figures derived from that source. These figures include the lower and upper limits of contraception that can be achieved with the various methods of contraception. A copy of the pertinent sections of the transcript of the Obstetrics and Gynecology Advisory Committee meeting has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.

The information in the summary of effectiveness of various methods of contraception that was included in the physician and patient labeling published on December 7, 1976 (41 FR 53633) was obtained from the reference "Novak, E. R. (ed), 'Textbook of Gynecology,' Williams and Wilkins, 1975." After having reviewed the comments received on this subject and having reconsidered the advice of the Obstetrics and Gynecology Advisory Committee, the Commissioner has concluded that the figures derived from the "Population Reports" present a more accurate summary of effectiveness than do the figures in the labeling published in the December 7 FEDERAL REGISTER and is amending the labeling accordingly. In the physician labeling these changes are being made in the table that appears under the section entitled "Indications and Usage", and in the paragraph preceding the table. In the patient labeling the changes are being made in the table that appears under the section entitled "Deciding to Use Oral Contraceptives", and in the first paragraph after the table. Concurrently, "Reference 1" in the physician labeling is being deleted and replaced with the following new Reference 1: "Population Reports," Series H, Number 2, May 1974; Series I, Number 1, June 1974; Series B, Number 2, January 1975; Series H, Number 3, January 1975; Series H, Number 4, January 1976." A copy of this reference has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.

The table in the patient labeling has also been amended by deleting the "percent-effective" figures of the various methods of contraception. Upon further consideration, the Commissioner has concluded that the pregnancy rates of these methods of contraception, which are properly expressed in pregnancies per 100-woman years, cannot be accurately converted to "percent-effective" figures, and that the use of such figures is undesirable.

The Commissioner has deemed it necessary to respond immediately to the comments on the effectve rates of the various methods of contraception because there are risk/benefit issues involved: stating a lesser effective rate for one method of contraception may persuade a patient to use an apparently more effective but less safe method. The Commissioner is continuing to review the comments received on the December 7 notice. Upon completion of his review, if he concludes that further changes are necessary in the physician or patient labeling for oral contraceptives, he will publish a followup notice setting forth the revised text of the labeling.

Physician labeling effective dates: Firms that have already revised their physician labeling based on the December 7, 1976 notice may continue to use that labeling until July 26, 1977. All oral contraceptive drug products packaged on or after July 26, 1977 shall contain the revised physician labeling.

Patient labeling effective dates: Because patient labeling for oral contraceptive drug products is the subject of a substantive regulation (§ 310.501(a) (21 CFR 310.501(a)), the December 7 notice announced that use of the revised labeling—the labeling published in the December 7 notice—could be delayed until the rule making procedure providing for the revision is completed. Firms that elected not to use the labeling published in the December 7 notice, therefore, may likewise elect not to use the revised labeling published herein until the rule making procedure is completed. Firms that have already revised their patient labeling based on the December 7 notice, however, may continue to use that labeling only until July 26, 1977. All oral contraceptive drug products packaged on or after July 26, 1977 by firms that have elected to use patient labeling based on the December 7 notice shall contain the revisions published in this notice.

Accordingly, in the December 7, 1976 notice setting forth physician and patient labeling, the sections of the physician labeling entitled "Indications and Usage" and "References" and the section of the patient labeling entitled "2. Other Ways to Prevent Pregnancy" are amended by revising certain portions to read as follows:

INDICATIONS AND USAGE

(Insert name of drug) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

Oral contraceptives are highly effective. The pregnancy rate in women using conventional combination oral contraceptives (containing 35 mcg or more of ethinyl estradiol or 50 mcg or more of mestranol) is generally reported as less than one pregnancy per 100 women-years of use. Slightly higher rates (some-

what more than 1 pregnancy per 100 woman-years of use) are reported for some combination products containing 35 mcg or less of ethinyl estradiol, and rates on the order of 3 pregnancies per 100 women-years are reported for the progestin-only oral contraceptives.

These rates are derived from separate studies conducted by different investigators in several population groups and cannot be compared precisely. Furthermore, pregnancy rates tend to be lower as clinical studies are continued, possibly due to selective retention in the longer studies of those patients who accept the treatment regimen and do not discontinue as a result of adverse reactions, pregnancy, or other reasons.

In clinical trials with (insert name of drug) (insert name of) patients completed _____ cycles and a total of _____ pregnancies were reported. This represents a pregnancy rate of _____ per 100 woman-years (manufacturer to add other information related to the pregnancy rate with his particular product, if needed to provide adequate prescribing information to the physician.)

The following table gives ranges of pregnancy rates reported in the literature (Ref. 1) for other means of contraception. The efficacy of these means of contraception (except the IUD) depends upon the degree of adherence to the method.

PREGNANCIES PER 100 WOMAN-YEARS

IUD, less than 1–6;
Diaphragm with spermicidal product (creams or jellies), 2–20;
Condom, 3–36;
Aerosol foams, 2–29;
Jellies and creams, 4–36;
Rhythm (all types), less than 1–47;
1. Calendar method, 14–47;
2. Temperature method, 1–20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1–7;
4. Mucus method, 1–25;
No contraception, 60–80.

Epidemiological studies have shown a positive association between the dose of estrogens in oral contraceptives and the risk of thromboembolism (refs. 2 and 3). For this reason, it is prudent and in keeping with good principles of therapeutics to minimize exposure to estrogen. The oral contraceptive product prescribed for any given patient should be that product which contains the least amount of estrogen that is compatible with an acceptable pregnancy rate and patient acceptance. It is recommended that new acceptors of oral contraceptives should be started on preparations containing 50 MCG or less of estrogen.

REFERENCES

"Population Reports," Series H, Number 2, May 1974; Series I, Number 1, June 1974; Series B, Number 2, January 1975; Series H, Number 3, 1975; Series H, Number 4, January 1976 (published by the Population Information Program, The George Washington University Medical Center, 2001 S St. NW., Washington, D.C.).

* * * * *

2. Other Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:

PREGNANCIES PER 100 WOMEN PER YEAR

Intrauterine device (IUD), less than 1–6;
Diaphragm with spermicidal products (creams or jellies), 2–20;
Condom(rubber), 3–36;
Aerosol foams, 2–29;
Jellies and creams, 4–36;
Rhythm (all types), less than 1–47;
1. Calendar method, 14–47;
2. Temperature method, 1–20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1–7;
4. Mucus method, 1–25;
No contraception, 60–80.

The figure (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the various methods obtain very good results (with the exception of the calendar method of rhythm). Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

* * * * *

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–14967 Filed 5–23–77;10:12 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, on June 18–19, 1977, at the Palmer House, Chicago, IL 60690. The meeting on June 18th will be held in Parlor F, and on June 19th in the PrivateDining Room No. 6.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. subject to space available. The purpose of the meeting is to discuss final recommendations that will be incorporated into its report to the President and the Congress and the Comprehensive National Plan. The meeting is also being held in conjunction with the 102nd Annual Meeting of the American Neurological Association.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, MD 20014 (301) 496–9275, will provide substantive program information.

Mr. Robert Hinkel, Acting Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, MD 20014 (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: May 23, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–15108 Filed 5–26–77;8:45 am]

INFECTIOUS DISEASE COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases on July 6, 7, and 8, 1977, in Building 31C, Conference Room 8, at the National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. until 10:30 a.m. on July 7 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 7:00 p.m. until recess on July 6, from 10:30 a.m. until recess on July 7, and from 9 a.m. until adjournment on July 8, for the review, discussion, and evaluation of individual grant applications and individual contract proposals. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. James A. Ferguson, Executive Secretary, Infectious Disease Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20014, (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: May 20, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-15106 Filed 5-26-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Diabetes Advisory Board on July 15, 1977 (times below), in Conference Room 4131, in the North Building of Health, Education and Welfare, at 330 Independence Avenue, Southwest, Washington, D.C.

In addition, the below listed subcommittees of the Board will have meetings from 9 a.m.-5 p.m. on July 14, 1977, Building 31, National Institutes of Health, Bethesda, Maryland: The Board Structure and Organization Subcommittee will meet in Room 9A51; the Diabetes Program Budget Subcommittee will meet in Room 9A52B.

The entire advisory board meeting, which will be open to the public from 9 a.m.-5 p.m., is being held to discuss the organization and staffing, and to continue its review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. The subcommittee meetings will be open to the public 9 a.m.-5 p.m. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, 301-496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: May 23 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-15107 Filed 5-26-77;8:45 am]

NIH PUBLIC ADVISORY COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following Committees:

Experimental Virology Study Section.
Immunological Sciences Study Section.
Molecular Cytology Study Section.
Pathobiological Chemistry Study Section.

Authority for these committees will expire on June 30, 1978 unless the Secretary formally determines that continuance is in the public interest.

Dated: May 19, 1977.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc.77-15104 Filed 5-26-77;8:45 am]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

NAME OF COMMITTEE: Carcinogenesis Program Scientific Review Committee *A*.

DATES: July 7, 1977; 9 a.m.—adjournment.

PLACE: Building 31C Conference Room 9, National Institutes of Health.

TIMES:

OPEN: July 7, 9 a.m.—9:30 a.m.

CLOSED: July 7, 9:30 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Carl E. Smith.

ADDRESS: Landow Building, Room 306, National Institutes of Health.

PHONE: 391/496-5471.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Virus Cancer Program Scientific Review Committee *B*.

DATES: July 18-19, 1977; 9 a.m.

PLACE: Landow Building, Room C-418; 7910 Woodmont Avenue, Bethesda, Maryland 20014.

TIMES:

OPEN: July 18, 9 a.m.—9:30 a.m.

CLOSED: July 18, 9:30 a.m.—5 p.m.

CLOSED: July 19, 9 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRTTARY: Dr. Wilna A. Woods.

ADDRESS: Landow Building, Room C306, National Institutes of Health.

PHONE: 301/496-4533.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Virus Cancer Program Scientific Review Committee *A*.

DATES: July 20-22, 1977; 9 a.m.

PLACE: Landow Building, Room C-418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

TIMES:

OPEN: July 20, 9 a.m.—9:30 a.m.

CLOSED: July 20, 9:30 a.m.—5 p.m.

CLOSED: July 21, 9 a.m.—5 p.m.
CLOSTD: July 22, 9 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Maurice L. Guss.

ADDRESS: Landow Building, Room C306, National Institutes of Health.

PHONE: 301/496-4533.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Clinical Cancer Program Project Review Committee.

DATES: July 28-29, 1977; 9 a.m.

PLACE: Building 31C, Conference Room 8, National Institutes of Health.

TIMES:

OPEN: July 28, 9 a.m.-10:30 a.m.

CLOSED: July 28, 10:30 a.m.-5:30 p.m.

CLOSED: July 29, 8:30 a.m.-adjournment.

CLOSURE REASON: To review research grant applications.

EXECUTIVE SECRETARY: Dr. Louise G. Thomson.

ADDRESS: Westwood Building, Room 809, National Institutes of Health.

PHONE: 301/496-7925.

(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health.)

NAME OF COMMITTEE: Cancer Control Intervention Programs A Review Committee.

DATES: July 29, 1977; 8:30 a.m.

PLACE: Building 31C, Conference Room 7, National Institutes of Health.

TIMES:

OPEN: July 29, 8:30 a.m.-10 a.m.

CLOSED: July 29, 10 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Veronica L. Conley.

ADDRESS: Blair Bldg., Room 7A07, National Institutes of Health.

PHONE: 301/427-7941.

(Catalog of Federal Domestic Assistance Number 13.399, National Institutes of Health.)

Dated: May 20, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-15105 Filed 5-26-77;8:45 am]

Pharmaceutical Reimbursement Board

AMPICILLIN

Final Maximum Allowable Cost Determinations

Notice is hereby given, under the authority of 45 CFR Part 19, that the Pharmaceutical Reimbursement Board of the Department of Health, Education, and Welfare has determined Maximum Allowable Costs (MACs) for ampicillin capsules in strengths of 250 mg and 500 mg. The MAC limits and a statement of the Board's reasons for its determinations are described in this notice.

In establishing these MAC limits, the Board has followed the requirements outlined in the Department's regulations concerning Limitations on Payment or Reimbursement for Drugs (45 CFR Part 19). § 19.5 specifies that after considering the advice and recommendations of the Pharmaceutical Reimbursement Advisory Committee, the written public comments, the presentations made at any public hearing, and any other evidence included as a part of the record, the Board shall decide whether a MAC should be established for a drug.

As required by the regulations, the Board published as a notice in the November 19, 1976, FEDERAL REGISTER (45 FR 51085) the following proposed Maximum Allowable Costs:

1. Ampicillin, 250 mg capsules: $0.0725 per capsule; and
2. Ampicillin, 500 mg capsules: $0.1390 per capsule.

This proposal covered both the trihydrate and anhydrous forms of ampicillin. Interested persons were invited to submit comments on the proposal within 30 days of its publication. Approximately 50 written comments were received, primarily from pharmacists. Several comments supported the proposed MACs and indicated the availability of the drugs at or below the MAC price. Many other comments opposed the Board's proposal, expressing concern that the quality of drug products will be compromised and that these drugs are not available to all pharamacists at or below the MAC price.

As announced in the FEDERAL REGISTER of November 19, 1976 (41 FR 51085), and December 15, 1976 (41 FR 54824), a public hearing was held before the Board on January 10, 1977, at 10 a.m. in Room 1409 of the Federal Office Building, 200 C Street SW., Washington, D.C. Representatives of a drug wholesalers' association, a pharmaceutical manufacturer, and a pharmaceutical manufacturers' association gave testimony at this hearing.

Because the notice was specific to the MACs on ampicillin products, the Board considered only comments and testimony addressing the appropriateness of the ampicillin MACs for the purpose of these final determinations. The comments and recommendations, and the Board's responses to them are set out below. The analysis is limited to the comments received in response to the notice and testimony presented at the hearing. The conclusions and findings of the Board, however, are based upon the entire record, including the advice of the Pharmaceutical Reimbursement Advisory Committee. The full report of the Committee is contained in the November 19 FEDERAL REGISTER notice (41 FR 51085).

ECONOMIC

1. Several comments indicate that not every pharmacist can purchase the specified ampicillin products at the proposed MAC levels. In particular, pharmacies in small, isolated communities frequently purchase drugs at much higher prices than larger pharmacies in an urban setting. Another comment reports that costs vary by region. Many pharmacists are therefore concerned that their costs will be greater than the reimbursement level.

Based on the Department's data, as submitted to the Advisory Committee on September 14, 1976, and not having received any evidence to the contrary, the Board is satisfied that an adequate amount of these products can be purchased at or below these MAC levels. The data further confirm the availability of drugs within the MAC limits in each of the nine census regions. No evidence has been provided to the Board which indicates that the specified ampicillin products are not widely and consistently available in any particular region or area at or below the MAC level.

In addition, the Board received comments in support of the proposed MAC limits. One pharmacist wrote that "$0.0725 is a good and fair price to the pharmacist and for that sum he can supply as good a brand of ampicillin as can be obtained in the U.S.A." A manufacturer similarly reported that his ampicillin capsules, 250 mg each, are available to pharmacies in every State at $4.90 per 100 capsules.

2. Two comments argue that if ampicillin prices fluctuate significantly it will require a continuous update in the MAC level. A continuing review to justify the applicability of these ampicillin MACs is planned by the Board.

3. At the public hearing both the wholesalers' association and the manufacturers' association contended that savings to government programs purchasing ampicillin is either uncertain or overstated in the government estimates. Both parties acknowledged, however, that substantial cost savings is not a required regulatory condition for the establishment of a MAC. Another report submitted to the Board indicates potential savings substantially above the Department's estimates.

On balance, it is evident that there are significant savings, estimated at $730,000, that will accrue to government programs with the establishment of these MACs. The government, as any cost conscious buyer, has an obligation to identify the maximum prices at which it will purchase medication.

Furthermore, the discrepancy between the wholesaler and Departmental costs savings projections appears to be largely attributable to the very limited nature of the data used by the wholesalers. Their savings calculations were based upon data drawn from wholesalers in three states over a three week period, and excluded sales made directly by manufacturers. In addition list price as opposed to invoice price data were used.

The manufacturers' estimate of potential savings from the MAC limit was based upon a misunderstanding of how Medicaid reimburses for prescription drugs. Reimbursements are based upon the state program administrators' estimate of the actual cost (EAC) of the product to the providers of pharmaceutical services. The Department's calculations are based on the assumption that state EACs are derived from survey data gathered by the Department and sent to the states. The manufacturers have incorrectly assumed that the average acquisition cost is used for reimbursement purposes. Consequently they underestimated potential MAC savings.

QUALITY ISSUES

4. Several written comments address the issue of quality of ampicillin products. Some comments discuss the general concern that quality control, research, and past manufacturing performance will be sacrificed for the sake of cost. The Board believes that these particular comments are not related specifically to the ampicillin MACs, and that the Department fully responded to this issue in the preamble to the final regulations entitled "Limitations on Payment or Reimbursement for Drugs" (45 CFR Part 19), published in the July 31, 1975, FEDERAL REGISTER (40 FR 32284).

Other comments are directed specifically at the quality of ampicillin products available in the price range below the MAC levels. These comments assert that ampicillin products purchased below $0.0725 and $0.1390 are of inferior quality. The Board agrees with the advice of the Food and Drug Administration that there is no known reason to recommend against the establishment of MAC limits on ampicillin capsules based upon quality considerations. Every manufacturer of ampicillin must comply with the requirements of 21 U.S.C. 357(a), which provides for the certification of each batch of the drug by FDA. In addition, bioavailability data for every manufacturer is submitted to and approved by FDA prior to certification. The FDA has no evidence that any of the currently marketed subject products or their manufacturers are in violation of the Federal Food, Drug, and Cosmetic Act with respect to these products.

5. Since closure of the comment period and completion of the public hearing concerning MAC limits on ampicillin capsules, the Board received a report on ampicillin liquid preparations for which it is considering the establishment of MAC limits. In this report the Board was informed by the FDA of a pending regulatory matter concerning the presence of residues of N,N-dimethylaniline (DMA), in bulk ampicillin. DMA is a chemical used to remove hydrochloric acid during the production of ampicillin.

Because materials regarding this matter had not previously been part of the administrative record for the establishment of MAC limits for ampicillin capsules, the Board invited additional comment on March 31, 1977 (42 FR 17182), related solely to the presence of DMA residue in ampicillin and its bearing upon the establishment of MAC limits for ampicillin capsules. No comments were received from the public. FDA has stated that DMA residues have no known public health significance. Furthermore, FDA has established an upper limit for DMA residue in ampicillin.

Based on all available evidence the Board concurs with the finding of the FDA that there is no reason connected with DMA levels in ampicillin for withholding or delaying MAC limits for ampicillin capsules.

6. During the hearing, a representative of a drug manufacturer presented information to the Board of scientific factors that could affect the bioavailability or quality of ampicillin products and argued that this information renders assumptions of bioequivalency based on chemical equivalency invalid.

No evidence was presented in comments or at the hearing of any bioequivalence problems with any of the brands of ampicillin available on the American market. In fact, as stated in the hearing on ampicillin, at least one major pharmaceutical manufacturer relies on in vitro testing of chemical equivalency in its own quality control program, which provides the basis of its assumption of bioequivalency from batch to batch and lot to lot for its brand of ampicillin, as well as other drugs it manufactures. The Board concludes that reliance on the FDA's assurances concerning the quality of marketed ampicillin is justified.

LEGAL ISSUES

7. One comment queries what recourse a pharmacist has in a jurisdiction where brand substitution is prohibited by law when he receives a prescription requesting a brand of ampicillin capsules priced above the MAC limit. The Board concludes that the MAC regulation neither supersedes nor contravenes State anti-substitution laws. The regulation does not authorize or require pharmacists to dispense drugs in violation of State law.

The regulations, however, do not limit reimbursement for the cost of a drug to the MAC limit when the physician certifies medical necessity of the brand for the treatment of a patient in accordance with 45 CFR 19.3(a). Prior to filling a brand-name prescription, a pharmacist may ask the prescribing physician either to authorize substitution or to certify the brand's medical necessity to assure that reimbursement will not be limited to the MAC.

8. One comment recommends that the Department delay implementation of the ampicillin MACs until the final resolution of pending lawsuits. The Board does not believe that the existence of litigation justifies delay in implementing the MAC program.

OTHER COMMENTS

During the hearing, a number of other comments were presented which were not directly or solely related to the proposed MACs on ampicillin. The manufacturers' association requested HEW to consider the development of an effective substitute for the present MAC system as a cost containment procedure, to establish the right of interested parties to offer timely information on quality and other justifications for establishing a MAC limit for a particular drug, and to adopt a "certified source" mechanism to determine whose products are reimburseable under government programs.

Although these comments are not germane to the establishment of the proposed ampicillin MACs, the Board will consider these points at some future time for possible implementation.

ORDER

After consideration of the recommendations provided by the Pharmaceutical Reimbursement Advisory Committee, written comments and testimony presented at the public hearing, the Pharmaceutical Reimbursement Board has determined that the proposed MACs on ampicillin products are appropriate. The Board therefore establishes the following MACs:

1. Ampicillin, 250mg capsules: $0.0725 per capsule; and
2. Ampicillin, 500mg capsules: $0.1390 per capsule.

The effective date of these MACs is on or before June 27, 1977.

Dated: May 10, 1977.

MARK NOVITCH,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc.77-14859 Filed 5-26-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-479; FDAA-3040-EM]

IDAHO

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Idaho (FDAA-3040-EMD, dated May 5, 1977, and related determinations.

DATED: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 5, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Idaho is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Idaho.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. William H. Mayer, FDAA Region X, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency.

The County of:

Blaine

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15110 Filed 5-26-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Tentative Sale No. 65]

EASTERN GULF OF MEXICO OUTER CONTINENTAL SHELF

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

The Department of the Interior on May 17, 1977, identified a new proposed sale in the Eastern Gulf of Mexico Outer Continental Shelf (OCS Sale No. 65). Therefore, the Department is issuing this supplemental Call for Nominations for

the area. This Call area constituted a part of a Call for Nominations and Comments for proposed OCS Sale No. 51 (42 FR 9452, February 16, 1977). The areas identified in this call will not be considered for proposed OCS Sale No. 51.

Pursuant to the authority prescribed in 43 CFR 3301.3 (1976), nominations are hereby requested for areas on the Eastern Gulf of Mexico Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343 (1970)). Nominations will be considered for any or all of that part of the following mapped areas, on OCS Official Protraction Diagrams, seaward of the submerged lands of the adjacent States.

1. NH 16–5 Pensacola (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks).
2. NH 16–8 Destin Dome (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 1).
3. NH 16–11 De Soto Canyon (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 2).
4. NH 16–9 Apalachicola.
5. NH 16–12 Florida Middle Ground (formerly Apalachicola South).
6. NG 16–3 The Elbow (formerly Tampa West No. 1).
7. NG 16–6 Note: Unnamed (formerly Fort Myers West No. 2).
8. NH 17–7 Gainesville.
9. NH 17–10 Tarpon Springs.
10. NG 17–1 Saint Petersburg (formerly Tampa).
11. NG 17–4 Charlotte Harbor (formerly Fort Myers West No. 1).

All these maps may be purchased for $2 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

All nominations must be described in accordance with the Outer Continental Shelf Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular tracts recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socio-economic or other information which might bear upon potential leasing and development of particular tracts is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347 (1970)) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than June 30, 1977, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf Eastern Gulf of Mexico," or "Comments on Leasing in the Outer Continental Shelf Eastern Gulf of Mexico," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Conservation Manager, Gulf of Mexico OCS Operations, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70011 and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at his address cited above.

This call for nominations and comments does not in any way commit the Department to leasing in the Eastern Gulf of Mexico. It is an information-gathering component of the Department's leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: May 20, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77–15026 Filed 5–26–77;8:45 am]

Bureau of Land Management

[M 141]

MONTANA

Transfer of Submarginal Lands, Fort Peck Indian Reservation

MAY 19, 1977.

1. Pursuant to Public Law 94–114 (89 Stat. 577) and Sec. 2 thereof, the lands described in paragraph 3 of this notice, together with all minerals underlying these lands, whether acquired or otherwised owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Assiniboine and Sioux Tribes of Montana. The lands shall be a part of the established Fort Peck Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on these lands will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Billings, Montana. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Assiniboine and Sioux Tribes.

3. PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 39 E.,
Sec. 25, Lot 5.
T. 33 N., R. 40 E.,
Sec. 30, Lots 3 and 4, E½SW¼, W½SE¼, and SE¼SE¼; and
Sec. 35, S½S½.
T. 31 N., R. 41 E.,
Sec. 29, NW¼; and
Sec. 30, NE¼.
T. 32 N., R. 41 E.,
Sec. 6, Lots 1, 2, 3, and 4;
Sec. 35, W½NE¼, NW¼, and N½SE¼; and
Sec. 36, N½.
T. 27 N., R. 42 E.,
Sec. 1, Lots 1 and 2, S½NE¼, and SE¼; and
Sec. 5, Lot 11, SW¼NE¼.
T. 29 N., R. 42 E.,
Sec. 1, SW¼NE¼, S½NW¼, and W½SE¼.
T. 30 N., R. 42 E.,
Sec. 19, E½SE¼;
Sec. 20, NW¼SW¼;
Sec. 26, E½; and
Sec. 30, NE¼NE¼.
T. 31 N., R. 42 E.,
Sec. 2, Lots 1, 2, 3, and 4, and S½N½;
Sec. 11, S½NW¼, E½SW¼, and SE¼; and
Sec. 13, S½NE¼ and E½SE¼.
T. 32 N., R. 42 E.,
Sec. 35, SE¼.
T. 26 N., R. 43 E.,
Sec. 4, Lot 8;
Sec. 12, W½NW¼SW¼, E½E½SE¼, and W½SW¼SE¼; and
Sec. 13, E½NE¼NE¼.
T. 27 N., R. 43 E.,
Sec. 5, Lots 1, 2, 3, and 4, and S½N½;
Sec. 6, Lots 1, 2, and 7, and S½NE¼;
Sec. 9, S½;
Sec. 16, S½;
Sec. 18, Lots 3 and 4, E½SW¼, and SE¼; and
Sec. 26, N½NW¼.

T. 28 N., R. 43 E.,
Sec. 1, Lots 3 and 4, S½NW¼, SW¼, and W½SE¼;
Sec. 2, Lots 1, 2, and 3, SE¼NE¼, SE¼NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 5, Lots 1 and 2;
Sec. 7, Lots 1, 2, 3, and 4, E½SW¼, and SE¼;
Sec. 9, E½SW¼ and SE¼;
Sec. 10, E½SE¼;
Sec. 11, All;
Sec. 12, W½W½ and E½SW¼;
Sec. 13, S½;
Sec. 16, NE¼NW¼;
Sec. 25, E½ and S½SW¼;
Sec. 33, SE¼SW¼ and S½SE¼;
Sec. 34, N½NE¼; and
Sec. 36, W½NE¼ and NW¼.

T. 29 N., R. 43 E.,
Sec. 10, NW¼SW¼;
Sec. 14, W½NW¼;
Sec. 15, N½NE¼ and NW¼;
Sec. 18, Lots 1, 2, 3, and 4, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 19, Lot 1, NE¼NW¼ and SE¼;
Sec. 20, W½;
Sec. 23, SE¼SW¼ and SE¼;
Sec. 24, S½;
Sec. 26, N½;
Sec. 27, S½;
Sec. 28, E½SE¼;
Sec. 29, SW¼SW¼ and S½SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, Lots 3 and 4, NE¼, and SE¼NW¼;
Sec. 32, NW¼NW¼ and E½SE¼;
Sec. 33, S½NE¼, W½SW¼, and SE¼;
Sec. 34, N½NE¼; and
Sec. 35, N½ and S½SW¼.

T. 30 N., R. 43 E.,
Sec. 3, Lots 3 and 4, S½NW¼, and E½SW¼; and
Sec. 18, Lots 1 and 2, and E½NW¼.

T. 31 N., R. 43 E.,
Sec. 21, N½; and
Sec. 34, W½.

T. 32 N., R. 43 E.,
Sec. 33, W½; and
Sec. 35, NE¼SE¼.

T. 26 N., R. 44 E.,
Sec. 7, Lot 8 and W½SE¼SW¼;
Sec. 9, W½NE¼NE¼; and
Sec. 18, Lot 6.

T. 27 N., R. 44 E.,
Sec. 2, Lots 1 and 2, S½NE¼, SW¼NW¼, NW¼SW¼, and SE¼;
Sec. 3, Lots 3 and 4, and S½NW¼;
Sec. 9, E½;
Sec. 10, NE¼;
Sec. 17, SW¼;
Sec. 20, N½ and N½S½; and
Sec. 25, E½.

T. 28 N., R. 44 E.,
Sec. 2, Lot 4 and SW¼NW¼;
Sec. 4, Lots 3 and 4;
Sec. 5, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 6, Lots 1 and 2, S½NE¼, and N½SE¼;
Sec. 9, N½, E½SW¼, and W½SE¼;
Sec. 10, S½;
Sec. 11, W½NW¼ and SW¼;
Sec. 13, S½NW¼ and N½SW¼;
Sec. 14, S½NE¼ and NW¼;
Sec. 15, NE¼;
Sec. 16, N½;
Sec. 17, E½;
Sec. 18, Lots 1, 2, 3, and 4, and E½W½;
Sec. 20, S½;
Sec. 21, All;
Sec. 22, SE¼SE¼;
Sec. 23, SE¼;
Sec. 27, NE¼NE¼;
Sec. 28, NE¼;
Sec. 29, W½;
Sec. 30, Lots 1, 2, 3, and 4, and E½;
Sec. 31, Lots 2, 3, and 4, and E½W½;
Sec. 33, S½; and
Sec. 34, SW¼ and SW¼SE¼.

T. 29 N., R. 44 E.,
Sec. 2, Lots 2 and 3, SW¼NE¼, and SE¼NW¼;
Sec. 8, E½;
Sec. 12, W½;
Sec. 13, NW¼ and S½;
Sec. 17, E½SW¼ and SE¼;
Sec. 21, W½;
Sec. 23, S½;
Sec. 24, N½N½;
Sec. 25, S½S½;
Sec. 26, N½ and SE¼;
Sec. 27, W½;
Sec. 28, NE¼;
Sec. 30, SE¼SW¼ and SW¼SE¼;
Sec. 31, E½ and E½NW¼;
Sec. 32, W½SW¼;
Sec. 34, NE¼;
Sec. 35, NE¼ and N½SE¼; and
Sec. 36, N½ and N½SW¼.

T. 30 N., R. 44 E.,
Sec. 36, S½NW¼, SW¼, and W½SE¼.

T. 26 N., R. 45 E.,
Sec. 12, E½SE¼NE¼ and E½NE¼SW¼.

T. 27 N., R. 45 E.,
Sec. 3, Lots 1 and 2 and S½NE¼;
Sec. 7, E½;
Sec. 12, S½;
Sec. 14, N½;
Sec. 15, N½ and SW¼;
Sec. 18, E½;
Sec. 20, E½;
Sec. 21, N½;
Sec. 26, SE¼SE¼; and
Sec. 29, NW¼.

T. 28 N., R. 45 E.,
Sec. 2, E½SE¼;
Sec. 3, S½S½;
Sec. 4, NE¼SE¼;
Sec. 5, Lots 3 and 4;
Sec. 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8, S½S½;
Sec. 9, SW¼;
Sec. 10, N½NE¼, NE¼NW¼, and E½SE¼;
Sec. 11, E½NE¼ and S½;
Sec. 16, W½NW¼ and SE¼;
Sec. 17, E½NE¼ and W½NW¼;
Sec. 18, SE¼NE¼, SE¼SW¼, and NE¼SE¼;
Sec. 21, N½NW¼ and SW¼NW¼;
Sec. 22, NE¼;
Sec. 27, NW¼;
Sec. 28, SE¼;
Sec. 30, Lots 1, 2, 3, and 4, E½W½, and SE¼;
Sec. 33, N½N½;
Sec. 34, SE¼; and
Sec. 36, E½.

T. 29 N., R. 45 E.,
Sec. 1, Lots 1 and 2 and S½NE¼;
Sec. 4, Lots 3 and 4, S½NW¼, and N½SW¼;
Sec. 5, Lot 1;
Sec. 9, S½;
Sec. 10, SE¼;
Sec. 13, S½N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 14, SE¼NE¼ and N½NW¼;
Sec. 15, NE¼;
Sec. 19, Lot 2 and SE¼NW¼;
Sec. 33, NE¼SW¼ and W½SE¼; and
Sec. 34, SE¼NW¼, N½SW¼, and SE¼SW¼.

T. 30 N., R. 45 E.,
Sec. 33, SW¼SW¼.

T. 32 N., R. 45 E.,
Sec. 5, S½SE¼;
Sec. 10, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 16, NE¼NE¼; and
Sec. 26, E½NW¼.

T. 26 N., R. 46 E.,
Sec. 2, E½NE¼NW¼; and
Sec. 5, SE¼NE¼.

T. 27 N., R. 46 E.,
Sec. 1, Lots 1 and 2 and S½NE¼;
Sec. 3, E½SE¼;
Sec. 4, Lots 1, 2, 3, and 4 and S½N½;
Sec. 6, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 18, Lots 3 and 4, E½SW¼, and SE¼;
Sec. 22, S½NW¼ and SW¼;
Sec. 26, SE¼NE¼;
Sec. 27, N½NW¼ and N½N½SW¼NW¼;
Sec. 30, NE¼SE¼; and
Sec. 34, SW¼NW¼.

T. 28 N., R. 46 E.,
Sec. 19, Lots 1 and 2 and E½NW¼;
Sec. 25, SE¼SW¼;
Sec. 29, NW¼;
Sec. 30, Lots 3 and 4, E½, and E½SW¼; and
Sec. 31, Lots 1 and 2, E½, and E½W½.

T. 29 N., R. 46 E.,
Sec. 14, NE¼;
Sec. 19, NE¼;
Sec. 20, NW¼;
Sec. 35, E½; and
Sec. 36, SW¼NW¼, SW¼, N½SE¼, and SW¼SE¼.

T. 27 N., R. 47 E.,
Sec. 5, All; and
Sec. 6, Lots 1, 2, 6, 7, and 12, and E½.

T. 28 N., R. 47 E.,
Sec. 25, SE¼.

T. 29 N., R. 47 E.,
Sec. 22, S½NE¼ and SE¼;
Sec. 23, S½NW¼ and N½SW¼;
Sec. 25, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 26, E½W½; and
Sec. 27, N½NE¼.

T. 27 N., R. 48 E.,
Sec. 2, E½SW¼;
Sec. 8, SE¼NE¼; and
Sec. 16, SE¼NW¼ and NE¼SW¼.

T. 28 N., R. 48 E.,
Sec. 4, SW¼NW¼;
Sec. 6, SE¼SW¼ and SE¼;
Sec. 10, NE¼;
Sec. 14, S½S½;
Sec. 19, NE¼;
Sec. 24, E½;
Sec. 27, W½;
Sec. 30, Lots 3 and 4, and E½SW¼;
Sec. 32, S½;
Sec. 35, All; and
Sec. 36, SW¼.

T. 29 N., R. 48 E.,
Sec. 3, SW¼NW¼;
Sec. 4, Lots 1 and 2, and SE¼NE¼;
Sec. 5, Lots 3 and 4, and S½N½;
Sec. 6, Lot 1 and SE¼NE¼;
Sec. 9, W½NE¼ and E½NW¼;
Sec. 11, SE¼;
Sec. 12, SW¼;
Sec. 13, NW¼;
Sec. 16, SW¼SW¼;
Sec. 17, E½SE¼;
Sec. 21, NW¼NW¼;
Sec. 23, W½; and
Sec. 36, W½NE¼, E½SW¼, and SE¼.

T. 30 N., R. 48 E.,
Sec. 11, S½S½; and
Sec. 33, SE¼.

T. 32 N., R. 48 E.,
Sec. 5, S½; and
Sec. 8, N½NW¼.

T. 27 N., R. 49 E.,
Sec. 4, N½NW¼NE¼ and N½S½NW¼NE¼;
Sec. 5, N½SW¼NE¼ and N½N½SE¼NE¼;
Sec. 6, SE¼NW¼; and
Sec. 16, Lot 8.

T. 28 N., R. 49 E.,
Sec. 6, Lots 6 and 7, and E½SW¼;
Sec. 7, E½;
Sec. 22, N½;
Sec. 24, SE¼;
Sec. 25, N½NE¼ and SE¼NE¼;
Sec. 26, W½;
Sec. 31, SE¼SE¼;
Sec. 32, SW¼SW¼;
Sec. 34, S½SE¼SE¼; and
Sec. 35, NE¼NE¼.

T. 29 N., R. 49 E.,
Sec. 8, E½;
Sec. 10, SW¼NE¼, SE¼NW¼, N½SE¼, and SW¼SE¼;
Sec. 11, N½SW¼ and SE¼SW¼;
Sec. 15, NE¼;
Sec. 16, NE¼, NE¼SW¼, and S½SW¼;
Sec. 17, NE¼NE¼, W½, and SW¼SE¼;
Sec. 18, NE¼;
Sec. 20, N½NE¼ and NE¼NW¼;
Sec. 21, E½;
Sec. 27, N½;
Sec. 28, NE¼; and
Sec. 30, NE¼.
T. 30 N., R. 49 E.,
Sec. 15, S½;
Sec. 16, E½;
Sec. 21, N½NE¼, SW¼NE¼,E½SW¼, and NW¼SE¼;
Sec. 22, N½NW¼; and
Sec. 33, SW¼.
T. 31 N., R. 49 E.,
Sec. 15, NE¼;
Sec. 20, SW¼;
Sec. 31, SE¼;
Sec. 33, NE¼; and
Sec. 34, SW¼.
T. 27 N., R. 50 E.,
Sec. 4, NW¼NE¼ and NE¼NW¼.
T. 28 N., R. 50 E.,
Sec. 2, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 4, Lots 1 and 2, S½NE¼, and SE¼;
Sec. 5, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 10, SW¼;
Sec. 11, E½;
Sec. 13, N½NE¼;
Sec. 14, All;
Sec. 15, E½;
Sec. 24, N½;
Sec. 28, E½;
Sec. 30, Lot 2; and
Sec. 33, SW¼SW¼ and S½SE¼.
T. 29 N., R. 50 E.,
Sec. 6, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, NE¼SE¼;
Sec. 8, W½SW¼;
Sec. 9, SE¼SW¼;
Sec. 13, E½;
Sec. 16, N½NW¼ and SE¼NW¼;
Sec. 20, SW¼;
Sec. 24, All;
Sec. 26, S½;
Sec. 31, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 32, E½.
T. 30 N., R. 50 E.,
Sec. 22, NE¼ and E½SE¼; and
Sec. 23, W½SW¼.
T. 27 N., R. 51 E.,
Sec. 11, NW¼;
Sec. 12, NW¼; and
Sec. 21, E½NW¼NW¼.
T. 28 N., R. 51 E.,
Sec. 1, Lot 1;
Sec. 3, SE¼;
Sec. 4, SW¼NW¼;
Sec. 5, SE¼SE¼;
Sec. 9, NE¼SW¼;
Sec. 11, S½;
Sec. 12, All;
Sec. 13, N½;
Sec. 15, NE¼, S½NE¼NW¼, and SE¼NW¼;
Sec. 16, SW¼NE¼;
Sec. 17, SW¼NE¼ and NW¼SE¼;
Sec. 18, SW¼SE¼;
Sec. 23, All;
Sec. 24, S½N½;
Sec. 25, S½;
Sec. 26, NW¼; and
Sec. 27, N½.
T. 29 N., R. 51 E.,
Sec. 4, Lot 8 and W½SW¼NW¼;
Sec. 9, NE¼SE¼;
Sec. 10, NW¼NW¼;
Sec. 12, NE¼;
Sec. 15, NE¼;
Sec. 28, NE¼;
Sec. 30, NE¼SW¼;
Sec. 34, W½; and
Sec. 35, NW¼.
T. 30 N., R. 51 E.
Sec. 4, Lots 3 and 4, S½NW¼, and SE¼;
Sec. 5, Lots 1 and 2, S½NE¼, and SW¼;
Sec. 8, NW¼;
Sec. 10, S½NE¼, N½SE¼, N½S½SE¼, and N½S½S½SE¼;
Sec. 16, NW¼;
Sec. 17, NE¼, SE¼SW¼, and SW¼SE¼;
Sec. 20, NE¼NE¼, N½NW¼NE¼, SE¼NW¼NE¼, NE¼SW¼NE¼, N½SE¼NE¼, and E½SW¼SE¼;
Sec. 21, N½;
Sec. 23, S½S½;
Sec. 26, N½N½; and
Sec. 29, E½NW¼NE¼.
T. 27 N., R. 52 E.,
Sec. 2, NW¼SW¼ and W½SE¼;
Sec. 3, SW¼;
Sec. 4, W½;
Sec. 8, NE¼ and N½NW¼;
Sec. 9, N½NW¼ (excluding 2.85 acres for highway right-of-way);
Sec. 11, NE¼ and NW¼SE¼; and
Sec. 12, NW¼SW¼.
T. 28 N., R. 52 E.,
Sec. 4, Lots 1, 2, 3, and-4, S½N½, N½SW¼, N½S½SW¼, N½S½S½SW¼, N½S½S½S½SW¼, and SE¼;
Sec. 5, SE¼;
Sec. 10, S½;
Sec. 11, W½;
Sec. 14, W½;
Sec. 16, All;
Sec. 18, Lots 3 and 4, E½ and E½SW¼;
Sec. 19, Lots 1 and 2, NE¼ and E½NW¼;
Sec. 21, All;
Sec. 22, NW¼;
Sec. 23, W½W½E½NE¼, W½NE¼, W½, and SE¼;
Sec. 24, SW¼;
Sec. 26, All;
Sec. 27, N½;
Sec. 28, All;
Sec. 29, E½; and
Sec. 32, All.
T. 29 N., R. 52 E.,
Sec. 21, SE¼;
Sec. 22, SW¼;
Sec. 28, NW¼ and N½N½N½SW¼;
Sec. 30, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 31, All.
T. 31 N., R. 52 E.,
Sec. 33, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼.
T. 32 N., R. 52 E.,
Sec. 15, NW¼.
T. 28 N., R. 53 E.,
Sec. 12, S½;
Sec. 19, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 34, W½SW¼NE¼.
T. 29 N., R. 53 E.,
Sec. 4, S½;
Sec. 7, Lots 3 and 4, E½SW¼, W½SE¼, W½E½SE¼, and W½E½E½SE¼;
Sec. 9, All;
Sec. 14, NE¼;
Sec. 18, Lots 1, 2, 3, and 4, and E½W½; and
Sec. 20, SE¼.
T. 30 N., R. 53 E.,
Sec. 23, W½.
T. 31 N., R. 53 E.,
Sec. 9, SE¼;
Sec. 17, S½NE¼ and N½SE¼; and
Sec. 33, All.
T. 27 N., R. 54 E.,
Sec. 4, E½SE¼SE¼.
T. 28 N., R. 54 E.,
Sec. 18, Lots 1, 2, 3, and 4, and E½W½;
Sec. 27, N½SW¼, NW¼SE¼, and SE¼SE¼; and
Sec. 31, Lot 6.
T. 29 N., R. 54 E.,
Sec. 4, Lots 3 and 5, and N½SW¼;
Sec. 5, SE¼NE¼ and NE¼SW¼;
Sec. 8, Lots 2 and 3, NW¼NE¼ and SE¼NE¼;
Sec. 9, Lots 6 and 7;
Sec. 17, Lot 5;
Sec. 19, SE¼NE¼, E½SE¼, and SW¼SE¼;
Sec. 20, Lots 4, 6, 8, and 9, W½SW¼ and W½SE¼;
Sec. 21, Lot 2;
Sec. 28, Lots 6, 7, and 8;
Sec. 29, Lots 3, 4, and 7, NW¼NE¼ and NW¼NW¼;
Sec. 30, Lots 3 and 4, E½ and E½SW¼; and
Sec. 31, Lots 1 and 2, NE¼ and E½NW¼.
T. 30 N., R. 54 E.,
Sec. 19, Lots 3 and 4, and E½SW¼; and
Sec. 25, S½NE¼.
T. 30 N., R. 55 E.,
Sec. 19, SE¼NW¼; and
Sec. 30, N½NE¼ and SE¼NW¼.

The areas described aggregate 85,352.50 acres.

KANNON RICHARDS,
Acting State Director.

[FR Doc.77-15087 Filed 5-26-77;8:45 am]

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, June 17, 1977, at 1:30 p.m., at the Headquarters Buildings, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Request by Horton's Park to extend the term of its Certificate of Suspension of Condemnation for Commercial Properties from 5 to 10 years; (2) request by the owners of "improved property" located on North Beach in Chatham to exchange lands with the Federal Government to permit relocation of dwellings threatened by erosion; (3) reports of Sub-Committees appointed to study noise pollution in the Provincelands, and management of public uses on ponds within the Seashore. The Superintendent will report on a variety of matters relating to Seashore programs and operations.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod

National Seashore, South Wellfleet, Massachusetts 02663 (telephone 617–349–3785). Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: May 23, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions.

[FR Doc.77–15222 Filed 5–26–77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, American Borate Corporation has filed a plan of operations in support of proposed mining activities on lands embracing its Sigma Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 20, 1977.

RICHARD S. RAYNER,
Acting Superintendent, Death Valley National Monument.

Dated: May 3, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77–15223 Filed 5–26–77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Pfizer Inc. has filed a plan of operations in support of proposed mining activities on lands embracing its Mongolian Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 22, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: May 5, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77–15224 Filed 5–26–77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Cyprus Industrial Minerals Company has filed a plan of operations in support of proposed mining activities on lands embracing its Panamint Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 28, 1977.

RICHARD S. RAYNER,
Acting Superintendent, Death Valley National Monument.

Dated: May 3, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77–15225 Filed 5–26–77;8:45 am]

SAINT-GAUDENS NATIONAL HISTORIC SITE

Notice of Establishment

In accordance with Section 3, Pub. L. 88–543, 78 Stat. 749, providing for the establishment of Saint-Gaudens National Historic Site in New Hampshire, it has been determined that the criteria for establishment as outlined in Section 3 have been met. Therefore, Saint-Gaudens National Historic Site is hereby formally established.

Effective date: This formal establishment shall become effective on May 30, 1977.

GARY E. EVERHARDT,
Director, National Park Service.

[FR Doc.77–15299 Filed 5–26–77;8:45 am]

Office of the Secretary

LOWER CARSON-LOWER TRUCKEE RIVER BASINS CHURCHILL AND WASHOE COUNTIES, NEVADA

Proposed Operating Criteria; Draft Environmental Impact Statement; Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 the Department of the Interior has prepared a Draft Environmental Statement for the Proposed Operating Criteria for the Lower Truckee-Lower Carson River Basins located principally in Churchill and Washoe Counties in Nevada. The Statement (INT–DES 77–18) was transmitted to the Council on Environmental Quality on May 18, 1977 and was made available on May 18, 1977.

The proposed action is to change the operating criteria for the Newlands Reclamation Project in a way that restricts the diversion of water out of the Truckee River watershed, for use in the Newlands Reclamation Project, to that amount of water needed for beneficial use as required by the decreed rights of lands having approved water rights within that project. Certain improvements will be made in the operation and management of the project. Further the proposed action will increase flows in the Lower Truckee River and into Pyramid Lake.

Three public hearing dates have been scheduled to receive the views and comments from interested indiviiduals and organizations concerning the Draft Environmental Statement. The locations, dates and times for the hearings are as follows:

In Fallon, Churchill County, Nevada, at the Law Enforcement Facilities, 73 North Main Street, on June 28, 1977 at 2:00 p.m. and at 7:00 p.m.

In Wadsworths, Nevada, on the Pyramid Lake Indian Reservation, in the Natchez Elementary School at 7:30 p.m. on June 29, 1977.

In Reno, Nevada at Earl Wooster High School Auditorium, 1331 East Plumb Lane, Reno, Nevada, on June 30, 1977 at 7:30 p.m.

Each hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503; Telephone (702) 322–4042. Requests for scheduling of oral presentation will be accepted until June 27, 1977 at 5:00 p.m. Insofar as practicable, speakers will be scheduled according to time preferences in their letter or telephone requests. Speakers being scheduled at the time of the hearing will be scheduled according to the time of their arrival on a first come first serve basis.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending upon the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comment by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503, address given above, through July 9, 1977 for inclusion in the hearing record.

Copies of the Draft Environmental Impact Statement are available pursuant to the notice published in the Federal Register at the places therein designated and further may be obtained for public examination at the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503. Single copies of the statement may be obtained

without charge by writing to the same office.

Dated: May 18, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant,
Secretary of the Interior.

[FR Doc.77-15147 Filed 5-26-77;8:48 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 23rd day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 20, 1977

Name of applicant, location of enterprise, and principal product or activity

San-Vel Concrete Corp., Littleton, Mass., manufacture of concrete.
The Oren Corp. (Tenant of Village of Port Dickinson), Port Dickenson, N.Y., manufacture of cellulose insulation.
James W. McDaniel and James I. McDaniel, Gordo, Ala., grocery store.
Hayes and Tart Abattoir (Tenant of Town of Coats), Coats, N.C., meat packers.
Advanced Poly Products, Inc., Newnan, Ga., manufacture of polyethylene film and bags.
David W. Reed Co., Sylvania, Ga., grain storage, cotton ginning, and fertilizer mixing.
Royce Glenn Thornton; Decatur, Ala., fast food restaurant.
Altamont Garment Co. (Tenant of Clay City), Clay City, Ill., manufacture of children's clothing.
Moorman Brothers Manufacturing Co. (Tenant of City of Rushville), Rushville, Ind., liquid level guages and remote readout systems.
Leland R. McElmurry, M.D., Escanaba, Mich., motel.
LeRoy R. and Shirley A. Trost, Marissa, Ill., Dairy Queen restaurant.
Wood Design, Inc., French Lick, Ind., furniture manufacturing.
Hamilton Drug Centers, Inc., Brigham City, Utah, drugs and drug sundries.

[FR Doc.77-15111 Filed 5-26-77;8:45 am]

GRANTS TO PRIME SPONSORS UNDER TITLE I OF COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the allocations which have been made for fiscal year 1977 to prime sponsors under Title I of the Comprehensive Employment and Training Act pursuant to 29 CFR 95.2.

FOR FURTHER INFORMATION CONTACT:

Adolf Wansong, Chief, Division of Financial Management, Rm. 4010, 601 D Street NW., Washington, D.C. 20213 (202-376-6060).

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration.

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION I	82,764,572	580,518	1,371,000	94,740,488	94,740,488
CONNECTICUT	21,115,257	132,999	289,000	22,788,521	22,788,521
BRIDGEPORT CSRT	3,397,279	17,838	35,840	3,360,688	3,360,688
HARTFORD CSRT	4,977,452	23,236	55,300	4,737,285	4,737,285
NEW HAVEN CSRT	3,411,129	17,283	45,640	3,383,263	3,383,263
STAMFORD CSRT	1,278,283	6,384	13,770	1,243,249	1,243,249
WATERBURY CITY	1,118,853	6,556	14,340	1,168,023	1,168,023
BALANCE OF CONN	6,932,261	61,702	124,110	8,896,013	8,896,013
MAINE	6,612,944	40,433	100,000	7,696,117	7,696,117
PENOBSCOT CNTY	590,670	5,952	29,860	1,137,883	1,137,883
CUMBERLAND CNTY	1,159,414	7,089	28,070	1,302,838	1,302,838
BALANCE OF MAINE	4,114,570	24,157	114,940	4,637,348	4,637,348
KENNEBEC CNTY	548,290	3,235	15,130	618,048	618,048
MASSACHUSETTS	40,613,094	304,995	588,000	47,429,271	47,429,271
BOSTON	7,900,173	39,637	84,920	7,694,973	7,694,973
ENHRDA CSRT	2,103,119	17,334	33,100	2,577,437	2,577,437
NEW BEDFORD CSRT	1,626,611	11,608	27,980	1,881,450	1,881,450
HAMPDEN CNTY CSRT	3,850,260	25,342	52,900	4,231,805	4,231,805
WORCESTER CSRT	1,688,950	16,058	32,080	2,248,764	2,248,764
LOWELL CSRT	1,849,851	12,384	19,400	2,015,182	2,015,182
BROCKTON CSRT	1,186,638	10,641	17,090	1,505,670	1,505,670
BALANCE OF MASS	20,407,492	172,006	320,550	25,273,990	25,273,990
NEW HAMPSHIRE	3,745,835	23,237	112,000	4,348,470	4,348,470
ROCK/STRAFFORD CS	905,791	6,558	30,560	1,135,792	1,135,792
HILLSBOROUGH CNTY	1,395,468	7,358	28,790	1,459,177	1,459,177
BALANCE OF N H	1,444,576	9,321	52,650	1,753,501	1,753,501
RHODE ISLAND	7,506,525	59,417	122,000	9,056,210	9,056,210
PROVIDENCE	3,038,958	13,392	31,110	2,822,582	2,822,582
BALANCE OF R I	4,467,567	46,025	91,890	6,233,628	6,233,628
VERMONT	2,970,917	19,437	71,000	3,421,899	3,421,899
BALANCE OF VERMON	2,970,917	19,437	71,000	3,421,899	3,421,899

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION II	189,990,316	1,221,157	4,211,000	214,826,291	217,304,783
NEW JERSEY	47,679,805	332,000	794,000	54,432,638	55,447,490
ATLANTIC COUNTY	1,362,813	8,663	33,420	1,570,624	1,570,624
BERGEN COUNTY	3,447,426	34,182	65,500	4,687,979	4,687,979
BURLINGTON COUNTY	1,584,421	15,746	29,760	2,121,812	2,121,812
CAMDEN COUNTY	1,763,742	17,076	32,090	2,362,024	2,362,024
CAMDEN CITY	1,271,457	8,652	20,210	1,432,279	1,432,279
CUMBERLAND COUNTY	923,861	7,527	19,100	1,151,070	1,151,070
ELIZABETH CITY	784,920	6,084	16,210	956,220	956,220
ESSEX COUNTY	2,572,946	23,021	51,410	3,339,257	3,339,257
GLOUCESTER COUNTY	962,897	9,355	18,880	1,299,196	1,299,196
HUDSON CSRT	5,247,829	31,614	95,470	5,692,162	5,692,162
MERCER COUNTY	787,210	5,900	15,660	941,718	941,718
MIDDLESEX COUNTY	2,970,424	26,701	44,190	3,781,175	3,781,175
MONMOUTH COUNTY	2,704,768	17,998	49,850	2,772,671	2,772,671
MORRIS COUNTY	1,368,007	12,558	22,760	1,772,673	1,772,673
NEWARK CITY	8,829,648	78,124	74,390	7,384,800	7,946,683
OCEAN COUNTY	1,274,959	10,465	30,310	1,658,278	1,658,278
PASSAIC COUNTY	1,581,831	13,963	36,650	2,034,512	2,034,512
PATERSON CITY	1,310,139	10,307	25,760	1,592,619	1,592,619
SOMERSET CNTY	700,575	5,511	12,550	848,645	848,645
TRENTON CITY	2,766,717	5,364	17,770	2,037,076	2,490,015
UNION COUNTY	1,803,044	16,391	38,870	2,346,305	2,346,305
BALANCE OF N J	2,160,171	16,078	46,190	2,649,543	2,649,543
NEW YORK	111,003,032	729,997	2,314,000	126,270,952	126,270,952
ALBANY CSRT	1,731,983	9,090	30,080	1,777,332	1,777,332
BROOME COUNTY	1,511,136	7,210	27,310	1,506,333	1,506,333
BUFFALO CITY	4,006,426	29,045	72,930	4,687,546	4,687,546
CHAUTAUQUA CSRT	1,588,073	11,245	45,520	1,936,812	1,936,812
CHEMUNG COUNTY	605,822	4,004	14,840	702,571	702,571
DUTCHESS COUNTY	754,935	5,766	18,800	931,207	931,207
ERIE CSRT	2,960,806	25,640	56,960	3,738,748	3,738,748
MONROE/ROCHESTER	3,666,365	23,154	58,180	4,004,672	4,004,672
NASSAU COUNTY CSR	5,913,425	44,390	79,760	6,872,726	6,872,726
NIAGARA COUNTY	1,571,707	13,214	26,020	1,958,406	1,958,406
ONEIDA COUNTY	1,624,131	10,737	35,130	1,858,257	1,858,357
ONONDAGA CNTY	984,762	8,603	21,080	1,285,142	1,285,142
ORANGE COUNTY	1,184,317	9,540	27,810	1,486,098	1,486,098
OSWEGO CNTY	644,787	6,147	14,150	870,019	870,019
RENSSELAER CNTY	759,067	5,319	18,900	902,984	902,984

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I.ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
ROCKLAND COUNTY	849,366	6,687	13,460	1,019,714	1,019,714
ST LAWRENCE CNTY	704,158	5,794	17,120	895,250	895,250
SARATOGA COUNTY	587,985	4,306	13,660	712,628	712,628
SCHENECTADY CNTY	746,016	5,354	19,100	899,117	899,117
STEUBEN CNTY	513,216	4,065	15,540	658,176	658,176
SUFFOLK CNTY CONSRT	4,726,160	36,609	82,820	5,814,619	5,814,619
SYRACUSE CITY	1,612,548	8,599	27,810	1,663,157	1,663,157
ULSTER COUNTY	791,408	7,024	20,480	1,048,558	1,048,558
WESTCHESTER CONSRT	3,351,974	24,742	54,720	3,913,279	3,913,279
YONKERS CITY	1,058,058	8,571	19,490	1,301,855	1,301,855
BAL OF NEW YORK	9,794,136	73,663	239,250	11,976,193	11,976,193
NEW YORK CITY	56,760,265	339,999	1,245,000	61,844,451	61,844,451
PUERTO RICO	30,087,779	159,160	1,103,600	34,122,701	34,122,701
BAYAMON MUNICIPIO	1,589,549	7,137	56,560	1,705,137	1,705,137
CAGUAS MUNICIPIO	1,701,608	6,696	30,430	1,638,985	1,638,985
CAROLINA MUNICIPI	860,432	3,695	37,120	946,574	946,574
MAYAGUEZ MUNICIPI	1,268,946	5,108	30,290	1,239,101	1,239,101
PONCE MUNICIPIO	2,102,120	10,736	61,010	2,269,914	2,269,914
SAN JUAN CONSRT	5,379,643	27,504	195,500	6,011,469	6,011,469
BAL OF PUERTO RIC	17,185,081	98,184	654,090	20,311,521	20,311,521
VIRGIN ISLANDS	1,219,700				1,463,640
VIRGIN ISLANDS	1,219,700				1,463,640

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REGION III	140,223,941	785,670	3,448,000	152,869,574	155,803,335
DELAWARE	3,544,827	21,164	82,000	3,932,473	3,932,473
DEL INTGOV MA S.C	2,292,000	16,369	64,530	2,788,635	2,788,635
WILMINGTON	1,252,827	4,795	18,470	1,143,838	1,143,838
WASHINGTON D. C.	13,942,368	26,019	93,000	10,213,846	12,548,131
WASHINGTON D. C.	13,942,368	26,019	93,000	10,213,846	12,548,131
MARYLAND	21,152,212	126,599	460,000	23,366,425	23,366,425
BALANCE OF MD	2,243,035	10,409	75,080	2,403,571	2,403,571
BALTIMORE CSRT	12,619,209	76,000	256,230	13,831,706	13,831,706
MONTGOMERY COUNTY	1,824,027	12,272	26,570	2,028,317	2,028,317
PRINCE GEORGES CO	2,719,256	17,624	51,400	3,060,401	3,060,401
WESTERN MD CSRT	1,746,085	10,544	50,720	2,042,430	2,042,430
PENNSYLVANIA	64,896,633	421,998	1,612,000	74,860,978	75,460,454
LEHIGH VALLEY CON	1,739,093	17,230	52,970	2,479,973	2,479,973
LANCASTER CSRT	1,513,669	15,459	51,130	2,211,514	2,211,514
BUCKS COUNTY	1,828,197	15,109	29,980	2,250,156	2,250,156
CHESTER COUNTY	983,082	6,808	22,590	1,153,576	1,153,576
DELAWARE COUNTY	2,571,632	20,218	47,840	3,124,010	3,124,010
MONTGOMERY COUNTY	2,307,617	18,253	42,300	2,814,525	2,814,525
PHILADELPHIA	12,538,476	68,007	273,070	13,321,073	13,321,073
BERKS COUNTY	1,052,226	9,867	35,620	1,476,559	1,476,559
LACKAWANNA COUNTY	860,333	6,346	23,820	1,058,597	1,058,597
SCRANTON	678,502	4,954	19,100	833,041	833,041
LUZERNE COUNTY	2,537,487	17,356	66,530	3,007,252	3,007,252
SCHUYKILL CSRT	1,344,754	9,226	46,710	1,658,012	1,658,012
ERIE CTY	1,066,446	5,488	18,380	1,086,011	1,086,011
ERIE CNTY	566,485	5,545	15,190	789,437	789,437
ALLEGHANY COUNTY	4,344,025	26,699	112,420	4,930,492	4,930,492
PITTSBURGH	7,243,668	19,766	81,100	5,919,825	6,519,301
BEAVER COUNTY	875,362	5,085	26,900	996,122	996,122
WASHINGTON COUNTY	1,011,381	6,942	35,110	1,247,092	1,247,092
WESTMORELAND CNTY	2,143,672	14,507	52,770	2,511,019	2,511,019
TRI-COUNTY CSRT	1,340,865	8,869	48,050	1,638,261	1,638,261
FAYETTE COUNTY	1,069,119	5,785	37,570	1,212,669	1,212,669
LAWRENCE COUNTY	579,572	4,853	17,140	759,308	759,308
MERCER CNTY CSRT	1,858,503	14,586	55,120	2,367,794	2,367,794
S. ALLEGANY CSRT	2,994,228	17,972	93,630	3,456,354	3,456,354
SUSQUEHANNA CSRT	1,649,650	12,705	50,100	2,091,269	2,091,269

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YORK COUNTY	974,972	10,435	37,240	1,453,930	1,453,930
LYCOMING CSRT	869,068	7,128	21,840	1,172,686	1,172,686
FRANKLIN COUNTY	437,007	3,510	17,560	587,385	587,385
BALANCE OF PENN	4,610,506	33,926	145,570	5,764,143	5,764,143
CENTRE CNTY	474,332	3,205	13,240	563,781	563,781
NORTHUMBERLAND CO	761,904	5,351	23,410	924,413	924,413
VIRGINIA	24,724,470	144,000	762,000	28,178,908	28,178,908
PENINSULA CSRT	1,594,223	9,185	42,300	1,772,446	1,772,446
STAMA CSRT	4,533,539	19,407	113,890	4,539,761	4,539,761
RAMPS CSRT	2,162,062	8,132	47,040	2,047,043	2,047,043
HENRICO CNTY CSRT	524,347	4,584	25,980	757,437	757,437
ROANOKE CSRT	1,199,940	7,899	39,400	1,443,045	1,443,045
ARLINGTON COUNTY	772,050	5,170	19,860	867,015	867,015
FAIRFAX COUNTY	1,390,617	10,002	23,180	1,651,643	1,651,643
PRINCE WM COUNTY	362,943	2,180	10,480	414,334	414,334
ALEXANDRIA CITY	470,168	2,797	10,850	520,017	520,017
BALANCE OF VA	11,713,781	74,024	437,020	14,165,797	14,165,797
WEST VIRGINIA	12,033,131	45,490	429,000	12,316,944	12,316,944
W. VA. STATEWIDE	12,033,131	45,490	429,000	12,316,944	12,316,944

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REGION IV	213,609,024	1,292,902	7,645,600	251,019,778	253,275,970
ALABAMA	23,229,310	111,600	837,000	25,438,408	25,428,400
BALANCE OF ALABAM	12,389,532	65,795	527,850	14,351,210	14,351,210
BIRMINGHAM CSRT	4,707,010	19,703	123,410	4,709,051	4,709,051
HUNTSVILLE CSRT	1,435,725	6,260	28,360	1,403,225	1,403,225
MOBILE CSRT	2,554,728	10,958	89,800	2,698,456	2,698,456
MONTGOMERY CSRT	1,614,894	5,753	48,310	1,578,035	1,572,025
TUSCALOOSA COUNTY	627,421	3,031	21,270	698,431	698,431
FLORIDA	45,412,179	269,999	1,897,000	61,770,512	60,896,403
BALANCE OF FLORID	7,216,769	48,017	339,050	9,274,982	9,274,982
ALACHUA COUNTY	662,013	3,913	21,560	700,982	700,982
BREVARD COUNTY	1,668,500	12,584	38,550	2,014,210	2,014,210
BROWARD CSRT	4,148,445	47,942	148,830	6,496,285	6,272,662
MIAMI/DADE CNSRT	8,799,211	79,673	315,390	12,759,270	12,759,270
ESCAMBIA COUNTY	1,144,019	6,695	51,400	1,409,351	1,409,351
HPTLND MNPWR CNSR	2,342,296	13,762	96,120	2,807,681	2,807,681
LEE COUNTY	596,608	7,292	31,430	1,039,896	895,212
LEON/GADSDEN CNSR	920,252	5,698	31,770	1,064,603	1,064,603
NE FLA MNPWR CNSR	2,928,345	17,147	130,440	3,708,505	3,708,505
ORANGE/ORLANDO CR	2,026,360	21,550	80,310	3,024,046	3,039,510
MANATEE CNTY	566,185	5,085	40,040	892,545	849,270
PALM BEACH COUNTY	2,534,983	23,212	80,360	3,521,324	3,521,324
PASCO COUNTY	523,782	6,285	42,510	765,452	765,503
SEMINOLE CNTY	628,606	7,049	20,540	958,415	942,909
ST PETERSBURG CSR	2,876,966	24,419	170,310	4,238,730	4,208,730
SARASOTA COUNTY	577,360	6,674	42,730	1,038,020	866,040
TAMPA CSRT	3,725,502	24,736	130,100	4,505,017	4,505,017
VOLUSIA COUNTY	1,125,837	8,886	55,560	1,580,218	1,580,318
GEORGIA	27,143,725	185,000	935,300	33,360,613	33,360,613
BALANCE OF GEORGI	13,658,724	87,704	570,610	17,059,489	17,059,489
CSRA CSRT	1,699,536	9,808	69,700	2,024,624	2,024,624
ATLANTA	4,137,561	32,648	88,790	5,098,907	5,098,907
CLAYTON CNTY	421,655	4,673	8,990	571,213	571,213
COBB COUNTY	976,253	9,987	20,310	1,358,528	1,358,528
COLUMBUS AREA CSR	1,263,257	4,861	36,740	1,253,862	1,253,862
DEKALB COUNTY	1,398,118	13,493	20,750	1,886,711	1,886,711
FULTON COUNTY	691,477	6,768	17,650	958,735	958,735
MID. GA CSRT	1,436,217	8,186	50,060	1,655,679	1,655,679
SAV/CHATHAM CSRT	946,647	5,187	36,410	1,095,271	1,095,371

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GWINNETT CNTY	214,180	2,295	10,990	397,494	397,494
KENTUCKY	25,908,146	91,279	761,000	23,606,249	26,918,249
BLUEGRASS MA CSRT	1,589,793	7,286	57,340	1,726,623	1,726,623
LVILLE/JEFF CSRT	3,890,098	25,551	92,540	4,485,263	4,485,263
KENTON COUNTY	646,196	4,659	18,550	791,219	791,219
BALANCE OF KENT	17,022,069	53,683	592,570	16,603,144	16,603,144
RURAL CEP	2,760,000				3,312,000
MISSISSIPPI	17,489,905	64,613	586,000	17,592,993	17,592,993
BALANCE OF MISS	15,802,857	58,169	537,530	15,925,404	15,925,404
JACKSON CSRT	1,687,048	6,444	48,420	1,667,589	1,667,589
NORTH CAROLINA	31,197,996	217,019	1,050,000	28,532,565	38,197,994
BALANCE OF N.C.	19,792,642	137,973	707,150	24,662,079	24,662,079
ALAMANCE CNTY	590,595	4,575	17,870	723,016	723,016
BUNCOMBE COUNTY	774,930	6,791	33,080	1,051,581	1,051,581
CUMBERLAND COUNTY	1,092,771	4,470	35,620	1,142,790	1,142,790
CHARLOTTE	1,089,417	10,709	31,420	1,368,643	1,368,643
DURHAM CSRT	1,202,318	5,476	30,660	1,286,715	1,286,715
GASTON COUNTY	611,487	9,436	24,240	1,138,158	917,231
GREENSBORO CSRT	1,209,869	10,695	40,230	1,705,205	1,705,205
ONSLOW COUNTY	367,444	1,650	15,360	431,067	431,067
RALEIGH CSRT	1,574,067	9,245	47,350	1,799,998	1,799,998
WAKE CNTY	417,239	3,256	10,230	562,160	562,160
WINSTON-SALEM CSR	1,299,911	8,332	32,490	1,549,620	1,549,620
DAVIDSON CNTY	324,706	4,086	10,600	497,059	497,059
SOUTH CAROLINA	17,502,251	102,999	602,000	20,363,095	20,363,095
S. CAROLINA CSRT	17,502,251	102,999	602,000	20,363,095	20,363,095
TENNESSEE	25,725,512	151,090	968,000	30,354,559	30,507,343
BALANCE OF TENN	14,596,098	91,305	630,540	18,054,006	18,054,006
CHATTANOOGA	1,764,342	3,971	29,290	1,487,900	1,487,900
MEMPHIS CSRT	3,015,164	23,996	132,380	4,554,233	4,554,233
HAMILTON COUNTY	576,515	3,465	20,170	677,479	677,479
KNOXVILLE CSRT	1,097,749	7,917	50,370	1,915,771	1,915,771
NASHVILLE/DAVIDSO	2,464,668	16,503	69,730	2,951,905	2,951,905
SULLIVAN COUNTY	610,976	3,043	28,020	766,041	766,041

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REGION V	263,594,377	1,720,628	5,317,000	295,955,720	301,910,887
ILLINOIS	66,679,066	355,100	1,261,000	69,353,047	70,345,436
CHICAGO	33,243,453	116,000	426,580	29,773,138	29,919,109
COOK COUNTY	7,180,889	63,790	114,930	9,132,163	9,132,163
DUPAGE COUNTY	757,575	11,547	19,150	1,264,756	1,136,362
KANE COUNTY CSRT	1,131,738	12,197	25,100	1,671,008	1,671,008
LAKE COUNTY	1,384,166	11,986	26,310	1,761,345	1,761,345
MACON COUNTY	505,617	5,128	11,970	728,920	728,920
MCHENRY COUNTY	399,732	3,760	10,020	542,671	542,671
ROCK ISLAND COUNT	699,516	5,496	11,050	672,074	672,074
TAZEWELL COUNTY	377,226	2,211	10,790	426,268	426,268
LASALLE COUNTY	433,158	3,089	14,090	527,016	527,016
ROCKFORD CSRT	973,330	12,166	20,420	1,534,818	1,458,995
CHAMPAIGNE CSRT	698,589	4,647	31,040	846,203	816,303
WILL COUNTY CSRT	1,117,553	9,657	20,700	1,417,717	1,417,717
SPRINGFIELD CNTY CSR	651,073	4,957	22,340	799,643	799,643
MADISON CNTY CSRT	1,599,430	11,553	33,140	1,890,348	1,890,348
ST CLAIR CSRT	1,255,451	8,868	31,680	1,517,033	1,517,033
PEORIA CSRT	782,052	4,194	20,920	849,162	849,162
EAST ST LOUIS	2,584,629	4,433	15,080	1,654,508	2,326,166
SHAWNEE CSRT	1,158,462	2,496	15,410	913,739	1,043,616
BAL OF ILLINOIS	9,461,656	54,921	350,730	11,090,515	11,090,515
MCLEAN CNTY	282,521	2,174	10,550	379,862	379,862
INDIANA	30,759,906	206,101	717,000	35,061,653	36,508,194
GARY	4,556,817	8,036	22,270	3,266,864	4,101,135
HAMMOND	428,110	3,794	11,350	563,946	563,946
LAKE CNTY	1,465,614	7,745	22,230	1,498,135	1,450,135
ELKHART CNTY	560,329	6,000	13,080	812,152	812,252
SOUTH BEND	1,611,657	5,130	15,980	1,356,832	1,450,491
ST JOSEPH CNTY	443,887	4,272	12,970	619,202	619,202
TIPPECANOE CNTY	398,182	3,020	12,430	502,811	502,811
MADISON CNTY	658,748	6,563	16,910	921,903	921,903
VIGO CNTY	520,217	3,022	10,990	608,339	608,339
INDIANAPOLIS	4,224,467	26,530	89,970	4,726,703	4,726,703
LA PORTE CNTY	326,272	4,137	11,310	536,596	489,402
FT WAYNE CSRT	1,780,325	20,674	47,240	2,704,289	2,670,403
DELAWARE CSRT	685,390	6,638	20,380	961,104	961,104
SOUTHWESTERN CSRT	2,139,993	11,045	60,100	2,307,914	2,307,914
BAL OF INDIANA	10,959,898	89,337	340,090	14,276,253	14,276,253
MICHIGAN	60,765,229	499,598	1,001,000	72,966,140	73,966,440

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BAL OF MICHIGAN	9,829,641	75,941	241,670	12,168,608	12,168,000
GENESSEE/FLINT CS	3,742,035	31,563	56,150	4,621,677	4,621,677
LANSING CSRT	2,324,626	18,736	37,180	2,822,957	2,822,957
JACKSON CSRT	1,457,121	15,042	32,410	2,104,223	2,104,223
KENT CNTY CSRT	3,584,657	29,597	60,540	4,463,177	4,463,177
MUSKEGON CSRT	1,920,262	9,741	24,500	1,898,897	1,898,897
DEARBORN	504,736	4,560	9,150	653,082	653,082
DETROIT	14,426,859	90,999	211,540	15,655,705	15,655,705
LIVONIA	341,760	3,542	3,350	458,302	458,302
WARREN CITY	832,663	8,591	8,290	1,108,346	1,108,346
BAY CNTY	755,017	6,004	12,160	917,111	917,111
BERRIEN CNTY	1,114,748	10,439	23,400	1,479,804	1,479,804
CALHOUN CNTY	892,126	7,179	16,370	1,096,737	1,096,737
KALAMAZOO CNTY	1,064,075	8,493	19,730	1,301,141	1,301,141
MACOMB CNTY	2,426,169	21,794	28,890	3,187,313	3,187,313
MONROE CNTY	589,460	5,522	10,960	777,920	777,920
OAKLAND CNTY	5,410,892	53,543	59,110	7,112,647	7,112,647
OTTAWA CNTY	679,054	5,705	12,060	853,187	853,187
SAGINAW CNTY	1,256,813	9,715	23,260	1,550,327	1,550,327
ST CLAIR CNTY	1,105,192	9,066	16,020	1,343,411	1,343,411
WAYNE CNTY	5,084,549	48,185	66,070	6,611,615	6,611,615
ANN ARBOR	507,203	3,836	7,320	540,504	540,504
WASHTENAW CNTY	914,171	9,535	10,870	1,240,516	1,240,516
MINNESOTA	23,039,415	99,479	526,300	21,600,127	24,312,917
DAKOTA CNTY	460,705	3,619	8,560	573,313	573,313
RAMSEY CNTY	529,078	4,670	8,550	671,660	671,660
ST PAUL CITY	2,104,299	11,797	33,740	2,196,520	2,196,520
UCB MINNESOTA CSR	1,190,602	10,068	20,850	1,483,170	1,483,170
REGION III CSRT	1,731,177	4,528	30,160	1,503,307	1,558,059
DULUTH	1,550,664	3,624	14,290	1,208,280	1,395,598
BAL OF MINNESOTA	8,561,295	26,026	320,780	8,448,400	8,448,400
RURAL CEP	2,059,000				2,470,300
HENNEPIN COUNTY	1,234,125	14,134	26,360	1,846,097	1,846,097
MINNEAPOLIS	3,618,270	18,913	54,710	3,663,400	3,663,400
OHIO	59,124,915	429,999	1,282,300	70,391,776	69,963,003
CINCINNATI	5,220,207	22,090	71,080	4,980,937	4,980,937
BUTLER CNTY	954,062	12,508	25,490	1,549,602	1,421,093
CLARK CNTY	643,515	6,371	19,240	912,598	912,598
HAMILTON CNTY	1,032,975	13,708	30,770	1,704,423	1,549,463
LORAIN CNTY	992,396	11,098	22,180	1,455,108	1,455,108
AKRON CSRT	3,191,775	23,663	62,990	3,797,478	3,797,478
CANTON CSRT	1,054,260	19,031	51,230	2,911,750	2,911,750

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
CLEVELAND CSRT	13,025,805	60,450	180,760	12,568,024	12,568,624
COLUMBUS CSRT	4,304,898	30,531	90,810	5,057,357	5,057,357
MIAMI VALLEY CSRT	4,701,362	23,438	68,240	4,355,001	4,355,001
LICKING/DEL CSRT	1,023,972	6,751	27,080	1,197,218	1,197,218
TOLEDO CSRT	3,105,272	23,915	59,930	3,749,361	3,749,361
NE OHIO MPWR CSR	3,392,232	31,345	74,880	4,510,352	4,510,352
BAL OF OHIO	11,606,731	104,000	309,462	15,953,611	15,953,611
ALLEN CNTY	506,145	6,010	12,480	770,312	759,218
GREENE CNTY	368,437	3,727	10,540	525,131	525,431
CLERMONT CNTY CSR	1,598,814	6,616	21,738	1,500,925	1,500,925
LAKE/ASTABULA CSR	994,740	10,568	24,880	1,434,312	1,434,312
PORTAGE COUNTY	508,574	7,057	10,420	835,191	762,901
RICHLAND/MORROW C	798,743	7,572	18,750	1,081,430	1,081,430
WISCONSIN	23,225,846	141,151	527,000	26,882,677	26,813,877
OUTAGAMIE CNTY	375,674	3,278	10,760	506,553	506,553
ROCK CNTY	676,095	5,480	18,670	833,276	833,276
MILWAUKEE CNTY	5,654,547	39,066	96,460	6,446,512	6,446,512
MADISON-DANE CSRT	1,168,369	7,125	25,460	1,317,084	1,317,084
NCW CSRT	1,057,821	8,532	19,960	1,339,402	1,339,402
WINNE-FOND CSRT	971,690	7,567	22,220	1,495,934	1,495,934
TRICO CET/C	1,391,466	11,781	31,860	1,761,877	1,761,877
BAL OF WISCONSIN	9,937,920	51,435	290,930	11,000,877	11,000,877
RURAL CEP	1,526,000				1,821,200
MARATHON CNTY	465,264	3,187	12,870	561,169	561,169

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION / STATE / PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION VI	127,746,280	584,577	4,536,000	137,731,272	137,728,464
ARKANSAS	14,009,136	69,377	553,000	15,773,395	15,773,395
CENT. ARK CSRT	2,663,079	12,272	79,150	2,793,287	2,793,287
TEXARKANA CSRT	494,163	1,560	11,770	452,531	452,531
BALANCE OF ARK	10,851,894	55,545	462,080	12,527,577	12,527,577
LOUISIANA	25,050,847	106,000	794,000	25,888,045	25,888,045
RAPIDES PARISH	800,873	3,960	27,970	881,467	881,467
BATON ROUGE	1,764,521	9,019	43,850	1,796,196	1,796,196
LAFAYETTE PARISH	674,649	2,310	21,870	661,938	661,938
CALCASIEU/JEFF CR	1,318,804	5,738	37,230	1,348,966	1,348,966
OUACHITA PARISH	801,102	4,032	25,980	875,773	875,773
NEW ORLEANS CTY	4,718,045	20,588	127,570	4,799,538	4,799,538
JEFFERSON PARRISH	1,758,999	7,598	40,280	1,744,334	1,744,334
SHREVEPORT CITY	1,394,091	6,493	35,340	1,433,860	1,433,860
BAL OF LOUISIANA	11,819,763	47,262	433,910	12,345,973	12,345,973
NEW MEXICO	8,262,486	31,204	230,000	8,136,184	8,136,184
ALBUQUERQUE CSRT	2,613,870	10,950	59,190	2,564,748	2,564,748
BAL OF NEW MEXICO	5,648,616	20,254	170,810	5,571,436	5,571,436
OKLAHOMA	15,224,119	82,999	586,000	17,589,193	17,589,193
COMANCHE CNTY	464,174	2,330	21,910	544,337	544,337
OKLAHOMA CNTY	773,829	5,581	21,180	941,991	941,991
OKLAHOMA CTY CSRT	2,460,908	15,000	72,960	2,876,682	2,876,682
CLEVELAND CTY	380,398	2,863	11,950	479,754	479,754
TULSA CSRT	2,679,905	14,243	77,780	2,932,525	2,932,525
BAL OF OKLAHOMA	8,464,905	42,382	380,220	9,813,904	9,813,904
TEXAS	65,199,692	294,997	2,367,000	70,344,455	70,341,647
TEXARKANA CSRT	806,760	2,656	15,460	725,945	726,084
PANHANDLE MA CSRT	1,248,724	4,186	53,410	1,289,355	1,289,355
CAPITAL AREA CSRT	2,320,465	9,903	97,030	2,531,715	2,531,715
SE TEX COMP MA CR	1,909,156	11,295	63,150	2,211,173	2,211,173
PASADENA CITY	227,553	2,409	8,770	344,277	341,330
CAMERON COUNTY	1,385,030	6,474	46,380	1,487,511	1,487,511
COASTAL BEND CSRT	2,872,476	10,093	103,440	2,892,488	2,892,488
DALLAS CITY	3,854,223	20,000	130,460	4,285,092	4,285,092
DALLAS CNTY	1,762,078	11,539	44,070	2,040,974	2,040,974
LUBBOCK	882,657	3,870	29,050	871,731	871,731
WEST CENTRAL TEX	1,421,209	4,581	78,700	1,552,223	1,552,223

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
EL PASO CTY/CNTY	2,328,923	13,171	76,950	2,674,944	2,674,944
FT WORTH CSRT	2,474,684	18,936	84,940	3,181,866	3,181,866
TARRANT COUNTY	619,569	3,955	17,210	719,850	719,850
GALVESTON CNTY	1,153,764	3,662	28,070	1,061,147	1,061,147
HOUSTON	7,946,910	36,000	190,540	8,043,711	8,043,711
HARRIS COUNTY	1,397,831	10,168	45,720	1,748,240	1,748,240
CENTRAL TEXAS CSR	976,238	3,964	54,270	1,096,418	1,096,418
HIDALGO CNTY CSRT	1,970,166	7,274	68,850	1,996,932	1,996,932
ALAMO CSRT	7,684,286	30,153	225,740	7,679,698	7,679,698
REGION XI CSRT	1,574,387	6,672	64,460	1,706,972	1,706,972
N TEXAS PLAN CSRT	1,175,249	3,712	54,270	1,222,702	1,222,702
WEBB COUNTY	1,200,339	3,225	25,800	1,082,156	1,082,156
BRAZORIA CSRT	1,733,939	8,256	85,300	2,091,093	2,091,093
BALANCE OF TEXAS	14,273,076	59,143	675,260	15,876,302	15,876,302

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION VII	60,029,560	302,115	2,024,000	66,044,112	66,191,476
IOWA	12,872,904	70,621	454,000	14,691,353	14,691,353
BALANCE OF IOWA	7,304,900	44,312	327,100	9,002,437	9,002,437
BLACKHAWK COUNTY	564,894	4,008	15,460	608,611	608,611
CENT IOWA RALC	3,210,765	12,964	64,300	3,070,801	3,070,801
LINN CNTY CSRT	694,061	3,710	16,500	741,561	741,561
SCOTT COUNTY	451,013	3,081	14,350	547,987	547,987
WOODBURY COUNTY	647,271	2,666	16,130	639,956	639,956
KANSAS	10,596,520	46,477	380,000	11,305,009	11,305,009
BAL OF KANSAS	5,744,494	20,485	277,940	6,192,395	6,192,395
KANSAS CITY CSRT	1,467,318	7,293	26,170	1,408,044	1,408,044
JOHNSON CNTY CSRT	831,651	6,785	16,730	1,045,191	1,045,191
WICHITA CTY	1,577,961	7,586	37,010	1,623,158	1,623,158
TOPEKA CSRT	975,096	4,728	20,150	956,221	956,221
MISSOURI	28,043,101	142,001	930,000	31,168,461	31,315,825
BAL OF MISSOURI	10,506,118	47,976	550,900	12,288,987	12,288,987
SPRINGFIELD	853,254	3,940	25,790	897,774	897,774
BAL JACKSON CNTY	420,280	3,421	10,660	534,492	534,492
KANSAS CITY CSRT	5,044,348	27,029	97,120	5,266,816	5,266,816
JEFFERSON CSRT	972,040	6,533	25,070	1,141,686	1,141,686
ST LOUIS COUNTY	3,474,276	27,013	74,590	4,253,770	4,253,770
ST LOUIS CITY	6,434,640	19,000	124,360	5,043,812	5,791,176
INDEPENDENCE	411,821	3,321	12,470	532,256	532,256
ST CHARLES CNTY	525,724	3,768	8,960	608,760	608,760
NEBRASKA	7,917,035	42,016	260,000	8,879,289	8,879,289
BAL OF NEBRASKA	4,050,048	20,536	195,190	4,719,194	4,719,194
LINCOLN CITY	718,169	4,253	16,980	795,182	795,182
OMAHA CSRT	3,148,818	17,577	47,830	3,294,913	3,294,913

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION VIII	32,265,284	162,826	1,060,000	34,887,675	35,799,151
COLORADO	11,499,767	72,073	403,000	13,723,093	13,597,769
ADAMS CNTY	728,513	8,536	21,440	1,123,384	1,092,770
ARAPAHOE COUNTY	495,113	5,954	17,060	787,657	742,673
BOULDER CNTY	643,537	5,272	16,280	820,014	820,014
COL SPRINGS CSRT	1,015,827	6,257	44,230	1,251,591	1,251,591
DENVER CTY/CNTY	3,601,260	19,962	89,690	3,917,208	3,917,208
JEFFERSON COUNTY	728,217	8,798	21,550	1,142,049	1,092,376
LARIMER CNTY	424,071	2,104	18,410	486,840	486,840
PUEBLO CNTY	680,319	7,635	25,150	705,624	705,624
WELD CNTY	459,885	1,971	21,330	513,766	513,766
BAL OF COLORADO	2,723,025	10,584	127,960	2,974,960	2,974,960
MONTANA	5,602,734	21,025	142,000	4,920,228	5,957,028
RURAL CEP	864,000				1,036,800
BAL OF MONTANA	4,738,734	21,025	142,000	4,920,228	4,920,228
NORTH DAKOTA	3,497,410	13,497	117,000	3,552,289	3,552,289
BALANCE OF N.D.	3,497,410	13,497	117,000	3,552,289	3,552,289
SOUTH DAKOTA	3,410,181	13,958	132,000	3,621,500	3,621,500
BALANCE S.D.	3,410,181	13,958	132,000	3,621,500	3,621,500
UTAH	6,529,082	35,098	198,000	7,218,510	7,218,510
UTAH STATEWIDE CR	6,529,082	35,098	198,000	7,218,510	7,218,510
WYOMING	1,726,110	7,245	60,000	1,852,055	1,852,055
BALANCE OF WYOMIN	1,726,110	7,245	60,000	1,852,055	1,852,055

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION IX	162,725,221	1,059,583	3,417,000	183,628,057	185,517,030
ARIZONA	13,703,743	82,427	382,000	15,583,072	15,583,072
BALANCE OF ARIZON	4,645,755	17,662	110,940	4,507,983	4,507,983
PHOENIX/MARICOPA	4,513,482	32,924	101,450	5,416,290	5,416,290
MESA	454,132	3,247	12,470	558,030	558,030
MARICOPA COUNTY	2,024,025	16,773	60,180	2,650,047	2,650,047
TUCSON-PIMA COUNT	2,066,349	12,731	78,960	2,450,722	2,450,722
CALIFORNIA	138,147,639	925,003	2,860,000	158,138,797	158,214,650
CITY OF ALAMEDA	3,294,793	26,499	56,620	4,018,509	4,018,509
BERKELEY	1,165,548	9,519	16,570	1,412,812	1,412,812
CONTRA COSTA CNTY	2,480,736	20,797	44,270	3,093,385	3,093,385
MARIN COUNTY	1,039,213	8,177	16,910	1,249,772	1,249,772
OAKLAND	5,412,501	24,621	60,510	5,108,442	5,108,442
RICHMOND	1,294,137	4,910	11,790	1,138,870	1,164,723
SAN FRANCISCO	7,201,467	45,205	103,900	7,790,402	7,790,402
SAN MATEO COUNTY	2,703,237	21,279	45,610	3,260,246	3,260,246
SONOMA COUNTY	1,643,516	11,408	30,040	1,931,076	1,931,076
SANTA BARBARA CNT	1,442,925	8,067	30,360	1,587,607	1,587,607
GLENDALE	564,909	4,726	17,240	742,710	742,710
LONG BEACH	2,457,154	15,019	56,510	2,786,320	2,786,320
LOS ANGELES COUNT	19,136,258	138,753	420,160	22,814,061	22,814,061
LOS ANGELES	21,114,997	144,056	424,160	24,349,374	24,349,374
ORANGE CNTY CONSP	7,604,470	60,000	141,940	9,255,371	9,255,371
PASADENA	888,003	4,132	10,690	801,375	801,375
TORRANCE	611,201	4,914	9,340	739,059	739,059
VENTURA COUNTY	2,239,909	14,712	40,050	2,565,050	2,565,050
BAL OF CALIFORNIA	6,906,160	43,061	153,180	7,742,231	7,742,231
HUMBOLT CNTY	943,659	6,390	17,690	1,075,481	1,075,481
SANTA CLARA VALLE	5,563,092	48,213	93,550	7,022,386	7,022,386
SOLANO COUNTY	933,137	4,920	27,370	1,020,478	1,020,478
SUNNYVALE	524,033	4,679	7,700	664,349	664,349
BUTTE COUNTY	836,503	5,846	24,920	1,016,293	1,016,293
SACRAMENTO/YOLO	4,596,142	28,735	105,350	5,176,487	5,176,487
STCKTN/SAN JOAQUI	2,529,586	13,033	50,500	2,614,659	2,614,659
STANISLAUS COUNTY	2,166,217	14,275	42,610	2,459,288	2,459,288
MONTEREY COUNTY	1,473,052	8,192	30,600	1,614,568	1,614,568
SANTA CRUZ COUNTY	1,048,369	7,292	26,140	1,243,558	1,243,558
FRESNO CTY/CITY,	4,067,755	19,000	80,770	4,109,470	4,109,470
IMPERIAL COUNTY	770,253	4,642	16,240	847,724	847,724
KERN COUNTY	2,090,943	11,283	67,860	2,345,902	2,345,902

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
MERCED COUNTY	887,675	4,069	25,030	977,683	977,683
INLAND MANP ASSOC	8,463,775	48,008	216,360	9,312,689	9,312,689
SAN LOUIS OBISPO	642,096	3,029	21,690	692,557	692,557
TULARE/KINGS CNTY	2,035,168	9,542	64,520	2,168,009	2,168,009
SAN DIEGO RETC	9,274,760	71,997	201,230	11,358,744	11,358,744
HAWAII	5,224,571	25,680	96,000	5,268,916	5,268,916
BAL OF HAWAII	1,236,193	6,118	24,800	1,260,949	1,260,949
HONOLULU CITY/CNT	3,988,378	19,562	71,200	4,007,967	4,007,967
NEVADA	4,096,668	26,473	78,000	4,587,272	4,587,272
BALANCE OF NEVADA	793,601	4,627	17,020	864,151	864,151
LAS VEGAS CSRT	2,440,360	15,762	43,980	2,712,663	2,712,663
WASHOE COUNTY	862,707	6,084	16,080	1,010,458	1,010,458
AMERICAN SAMOA	239,600				287,520
AMERICAN SAMOA	239,600				287,520
GUAM	997,500				1,197,000
GUAM	997,500				1,197,000
PACIFIC TRUST	315,500				378,600
PACIFIC TRUST	315,500				378,600

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION X	48,526,278	295,440	1,081,000	53,930,296	53,947,320
ALASKA	3,507,753	14,500	36,000	3,191,833	3,208,857
ANCHORAGE BOROUGH	1,085,448	5,201	9,560	1,028,782	1,028,782
BALANCE OF ALASKA	2,422,305	9,299	26,440	2,163,051	2,180,075
IDAHO	4,948,300	24,942	161,000	5,414,957	5,414,957
IDAHO STATEWIDE	4,948,300	24,942	161,000	5,414,957	5,414,957
OREGON	15,147,658	110,000	382,000	18,314,306	18,314,306
PORTLAND CITY	3,527,145	20,901	64,080	3,801,149	3,801,149
CLACKAMAS COUNTY	693,359	7,668	22,950	1,164,567	1,164,567
LANE COUNTY	1,557,136	13,027	38,310	1,997,090	1,997,090
MULTNOMAH/WASH CR	1,660,712	14,782	41,480	2,195,147	2,195,147
N-WILM VAL MPR CR	1,693,551	11,417	46,220	2,005,376	2,005,376
JACKSON CNTY CSRT	1,097,984	8,193	31,870	1,365,563	1,365,563
BALANCE OF OREGON	4,717,771	34,012	137,090	5,785,414	5,785,414
WASHINGTON	24,922,567	145,998	502,000	27,009,200	27,009,200
SPOKANE CSRT	1,796,877	11,595	50,040	2,097,083	2,097,083
CLARK COUNTY	727,812	6,129	18,640	940,236	940,236
KING SNO CSRT	10,756,339	60,999	147,230	11,138,881	11,138,881
KITSAP COUNTY	607,822	3,660	14,530	678,076	678,076
TACOMA CITY	1,443,015	7,315	26,460	1,470,430	1,470,430
PIERCE CTY	1,312,049	8,272	36,050	1,515,062	1,515,062
YAKIMA COUNTY	1,280,094	6,749	35,500	1,387,980	1,387,980
BALANCE OF WASH	6,998,559	41,279	173,550	7,781,452	7,781,452
NATIONAL TOTAL	1,321,474,653	8,005,416	34,110,000	1,485,633,263	1,502,218,912

Signed at Washington, D.C., this 8th day of April 1977.

ALBERT J. ANGEBRANDT,
Administrator, Administration and Management.

[FR Doc.77-14011 Filed 5-26-77;8:45 am]

Office of the Secretary

ACME LEATHER SPORTSWEAR, INC. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act" and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Acme Leather Sportswear, Inc. (ACTWU).	Elizabeth, N.J.	May 5, 1977	Apr. 29, 1977	TA-W-2,048	Men's leather and suede outerwear.
Dynamics Corp., Reeves-Hoffman Div. (company).	Carlisle, Pa.	do	May 4, 1977	TA-W-2,049	Quartz crystal blanks and watch modules.
Ford Motor Co., Cleveland Stamping Plant (UAW).	Cleveland, Ohio.	May 10, 1977	Mar. 28, 1977	TA-W-2,050	Stampings.
Ford Motor Co., Dearborn Stamping Plant (UAW).	Dearborn, Mich.	do	do	TA-W-2,051	Do.
Ford Motor Co., Woodhaven Stamping Plant (UAW).	Woodhaven, Mich.	do	do	TA-W-2,052	Do.
Ford Motor Co., Sterling Transmission & Chassis (UAW).	Warren, Mich.	do	do	TA-W-2,053	Transmissions and chassis.
Ford Motor Co., Van Dyke Transmission & Chassis.	do	do	do	TA-W-2,054	Do.
Ford Motor Co., Lima trim (UAW).	Lima, Ohio.	do	do	TA-W-2,055	Engines.
Ford Motor Co., Utica trim.	Utica, Mich.	do	do	TA-W-2,056	Trim.
Fraser Shoe Co. (Missouri employment security office).	Union, Mo.	May 4, 1977	May 4, 1977	TA-W-2,057	Women's casual shoes.
Geilich Tanning Co. (workers).	Taunton, Mass.	May 5, 1977	May 2, 1977	TA-W-2,058	Tanning of hides for shoes and handbags.
Kings Image, Inc. (ACTWU).	New York, N.Y.	do	Apr. 26, 1977	TA-W-2,059	Men's and boys' outerwear and sportswear.

[FR Doc.77-14763 Filed 5-26-77;8:45 am]

[TA-W-1764]

AIRCO, INC., NIAGARA FALLS, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1764: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing ferro-chrome silicone alloys at the Niagara Falls, New York plant of Airco, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Airco, Incorporated, and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Niagara Falls, New York plant produces ferrochrome-silicone alloys and is a part of the Airco Alloys Division of Airco, Incorporated.

The Department's investigation revealed that there have been no involuntary separations of workers at the Niagara Falls, New York plant of Airco, Incorporated from November 20, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that separations of workers have not occurred at the Niagara Falls, New York plant of Airco, Incorporated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14913 Filed 5-26-77;8:45 am]

[TA-W-1629]

ALLIED TEXTILE PRINTERS CORP., PATERSON, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1629: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 7, 1977 which was filed by the Textile Printing

Colorist Guild on behalf of workers and former workers producing printed textiles at Allied Textile Printers Corporation. Subsequently a petition was filed by the Machine Printers and Engravers Association on behalf of workers at that plant.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12493). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Allied Textiles Printers Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined 2.6 percent from 1975 to 1976. Maintenance and office employment declined 14.3 percent and 5.9 percent, respectively, from 1975 to 1976. The majority of production workers were laid off by February 24, 1977 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales and production declined 38.5 percent and 44.6 percent, respectively, from 1975 to 1976. Production ceased on February 24, 1977.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Allied Textile Printers. Converters, who are customers of Allied stated that imports of apparel have been a factor in reduced business with Allied. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Allied Textile Printers Corporation are converters who buy greige goods and commission Allied to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the Department's investigation, it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of converters, revealed that manufacturers are importing printed or finished fabric for use in the manufacture of men's and women's wearing apparel. The converters reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Allied Textile Printers Corporation, Paterson, New Jersey contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provision of the Act, I make the following certification:

All workers at Allied Textile Printers Corporation, Paterson, New Jersey who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14914 Filed 5-26-77;8:45 am]

[TA-W-1630]

BEACON TEX PRINT, LTD., BEACON, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1630: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 27, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers producing printed textiles at Beacon Tex Print, Ltd., Beacon, New York. Subsequently, a petition was filed by the Machine Printers and Engravers Association on behalf of workers at that plant.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12494). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Beacon Tex Print, Ltd. and its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Beacon Tex Print increased 23.1 percent from 1974 to 1975 and then declined 26.2 percent from 1975 to 1976. Average employment of salaried and office workers increased 15.8 percent from 1974 to 1975 and then declined 13.6 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production of printed textiles at Beacon increased 60.6 percent from 1974 to 1975 and then declined 31.6 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of cotton broadwoven print cloth declined absolutely from 1972 to

1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Beacon Tex Print. Converters, who are customers of Beacon stated that imports of apparel have been a factor in reduced business with Beacon. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Beacon Tex Print Ltd. are converters who buy greige goods and commission Beacon to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the Department's investigation, it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of converters, revealed that manufacturers are importing printed or finished fabric for use in the manufacture of men's and women's wearing apparel. Beacon's customers reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Beacon Tex Print, Ltd., New York, New York contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Beacon Tex-Print, Ltd., Beacon, New York who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14915 Filed 5-26-77;8:45 am]

[TA-W-1694]

BECKERMAN SHOE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1694: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1977, in response to a worker petition received on February 14, 1976, which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing boys' shoes at the Reading, Pennsylvania plant of the Beckerman Shoe Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beckerman Shoe Corporation, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The plant in Reading, Pennsylvania, was established in the 1930's and produced boys' shoes until the plant closed and all employees were separated in June 1975 more than one year prior to the signature date of the petition, January 31, 1977. The plant reopened under new management in 1976 as a contracting facility to stitch uppers for shoes, exclusively. The Beckerman Shoe Corporation stitched uppers for companies not corporately related to the Beckerman Shoe Corporation.

A report published by the International Trade Commission reveals that imports of uppers represent less than one-half of one percent of the total number of uppers consumed as components of footwear. In discussing the term "like or directly competitive" as used in the Trade Act of 1974, the House Ways and Means Committee noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America* v. *Bedell, et al.*, 506 F. 2d 174 (1974). (S. Rept. 93-1298, 93rd Cong., 2nd Sess., 1974, p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters. Therefore, imports of shoes which incorporate uppers of the same origin are not like or directly competitive with those uppers produced at the Reading, Pennsylvania, plant of the Beckerman Shoe Corporation.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of uppers have not contributed importantly to the total or partial separation of workers at the Reading, Pennsylvania, plant of the Beckerman Shoe Corporation as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15275 Filed 5-26-77;8:45 am]

[TA-W-1670]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1670: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1977, in response to a worker petition received on February 7, 1977, which was filed on behalf of workers and former workers engaged in employment related to the production of ladies' robes and loungewear at the New York City central office of Cardinal Cottons Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13083). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardinal Cottons Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility re-

quirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at the central office increased 5 percent for 1974 to 1975, and increased 9.6 percent from 1975 to 1976.

Total employment at Cardinal Cottons decreased 7.1 percent from 1974 to 1975 and decreased 17.6 percent from 1975 to 1976. In January 1977, 18 workers remained; Cardinal Cottons Corporation is currently in the process of shutting down all its operations completely.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production plus purchases from outside contractors decreased 16 percent from 1974 to 1975, and decreased 5.2 percent in the first three quarters of 1976 compared with the same period in 1975. Production ceased when Cardinal Cottons' remaining manufacturing facility closed in December 1976; outside purchases also ceased in December 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cite fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at Cardinal Cottons Corporation did not contribute importantly to the total or partial separation of workers of that company's New York City central office.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15276 Filed 5-26-77;8:45 am]

[TA-W-1671]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1671: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investgiation was initiated on February 22, 1977, in response to a worker petition received on February 7, 1977, which was filed on behalf of workers and former workers engaged in employment related to the production of ladies' robes and loungewear at the Coatesville, Pennsylvania warehouse of Cardinal Cottons Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13083). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardinal Cottons Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at the Coatesville warehouse decreased 4.6 percent from 1974 to 1975, and decreased 9.6 percent from 1975 to 1976. All workers were laid off when the warehouse closed in January 1977.

Total employment at Cardinal Cottons decreased 7.1 percent from 1974 to 1975 and decreased 17.6 percent from 1975 to 1976. In January 1977, 18 workers remained; Cardinal Cottons Corporation is currently in the process of shutting down all its operations completely.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Ladies' robes and loungewear produced by Cardinal Cottons' plants, plus purchases of ladies' robes and loungewear from outside contractors, were shipped to customers from the Coatesville warehouse. Total production plus outside purchases decreased 16 percent from 1974 to 1975, and decreased 5.2 percent in the first three quarters of 1976 compared with the same period in 1975. Production ceased when Cardinal Cottons, last remaining manufacturing facility in Gettysburg closed in December 1976; outside purchases also ceased in December 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cite fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at Cardinal Cottons Corporation did not contribute importantly to the total or partial separation of workers of that company's Coatesville, Pennsylvania, warehouse.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15277 Filed 5-26-77;8:45 am]

[TA-W-1280]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1280: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of Act.

The investigation was initiated on November 15, 1976, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing ladies' robes and loungewear at the Scottdale, Pennsylvania, plant of Williams Manufacturing Company. Evidence developed in the investigation revealed that Williams Manufacturing Company is a subsidiary of Cardinal Cottons Corporation, which at one time operated another plant producing ladies' robes and loungewear in Coatesville, Pennsylvania. On February 10, 1977, the petition was expanded to include workers and former workers producing ladies' robes and loungewear at the Coatesville plant.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53098). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Cardinal Cottons Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Scottdale, Pennsylvania, plant decreased 1.9 percent from 1974 to 1975. Employment increased 41.2 percent in the first three quarters of 1976 compared with the same period in 1975; all workers were laid off when the plant closed in October 1976.

Employment at the Coatesville, Pennsylvania, plant decreased 15.6 percent from 1974 to 1975; all workers were laid off when the plant closed in December 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Scottdale, Pennsylvania, plant increased 3.5 percent from 1974 to 1975, and increased 55.5 percent in the first three quarters of 1976 compared to the same period in 1975. Production ceased when the plant closed in October 1976.

Production at the Coatesville, Pennsylvania, plant decreased 15.8 percent from 1974 to 1975 and ceased when the plant closed in December 1975.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing-gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies' robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cited fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at the Scottdale, Pennsylvania, plant of Williams Manufacturing Company, a subsidiary of Cardinal Cottons Corporation, and at the Coatesville, Pennsylvania, plant of Cardinal Cottons Corporation, did not contribute importantly to the total or partial separation of workers of that company.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15278 Filed 5-26-77;8:45 am]

[TA-W-1666]

CHERIE BRASSIERE COMPANY, INC., BROOKLYN, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1666: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 17, 1977 in response to a worker petition received on February 17, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing brassieres at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13084). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cherie Brassiere Company, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 23.1 percent in 1975 compared to

1974 and declined 10.0 percent in 1976 compared to 1975. All employment ceased in December, 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales equal company production since the subject firm is a contractor producing brassieres under contract from manufacturers.

Production declined 14.0 percent in 1975 compared to 1974; 17.4 percent in 1976 compared to 1975 and ceased on December 8, 1976 when the plant shutdown.

INCREASED IMPORTS

Imports of brassieres, bra-lettes and bandeaux increased each year, from 4.995 million dozens in 1971, to 6.921 million dozens in 1975 and increased again to 8.751 million dozens in 1976.

CONTRIBUTED IMPORTANTLY

Approximately 95.0 percent of Cherie's production of brassieres in 1975 took place under contract from two brassiere manufacturers. One of these manufacturers accounted for approximately 75 percent of Cherie's production in 1975 and did not contract production to Cherie in 1976. This manufacturer's imports of brassieres increased 25.0 percent in 1975 compared to 1974 and 40.0 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres produced at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated contributed importantly to the total or partial separations of the workers engaged in the production of such brassieres at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the employment related to the production of brassieres at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated who became totally or partially separated from employment on or after January 28, 1976 and before January 31, 1977 are eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14916 Filed 5-26-77;8:45 am]

[TA-W-1974]

CREINER AND BRUMBERG, INC., NEW YORK, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1974: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 12, 1976 in response to a worker petition received on April 12, 1976 which was filed on behalf of workers and former workers engaged in the wholesale distribution of handbags at Creiner and Brumberg, Incorporated, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1976 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination as made was obtained principally from officials of Creiner and Brumberg, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Creiner and Brumberg is a wholesale distributor of ladies' handbags. Employees travel to handbag shows, take orders, purchase handbags from domestic firms and ship the handbags to customers. The company was closed in April 1976. All employees were engaged in either selling or shipping activities and performed no production functions.

Creiner and Brumberg does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). Creiner and Brumberg performed a service, the wholesale distribution of ladies' handbags.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Creiner and Brumberg, Incorporated, New York, New York are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974. The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14917 Filed 5-26-77;8:45 am]

[TA-W-1713]

CREST SHOE CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1713: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on that date which was filed by Lewiston and Auburn Shoeworkers Protective Association on behalf of former workers producing childrens' nonrubber footwear at the Crest Shoe Company, Inc., Lewiston, Maine.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crest Shoe Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Crest Shoe Company declined 20.6 percent in 1976 compared to 1975 and declined 4 percent in the first

three months of 1977 compared to the first three months of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Shipments of childrens' nonrubber footwear at the Crest Shoe Company declined 13 percent in 1976 compared to 1975 and declined 36.5 percent in the first three months of 1977 compared to the first three months of 1976.

INCREASED IMPORTS

Imports of infants' nonrubber footwear increased from 6.9 million pairs in 1975 to 10.7 million pairs in 1976. Imports of children's nonrubber footwear increased from 11.1 million pairs in 1975 to 15.8 million pairs in 1976. Imports of misses' nonrubber footwear increased from 7.12 million pairs in 1975 to 11.64 million pairs in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Crest Shoe Company increased purchases of imports of childrens' nonrubber footwear and have decreased purchases from Crest.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with childrens' nonrubber footwear produced by Crest Shoe Company contributed importantly to the total or partial separations of the workers at that firm. In accordance with provisions of the Act, I make the following certification:

All workers of the Crest Shoe Company, Lewiston, Maine, who became totally or partially separated from employment on or after February 23, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15279 Filed 5-26-77;8:45 am]

[TA-W-1640]

DIXON FORD SHOE CO., SALINAS, PUERTO RICO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1640: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1977 in response to a worker petition received on February 9, 1977 which was filed on behalf of workers and former workers producing men's work shoes at the Salinas, Puerto Rico plant of Dixon Ford Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12495). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dixon Ford Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers for men's work shoes declined 14.2 percent in 1975 compared to 1974 and decreased 33.1 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales, in pairs, of men's work shoes, decreased 2.0 percent in 1975 compared to 1974 and decreased 59.6 percent in 1976 compared to 1975. Moreover, sales declined 11.0 percent in the first quarter of 1976 compared to the same quarter in 1975.

Company production, in pairs, of men's work shoes, increased 7.0 percent in 1975 compared to 1974 and decreased 55.6 percent in 1976 compared to 1975. Production declined 10.9 percent in the first quarter of 1976 compared to the same quarter in 1975.

INCREASED IMPORTS

Imports of work footwear increased each year, from 2.3 million pairs in 1972, to 3.3 million pairs in 1974. Imports declined to 2.6 million pairs in 1975 and increased to 4.7 million pairs in 1976. Imports also increased from 0.5 million pairs in the first quarter of 1975, to 1.0 million pairs in the same quarter in 1976.

CONTRIBUTED IMPORTANTLY

A fire destroyed the plant's main building on March 27, 1976, stopping production in the last nine months of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports like or directly competitive with men's work shoes produced at the Salinas, Puerto Rico plant of Dixon Ford Shoe Company, have not contributed importantly as required for certification under Section 222 of the Trade Act of 1974. Therefore, these workers are not eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14918 Filed 5-26-77;8:45 am]

[TA-W-1641]

HARMONY CO., CHICAGO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1641: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1977, in response to a worker petition received on February 9, 1977, which was filed by the Piano and Musical Instruments Workers Union on behalf of workers and former workers producing fretted musical instruments at the Harmony Company, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12497). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Harmony Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed

importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

The average number of production workers at the Harmony Company declined 28 percent in the last six months of 1976 compared to the like period of 1975. All production employment was terminated in December 1976.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit sales of all fretted instruments declined 18 percent from 1974 to 1975 and then increased 29 percent from 1975 to 1976. Unit sales declined 21 percent in the last six months of 1976 compared to the like period of 1975.

In 1976, total unit sales consisted of 78 percent guitars, 10 percent banjos, 9 percent ukeleles, and 3 percent mandolins. Production at the Harmony Company was equivalent to unit sales. In December 1976, production ceased and the company closed.

INCREASED IMPORTS

Imports of fretted musical instruments with wholesale prices of $25 and up, declined absolutely and relative to domestic production in each year from 1972 through 1975. Imports increased 38 percent from 1975 to 1976. The ratio of imports to domestic production increased from 95.3 percent in 1975 to 125.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that Harmony's customers increased purchases of imported fretted musical instruments from 1975 to 1976. Although some of these customers also increased purchases from Harmony, the bulk of these purchases were made in the first half of 1976. As the year continued, purchases from Harmony declined. A major customer discontinued purchases entirely from Harmony in the last quarter of 1976.

This is evidenced by Harmony's sales which increased from 1975 to 1976, but declined in the last six months of 1976 compared to the last six months of 1975. This decline, combined with a low sales projection for 1977, led to the decision to close the Harmony Company.

Harmony specialized in the production of lower priced instruments that appealed to the "beginner musician" market. According to Harmony's customers, there is no brand awareness in this particular market. Consumers are primarily concerned with price and basic appearance of the instrument. Overseas firms offer exact copies of domestically manufactured instruments at lower prices. This has resulted in significant import penetration of the fretted musicial instrument market.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fretted musical instruments produced at the Chicago, Illinois, plant of Harmony Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Harmony Company, Chicago, Illinois, who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14919 Filed 5-26-77;8:45 am]

[TA-W-622]

INTERNATIONAL SHOE CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on May 14, 1976, the Department of Labor issued a certification to workers and former workers of the Conway, Arkansas, plant of the International Shoe Company (TA-W-622). The notice of certification was published in the FEDERAL REGISTER on May 28, 1976 (41 FR 21870).

Further investigation developed evidence that revealed employment and production at the Conway plant continues to be adversely influenced by imports of articles like or directly competitive with men's footwear produced at the Conway, Arkansas, plant.

Production at the Conway plant declined 33.5 percent in quantity in the last six months of 1976 compared to the same period of 1975. All production ceased in April 1977.

Employment of production workers at the Conway plant declined 5.7 percent in the last six months of 1976 compared to the same period of 1975. All workers were laid off in April 1977.

Imports of men's dress and casual footwear increased absolutely and relative to domestic production from 1975 to 1976. The ratio of imports to domestic production increased from 58.7 percent in 1975 to 68.5 percent in 1976.

Based on additional evidence, a review of the entire record and in accordance with the provision of the Act, I have determined that the termination date included in TA-W-622 Certification, issued on May 14, 1976, should be deleted. Such deletion of the termination date contained in TA-W-622 Certification is hereby made as follows:

All workers engaged in employment related to the production of men's footwear at the Conway, Arkansas, plant of the International Shoe Company, St. Louis, Missouri, who became totally or partially separated from employment on or after February 5, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15280 Filed 5-26-77;8:45 am]

[TA-W-1624]

INTERNATIONAL SHOE CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1977 in response to a worker petition received on that date which was filed by three workers on behalf of workers and former workers producing men's footwear at the Conway, Arkansas plant of the International Shoe Company.

The Notice of the investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12497). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Conway, Arkansas plant were previously certified as eligible to apply for adjustment assistance on May 14, 1976 (41 FR 21870) under TA-W-622, as revised in May 1977.

The existing certification will expire on May 14, 1978 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (February 5, 1975) and before the certification expiration date (May 14, 1978), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-15281 Filed 5-26-77;8:45 am]

[TA-W-1604]

JOSEPH F. CORCORAN SHOE CO., STOUGHTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1604: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on January 26, 1977, which was filed by former workers at the Stoughton, Massachusetts, plant of the Joseph F. Corcoran Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8021). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Joseph F. Corcoran Shoe Company, Acme Boot Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average plant employment increased 2.1 percent from 1974 to 1975 before decreasing 1.4 percent from 1975 to 1976. In December 1976 employment decreased 18.2 percent compared to December 1975 and in January 1977 employment decreased 8.8 percent compared to January 1976.

Average weekly hours worked by all employees at the Stoughton, Massachusetts, plant increased 5.2 percent from 1974 to 1975 before decreasing 2.4 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the Stoughton, Massachusetts, plant of the Joseph F. Corcoran Shoe Company decreased 5.7 percent in quantity while increasing 20 percent in value from 1974 to 1975. Sales increased 2.6 percent in quantity and 23.4 percent in value from 1975 to 1976.

Production declined 5.1 percent in quantity from 1974 and 1975 and 2.6 percent in quantity from 1975 to 1976.

INCREASED IMPORTS

Between 1972 and 1973 imports of men's dress and casual footwear increased from 53.5 million pairs to 56.4 million pairs. Import levels dropped 21.5 percent to 44.3 million pairs between 1973 and 1974. Imports of men's dress and casual footwear increased from 47.5 million pairs in 1975 to 58.7 million pairs in 1976, an increase of 23.6 percent.

Imports of men's work footwear increased between 1972 and 1974 by a total of 43.4 percent. In 1975 imports declined 21.2 percent from the 1974 level of 3.3 million pairs to the 1975 level of 2.6 million pairs. In 1976 4.7 million pairs of men's work footwear were imported into the United States, an 80.8 percent increase over the 2.6 million pairs imported in 1975.

CONTRIBUTED IMPORTANTLY

Customers of the Joseph F. Corcoran Shoe Company indicated that they were purchasing imported men's dress boots.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's boots produced at the Stoughton, Massachusetts plant of Joseph F. Corcoran Shoe Company have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Stoughton, Massachusetts plant of the Joseph F. Corcoran Shoe Company who became totally or partially separated from employment on or after November 24, 1976, and before February 2, 1977,

Signed at Washington, D.C., this 13th day of May 1977.

are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14920 Filed 5-26-77;8:45 am]

[TA-W-1734]

KATHI-DIN

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 3, 1977 in response to a worker petition received on March 3, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of former workers producing ladies' sportswear at Kathi-Din, South El Monte, California.

Notice of the investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at Kathi-Din occurred in January 1976. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is February 14, 1977 and, thus, workers laid off prior to February 14, 1976 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-15282 Filed 5-26-77;8:45 am]

[TA-W-1603]

LEVER BROTHERS CO., EDGEWATER, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1603: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on January 26, 1977, which was filed by the International Chemical Workers Union on behalf of workers and former workers producing margarine and shortening at the Edgewater, New Jersey, plant of Lever Brothers Company.

The notice of investigation was published in the FEDERAL REGISTER on February 11, 1977 (42 FR 8732). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lever Brothers Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (3) and (4) have not been met.

The Department's investigation revealed that the production of margarine and shortening at the Edgewater, New Jersey, plant of Lever Brothers Company ceased on October 1, 1976. The cessation was based on a management decision to move the operation to a more efficient plant at Hammond, Indiana. Thirteen percent of the workers involved were able to shift to jobs at other plants within the company at which the International Chemical Workers Union has bargaining agreements.

Imports of margarine decreased 34.4 percent in 1976 compared to 1975—from 32,000 pounds to 21,000 pounds. The import to production ratio fell from 0.0016 percent in 1975 to 0.0008 percent in 1976. Imports of shortening decreased 26.3 percent in 1976 compared to 1975—from 4,160,000 pounds to 3,065,000 pounds. The import to production ratio fell from 0.11 percent in 1975 to 0.08 percent in 1976.

Imports of products which are like or directly competitive with the margarine and shortening produced at the Edgewater plant include butter, lard, salad and cooking oils and are negligible.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the margarine and shortening produced at the New Jersey plant of Lever Brothers Company, did not contribute importantly to the total or partial separations of the workers at the plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14921 Filed 5-26-77;8:45 am]

[TA-W-1659]

MAR MAC MANUFACTURERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1659: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's slacks and shorts and ladies' slacks at Mar Mac Manufacturers, Inc., Baltimore, Maryland.

The notice of investigation was published in the Federal Register on March 8, 1977 (42 FR 13090). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of Mar Mac Manufacturers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations

Employment of production workers at Mar Mac Manufacturers, Inc. increased 2 percent in 1975 from 1974 and increased 6 percent in 1976 from 1975. Employment declined 54 percent during the first quarter of 1977 compared to the same quarter of 1976.

Production employees worked partial weeks from November 1976 through the first quarter of 1977.

Sales or Production, or Both, Have Decreased Absolutely

Production by Mar Mac Manufacturers, Inc. declined 19 percent in 1975 from 1974 and increased 14 percent in 1976 from 1975. Production declined 87 percent during the first quarter of 1977 compared to the same quarter of 1976.

Total sales declined 4 percent in 1975 from 1974 and increased 37 percent in 1976 from 1975. Sales declined 84 percent during the first quarter of 1977 compared to the same quarter of 1976.

Increased Imports

Imports of women's, misses' and children's slacks and shorts increased in quantity in 1975 from 1974 and in 1976 from 1975. Imports increased from 10,067 thousand dozen units in 1975 to 11,040 thousand dozen units in 1976—an increase of 9.7 percent.

Imports of men's and boys' dress and sport trousers and shorts increased in quantity in 1975 from 1974 and in 1976 from 1975. Imports amounted to 30.3 percent of domestic production in 1975 and 32.0 percent during January–June 1976.

Contributed Importantly

Purchases by Mar Mac's sole customer for ladies' slacks accounted for approximately 40 percent of total sales by Mar Mac Manufacturers, Inc. in 1975 and 15 percent of sales in 1976. The customer discontinued its business with Mar Mac in mid-1976. The customer's purchases of ladies' slacks from foreign sources increased in 1976 from 1975 and during the first quarter of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced at Mar Mac Manufacturers, Inc. contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

"All workers of Mar Mac Manufacturers, Inc., Baltimore, Maryland, who became totally or partially separated from employment on or after October 23, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 23rd day of May 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15283 Filed 5-26-77;8:45 am]

[TA-W-1914]

PETTYJOHN BROTHERS SHOE MANUFACTURING, INC., LYNCHBURG, VIRGINIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1914: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 28, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing footwear for children at Pettyjohn Brothers Shoe Manufacturing, Inc., Lynchburg, Virginia.

The Notice of Investigation was published in the Federal Register on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pettyjohn Brothers Shoe Manufacturing, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have be-

come totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Pettyjohn Brothers declined 15 percent in the first quarter of 1977 compared to the same quarter of 1976.

Average weekly hours for production workers declined two percent, nine percent, and 15 percent in the third and fourth quarters of 1976 and first quarter of 1977 compared to the respective quarter of the previous year. Production workers began working short weeks in December 1976 due to a lack of work.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Pettyjohn Brothers declined 26 percent and 40 percent in quantity in the fourth quarter of 1976 and first quarter of 1977 compared to the respective quarters of the prior year.

Production declined 29 percent and 33 percent in the fourth quarter of 1976 and first quarter of 1977 compared to the respective quarters of the prior year.

INCREASED IMPORTS

Imports of children's nonrubber footwear increased from 11.1 million pairs in 1975 to 15.8 million pairs in 1976. Imports relative to domestic production increased from 59.2 percent in 1974 to 60.0 percent in 1975 and 72.1 percent in 1976.

Imports of infants' and babies' nonrubber footwear increased from 6.8 million pairs in 1974 to 6.9 million pairs in 1975 and 10.7 million pairs in 1976. Imports increased relative to domestic production from 28.5 percent in 1975 to 41.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Pettyjohn Brothers indicated that they reduced purchases from the firm while increasing purchases of imported footwear for babies, infants, and children.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the footwear for children produced by Pettyjohn Brothers Shoe Manufacturing, Inc. contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Pettyjohn Brothers Shoe Manufacturing, Inc., Lynchburg, Virginia, who became totally or partially separated from employment on or after August 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14922 Filed 5-26-77;8:45 am]

[TA-W-1379]

PLEASANT BEEF CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1379; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to a worker petition received on December 7, 1976 which was filed on behalf of workers and former workers processing meats at the Lynn, Massachusetts plant of the Pleasant Beef Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 894). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pleasant Beef Company, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1) and (2) have been met, criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers employed by the Pleasant Beef Company, Inc. declined 13.8 percent in 1975 compared to 1974 and 52.0 percent in 1976 compared to 1975.

The average number of hours worked per week by employees of the Pleasant Beef Company declined 3.4 percent in 1975 compared to 1974 and 2.0 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of meats in terms of 1974 dollars by the Pleasant Beef Company, Inc. declined 26.5 percent in 1975 compared to 1974 and 14.1 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of table beef and veal increased absolutely and relative to domestic production in 1972 compared to 1971 and in 1973 compared to 1972. Imports declined absolutely and relatively in 1974 compared to 1973 and again in 1975 compared to 1974. The ratios of imports to domestic production and consumption declined from 0.21 percent in 1974 to 0.17 percent in 1975. Imports increased 13.0 percent in the period January through September 1976 compared to the corresponding period in 1975. The ratio of imports to domestic production and consumption increased from 0.15 percent and 0.15 percent, respectively, in the period January-September 1975 to 0.21 percent and 0.21 percent, respectively, in the period January-September 1976. At no time during the period 1971 through September 1976 did the ratio of imports to domestic production exceed 0.30 percent.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that the Pleasant Beef Company, Inc. experienced no layoffs in 1976. The company did during the period June 1975 through December 1975. Imports of table beef and veal into the United States declined absolutely and relative to domestic production and consumption in 1975 compared to 1974. Company imports of frozen meats have constituted less than 1.0 percent of Pleasant Beef's total sales since 1974.

The separations that occurred during the June-December 1975 period resulted from a change in product line by Pleasant Beef from fresh hanging meats to frozen meats. These frozen meats are deboned, cut, frozen and boxed at domestic facilities before they are shipped to the Pleasant Beef plant; therefore, Pleasant Beef performs less meat cutting and related processing, such as inspecting and packaging. Consequently, the Pleasant Beef Company laid off workers in the cutting, inspecting and packaging departments.

CONCLUSION

After careful review, I conclude that imports of articles like or directly competitive with beef processed at the Lynn, Massachusetts plant of Pleasant Beef Company, Inc. did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15284 Filed 5-26-77;8:45 am]

[TA-W-1631]

UNION TEXTILE PRINTERS, SECAUCUS, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1631: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 7, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers printing fabric at the Secaucus, New Jersey plant of Union Textile Printers.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Textile Printers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met for the Secaucus plant.

SIGNIFICANT TOTAL AND PARTIAL SEPARATIONS

Employment of production workers at Union Textile Printers declined 6 percent from 1974 to 1975 and declined 19 percent from 1975 to 1976. All employment was terminated in December 1976.

SALES, PRODUCTION, OR BOTH, DECREASED ABSOLUTELY

The quantity (in yards) of sales by Union Textile Printers increased 10 percent from 1974 to 1975 and declined 47 percent from 1975 to 1976.

The company printed fabric based on orders received. Therefore, production is equivalent to sales. Production ceased and the plant closed in December 1976.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Union Textile Printers. Converters, who are customers of Union, stated that imports of apparel have been a factor in reduced business with Union. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Union Textile Printers are converters who buy greige goods and commission Union to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the investigation it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of the converters, revealed that manufacturers are importing printed or finished fabric for use in the production of men's and women's wearing apparel. The converters reported a growing trend towards manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the imported finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed fabric produced at the Secaucus, New Jersey plant of Union Textile Printers contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Secaucus, New Jersey plant of Union Textile Printers who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14923 Filed 5-26-77;8:45 am]

[TA-W-1954]

TRW, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 4, 1977 in response to a worker petition received on that date which was filed by the International Union of Electrical Radio and Machine Workers on behalf of workers and former workers producing carbon composition resistors at the Philadelphia Division of TRW, Incorporated, Philadelphia and Downington, Pennsylvania.

Notice of the investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19938). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Philadelphia Division were certified eligible to apply for adjustment assistance on June 19, 1975 (See TA-W-11).

The existing certification will expire on June 19, 1977. Since workers newly separated, totally or partially, are covered by the existing certification provided that such separations occurred on or after the impact date (November 4, 1974) and before the expiration date (June 19, 1977), a new investigation would serve no purpose at this time; consequently the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-15285 Filed 5-26-77;8:45 am]

[TA-W-1677]

YKK (USA), INC., LYNDHURST, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1677: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977 in response to a worker petition received on February 15, 1977 which was filed on behalf of workers and former workers engaged in the assembly of zippers at the Lyndhurst, New Jersey facility of YKK (USA), Inc. The investigation was expanded to include data on YKK's primary domestic production facility for zippers, located in Macon, Georgia.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13095). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of YKK (USA) Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Lyndhurst, New Jersey plant increased 13.8 percent in 1975 compared to 1974 and decreased 27.3 percent in 1976 from 1975. In the first quarter of 1977, the average number of production wrokers declined 65.9 percent compared to the same period of 1976.

The average number of production workers at the Macon, Georgia production facility increased 169.1 percent in 1975 from 1974 and increased 49.3 percent in 1976 from 1975. In the first quarter of 1977 the average number of production workers increased 17.6 percent compared to the same period in 1976.

SALES, PRODUCATION, OR BOTH, HAVE DECREASED ABSOLUTELY

The Lyndhurst facility distributes YKK zippers throughout the Northeastern United States. Sales of zippers at the Lyndhurst plant declined 6.3 percent in 1975 compared to 1974 and increased 43.6 percent in 1976 compared to 1975. Sales increased 14.0 percent in the first quarter of 1977 compared to the same period in 1976.

Zipper assembly at the Lyndhurst, New Jersey facility increased 56.4 percent in 1975 compared to 1974 and decreased 20.8 percent in 1976 compared to 1975. In the first quarter of 1977 zipper assembly decreased 49.3 percent compared to the same period in 1976.

Production of zippers and zipper components at the Macon, Georgia plant increased 291.5 percent in 1975 from 1974 and increased 64.4 percent in 1976 from 1975. Production increased 22.5 percent in the first quarter of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of zippers declined in quantity in 1973 from 1972 and increased in 1974 from 1973. Imports of zippers decreased from 127 million units in 1974 to 66 million units in 1975, a decrease of 48 percent, and then increased 26 percent in 1976 to 83 million units. The import/production and import/consumption ratios increased in the period 1972 to 1974 and then decreased to 3.6 percent and 3.5 percent, respectively, in 1975, and both increased to 4.3 percent in 1976.

Imports of zippers and components by the Lyndhurst plant decreased 75.4 percent in 1975 from 1974 and increased 44.6 percent in 1976 from 1975. In the first quarter of 1977, imports at Lyndhurst decreased 71.9 percent compared to the same period in 1976.

CONTRIBUTED IMPORTANTLY

YKK (USA) has four regional sales and assembly outlets. The Lyndhurst, New Jersey facility distributes zippers for YKK throughout the Northeastern United States. Regional sales for YKK increased in 1976 compared to 1975 and in the first quarter of 1977 compared to the same quarter in 1976.

The Lyndhurst facility maintains inventories of most zippers in order to supply customers on short notice. Only zippers not in stock are assembled at Lyndhurst. Production is confined to cutting chain to the customer's desired

length and attaching a slider and end pieces. All component parts are supplied from either the Macon, Georgia production facility or Japan.

Since the opening of the Macon, Georgia plant YKK (USA)'s primary domestic production facility for components and finished zippers), sales by Lyndhurst have relied increasingly on zippers produced at Macon. Of total purchases by the Lyndhurst facility, 15 percent were supplied by Macon in 1974, 69 percent in 1975, 75 percent in 1976 and 91 percent in the first quarter of 1977. Conversely, imports supplied a decreasing share of Lyndhurst's purchases throughout the same period; from 85 percent in 1974, to 31 percent in 1975, 25 percent in 1976, and nine percent in the first quarter of 1977. Purchases of imports relative to total Lyndhurst sales declined from 90 percent in 1974, to 24 percent in 1975 and 1976, and six percent in the first quarter of 1977.

Separations of production workers from the Lyndhurst facility were due to the increasing reliance on zippers produced at Macon, and the termination of all dyeing operations at the Lyndhurst plant in 1976. YKK (USA) has increased production at its Macon plant while reducing production at Lyndhurst and its other three regional assembly facilities; and has consolidated all dyeing operations at the Macon plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with zippers produced at the Lyndhurst, New Jersey plant of YKK (USA), Incorporated did not contribute importantly to the total or partial separation of workers of that plant.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14924 Filed 5-26-77;8:45 am]

[International Labor Affairs Order No. 77-1]

WORKER ADJUSTMENT ASSISTANCE

Assignment of Responsibility and Designation of Certifying Officers

1. *Purpose.* To assign responsibility and designate officials as certifying officers to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (19 U.S.C. 2101 et seq.; hereinafter referred to as the Act) and the implementing regulations published in 29 CFR Part 90.

2. *Directives affected.* International Labor Affairs Order No. 1 and Revised Order No. 1 are canceled.

3. *Background.* Pursuant to the Act and the implementing regulations, the Secretary of Labor must expeditiously process petitions filed by worker groups and promptly reach a determination of whether such groups should be certified as eligible to apply for adjustment assistance. The Act and the regulations also provide for the issuance of subpenas and, when requested by petitioners or other interested parties, public hearings concerning determinations on petitions. Secretary's Order 3-75 (40 FR 17863) delegated general responsibility for administration of the petitioning and determination processes to the Deputy Under Secretary for International Affairs; and the regulations (29 CFR Part 90) authorize persons titled "certifying officers" to issue subpenas, preside at public hearings, make determinations, issue certifications, and perform such other duties as may be required. This order is issued to designate those persons who shall act as certifying officers under the implementing regulations.

4. *Assignment of responsibility and designation of Officials.* a. The following officials of the Bureau of International Labor Affairs are hereby designated as certifying officers under 29 CFR Part 90:

1. The Deputy Under Secretary for International Affairs; 2. The Associate Deputy Under Secretary for International Affairs;

3. The Director of the Office of Foreign Economic Policy;

4. The Director of Management Administration and Planning;

5. The Executive Assistant to the Deputy Under Secretary for International Affairs; and

6. The Director of the Office of Foreign Economic Research.

b. Persons designated as certifying officers are hereby assigned responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, preside at public hearings held under 29 CFR 90.13, issue subpeanas under 29 90.14, issue terminations of certifications of eligibility under 29 CFR 90.17, grant or deny reconsideration and issue revised determinations concerning certifications of eligibility under 29 CFR 90.18, and make findings of fact concerning determinations, pursuant to 29 CFR 90.16 and 90.17.

c. Any certifying officer who receives the recommendation of the Director of the Office of Trade Adjustment Assistance, pursuant to 29 CFR 90.15, shall generally continue to act as the certifying officer with regard to the particular petition involved until a notice of negative determination or a notice of certification is issued covering the group of workers involved.

5. Effective date: This order is effective May 27, 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-14912 Filed 5-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20040; 70-6013]

ALABAMA POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MAY 20, 1977.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, (70-6013) a public-utility subsidiary company of the Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue up to $100,000,000 principal amount of its First Mortgage Bonds of a series having a term of not less than five years nor more than 30 years (the "new Bonds") and to sell such bonds at competitive bidding for the best price obtainable but for a price to Alabama of not less than 98 percent nor more than 101¾ percent of the principal amount thereof, plus accrued interest. Alabama may request by amendment hereto that such sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Alabama's management, make such exception in the best interest of Alabama and its investors and consumers.

The new Bonds will be issued under the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto and as to be further supplemented by a Supplemental Indenture to be dated as of July 1, 1977.

Alabama states that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Alabama to sell new Bonds having a 30-year or some shorter term. Alabama states that it is in the public interest that Alabama be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate and term for its new Bonds. Alabama proposes, therefore, that Alabama decide on the term of the new Bonds after the date of public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding.

Alabama proposes to use the proceeds from the sale of the new Bonds, along with (1) $39,417,000 of funds from tax-exempt bond issues of public authorities for financing certain of Alabama's pollution control facilities, (2) $95,000,000 of additional equity funds from the Southern Company and (3) $273,901,000 from the net change in notes payable, from other financings of types and in amounts to be determined and from usual internal sources, to finance its 1977 construction costs, estimated to be $497,578,000, to pay a portion of notes payable for such purpose and to retire $740,000 principal amount of First Mortgage Bonds.

The fees and expenses to be incurred in connection with this transaction are to be filed by amendment. It is stated that the issuance and sale of the new Bonds have been expressly authorized by the Alabama Public Service Commission which has jurisdiction over the issuance of securities by public utility companies operating in Alabama. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1977, 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 (air mail 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15176 Filed 5-26-77;8:45 am]

[Rel. No. 34-13559; File No. SR-Amex-77-8]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 28, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The American Stock Exchange, Inc. ("Amex") proposes to amend its Rules 900(b), 901, 903, 904, 905, 908, 910, 915, 916, 917, 923, 925, 950, 951, 952, 958, 962, 963, 981, 982 and 462 relating to the trading of options in order to accommodate the trading of put and call options on debt securities on the Amex. The terms of substance of the proposed rule changes are summarized below.

The Rules listed below that are proposed to be amended replace the word "stock(s)" with "security(ies)" and, where necessary, incorporate the language "bonds" or "per bond" with any "shares" or "per share" references.

Rule 900—Applicability Definitions (b)(8), (9), (10), (12), (23).
Rule 901—Option Contracts To Be Traded.
Rule 903—Series of Options Open for Trading.
Rule 908—Limit on Uncovered Short Positions.
Rule 909—Other Restrictions on Exchange Option Transactions and Exercises.
Rule 923—Suitability.
Rule 925—Confirmations.
Rule 950—General Applicability.
Rule 962—Filing of Trade Information.
Rule 963—Contract Lists and Uncompared Trade List.
Rule 982—Delivery and Payment.

Rule 900(b) Definitions

A new definition ("(12a) Bond") has been added and is referenced throughout the amended Rules package. A "bond" is defined to represent $1,000 in par value of the underlying debt security. Definitions "(13) Exercise Price" and "(14) Aggregate Exercise Price" have been amended to specify that exercise prices for options on debt securities will be expressed in terms of a per cent of par value rather than on a dollar basis, and the aggregate exercise price will also include accrued interest. Finally, definition "(26) Primary Market" has been amended to recognize that the primary market for debt securities is the over-the-counter market.

Rule 904(b) and Commentary .02—Position Limits

The position limits for options on debt securities will be fixed by the Exchange from time to time and be a function of the outstanding principal amount of underlying debt security publicly owned. Such limits, however, will generally not exceed 2½% of such amount.

Rule 905(b) and Commentary—Exercise Limits

The exercise limits for bond options will conform with the position limits on bond options established in Rule 904. Options contracts on underlying debt securities representing no more than 2½% of the outstanding principal amount publicly owned may be exercised by one party, acting alone or in concert, within any five consecutive business days.

Rule 910—Restriction of Out of the Money Option

Opening transactions in out of the money options on underlying debt securities will be

restricted once the exercise price is four points above (for calls) and four points below (for puts) the mean between the final representative bid and asked quotation for the underlying security. Likewise, those bond options trading at a price of less than 2/32nds of 1 percent per bond—$62.50 per $100,000 (Par Value) contract—will also be restricted.

Rule 915—Approval of Underlying Stocks

In order to be eligible for options trading, underlying debt securities issued or unconditionally guaranteed as to principal and interest by the U.S. Government or agencies thereof, will be required:

To have at least $2 billion principal amount outstanding and publicly owned if their original term to maturity is 10 years or less, or $750 million if the original term to maturity is beyond 10 years; and

To have not been issued or outstanding for more than six (6) months from the date of original offering, or the date of the latest additional offering of an already issued debt security; and

To be the latest issue within the maturity range.

Rule 916—Withdrawal of Approval of Underlying Stocks

Underlying debt securities issued or unconditionally guaranteed as to principal and interest by the U.S. Government will in most instances be considered to no longer meet the Exchange's requirements for continued approval for options trading whenever:

The principal amount outstanding and publicly owned falls below $1.5 billion for issues with a remaining term to maturity of ten (10) years or less; or $550 million for issues with a remaining term to maturity of greater than ten years; or

The spread between the bid and asked prices exceeds, for a period of five (5) consecutive business days, 8/32nds of 1 percent for issues maturing in ten (10) years or less or 16/32nds of 1 percent for issues maturing beyond ten (10) years; or

The issue has been outstanding for longer than one year from the date of its original issuance or latest additional offering; or

The market for the issue no longer possesses sufficient breadth, depth and/or resiliency to qualify for continued dealings.

Rule 917—Trading Halts and Suspensions

The availability of current representative quotations, rather than closing prices, for underlying debt securities will be a factor in considering whether or not an option on such security should be halted or suspended because the underlying debt securities are traded primarily in the over-the-counter market.

Because trading in debt securities in the over-the-counter market starts prior to 10 a.m. EST and since there is no officially sanctioned quotation dissemination service, the over-the-counter market for debt securities as reflected by any widely recognized quotation dissemination system or service will be utilized for the purpose of determining if quotations for an underlying debt security are available within a reasonable time after the recognized opening time prescribed by the custom of the primary market.

Rule 951—Premium Bids and Offers

Bond option premiums will be expressed as a percent of par value represented by the contract, which will have a unit of trading of $100,000 principal amount.

Rule 952—Minimum Fractional Changes

The minimum fractional change on bond option contracts will, like bonds, normally be expressed in 1/32nds of 1 percent.

Rule 958—Options Transactions of Registered Traders

Rule 958 prescribes maximum spread limits for bids and offers made by Registered Traders on bond option contracts. To conform with the proposed revisions of Rules 951 and 952, the spread limits for bond options are set forth on a percentage of par value basis.

Spread differential:	*Price of option contract*
1/32nd of 1 percent	2/32nds of 1 percent or less.
2/32nds of 1 percent	Higher than 2/32nds of 1 percent but not more than 1 percent.
3/32nds of 1 percent	Over 1 percent but less than 2 percent.
4/32nds of 1 percent	2 percent or more.

Rule 981—Allocation of Exercise Assignment Notices

A block size with respect to options on underlying debt securities will be 100 or more contracts, the equivalent of $10 million or more in principal amount.

Rule 462(d)—Minimum Margins

A new sub-paragraph (iii) has been added to 462(d)(2)(C) to prescribe specific minimum margins in respect of customer uncovered short option positions on Government guaranteed debt securities. In essence the Exchange is proposing that options on such issues with a remaining term to maturity of ten (10) years or less require margin of 3 percent of the market value of the underlying debt security, and that options on such issues with a remaining term to maturity of greater than ten (10) years require margin of 5 percent of the market value of the underlying debt security. In each instance a mark-to-market of plus any in-the-money amount or minus any out-of-the-money amount will be required. The minimum margin required on each such put or call is to be not less than $500.

In most respects, where Rule 462(d)2 and the sub-paragraphs thereto are applicable to options on debt securities, or where distinctions between stocks and debt securities or bonds are necessary, such changes have also been incorporated by addition of the words "securities," "stocks," or "bonds."

Exchange's Statement of Purpose and Basis

The purpose and basis of the proposed rule changes are as follows:

The proposed rule changes are designed to provide the self-regulatory framework for the trading of put and call options on debt securities on the Amex. Many of the proposed changes are of a technical nature and merely broaden the applicability of the rules to options on securities (stocks and debt instruments) rather than options on stocks alone. Other changes are proposed in order to reflect in the rules, without compromise to the general self-regulatory principles embodied therein, the specific nuances, terms and trading standards and practices adopted over the years by the fixed-income securities trading and investing community. Such changes are necessary because the specific requirements developed to govern the listing, maintenance and regulation of trading in options on stocks are not applicable to options on debt securities.

The proposed amendments are based upon Section 9(b) and Section 6(b) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975. The Amex believes that the expansion of its options program to include put and call options on debt securities is consistent with the protection of investors and is in the public interest.

Since it began operating in January 1975, the Amex's call options market has grown and matured. The improved liquidity and efficiency of this market has provided investors with a versatile new investment vehicle and has enabled investors to implement their investment objectives with increasing ease.

The call option program has effectively demonstrated that options serve an important role in transferring risk and providing opportunities for investors. To date, the risks and opportunities of options have been applied primarily to common stocks. However, these qualities exist in other forms of investments as well, including fixed-income securities. Over the last few years, investors large and small have become more aware of fixed-income securities primarily because the performance of stock prices proved to be volatile and often disappointing, and interest rates during the last few years have, at times, offered attractive returns relative to alternative forms of investment.

It is believed that an Amex listed options program on debt securities will meet a public as well as an industry need and provide investors, speculators and users of the fixed-income securities markets with a means of redistributing risks and new investment opportunities. Also, public and professional interest in this trading vehicle is likely to be counter-cyclic with equity trading, aiding member firms and the Exchange to smooth out trading volume fluctuations.

Amex-listed options on debt securities would be standardized as to expiration date and exercise price, similar to the market in all options on stocks. Investors would have a secondary market to close out options previously purchased or written, and prices would be determined in an auction market environment on the Exchange floor.

Options trading on debt securities on the Amex will be subject to the same types of controls now in place with respect to the trading of calls. The Amex intends to extend to debt security options trading all of the regulatory safeguards presently applicable to calls on stocks. Thus, Amex's position and exercise limits will apply to debt security options, just as they now apply to calls. Amex's restrictions on out-of-the-money options will be applied to debt security options in the same manner as they are applied to calls. The same stringent suitability standard presently applicable to uncovered short calls will be applied to debt

security option writing. Amex's prospectus delivery requirement will apply equally with respect to options on debt securities as they do for stock options.

The trading of debt security options on the Amex will be conducted in the same manner as calls are presently traded and specialists and options traders will have responsibilities and obligations with respect to the debt security options market similar to those presently in effect with respect to the stock-options market.

The Amex believes that the addition of debt security options trading under this proposed regulatory framework will be in the public interest.

Prior to the Amex Board of Governor's endorsement of trading options on debt securities, the Amex solicited and received comments from a representative sample of its membership engaged in options transactions on the Amex. Also surveyed were a number of dealers and other institutional participants in the fixed-income securities market, the Department of the Treasury and the Federal Reserve Board. These comments are summarized in the "Amex Plan for Trading Options on Fixed-Income Securities" submitted to the Commission staff on December 1, 1976, which is attached to the 19b-4 filing as Exhibit 2.

The Amex has determined that the proposed amendments contained therein will not impose a burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change, or

(B) Institute proceedings to determine whether the proposed Rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15192 Filed 5-26-77;8:45 am]

[Rel. No. 20045; 70-6014]

APPALACHIAN POWER CO. AND AMERICAN ELECTRIC POWER CO., INC.

Proposed Issuance and Sale of Common Stock by Subsidiary to Holding Company

MAY 23, 1977.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding company, and Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, its electric utility subsidiary company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(b), 7, 9(a) and 10 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell to AEP, and AEP proposes to purchase from Appalachian, from time to time prior to January 1, 1978, a total of 1,250,000 shares of Appalachian common stock, no par value, at a price of $40 per share, or a total consideration of $50,000,000. It is stated that Appalachian will apply the cash proceeds toward the cost of its construction program for 1977, which is estimated at $277,000,000, and to retire short-term debt. It is anticipated that AEP will obtain all, or substantially all, of the $50,000,000 which it proposes to invest in Appalachian from the net proceeds of an unwritten rights offering of AEP common stock which is the subject of a separate filing (File No. 70-6000).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,500, including legal fees of $2,000. It is stated that the State Corporation Commission of Virginia, the Public Service Commission of Tennessee, and the Public Service Commission of West Virginia have jurisdiction over the proposed transaction and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 15, 1977, 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-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 upon the applicants-declarants at the above stated addresses, 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-declaration, as filed or as it may be amended, may be granted and 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 any notices and orders issued 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15177 Filed 5-26-77;8:45 am]

[Release No. 20042, 70-6009]

ARKANSAS POWER & LIGHT CO.

Proposed Sale of Partial Interest in Coal-Fired Electric Generating Facility

MAY 20, 1977.

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder 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.

AP&L proposes to sell to Arkansas Electric Cooperative Corporation ("AECC"), an electric cooperative corporation organized and existing under the laws of the State of Arkansas, a 35 percent undivided ownership interest as tenant in common in two 700 MW nominally rated coal-fired generating units known as White Bluff Units Nos. 1 and 2 ("White Bluff Plant") to be located near Redfield, in Jefferson County, Arkansas and originally planned to be constructed and owned by AP&L. AP&L will obtain from the corporate trustee under its Mortgage and Deed of Trust, dated as of October 1, 1944, as supplemented, a release of such undivided ownership interest in the White Bluff Plant as will be sold to AECC and will retain a 65 percent undivided ownership interest in such Plant.

AP&L's sale of such partial interest in the White Bluff Plant will be governed by the terms of an ownership agreement ("Ownership Agreement") between AP&L and AECC. The Ownership Agreement will provide that AECC is to pay AP&L an amount equal to 35 percent of AP&L's cost incurred in the construction of the White Bluff Plant (AECC's share estimated as of May 31, 1977, to be $47,680,000) plus 35 percent of AP&L's cost of money to finance such construction

(AECC's share estimated as of May 31, 1977, to be $7,535,000).

After the closing, AP&L is to complete the construction of the White Bluff Plant on its own behalf and as agent for AECC, and AECC is to make monthly payments in advance to AP&L in respect of 35 percent of all additional costs to be incurred in the construction and completion of the White Bluff Plant. The Ownership Agreement will further provide that the respective investments of AP&L and AECC in the construction of the White Bluff Plant, and consequently the respective undivided ownership interests of each party, may be adjusted under certain circumstances due to (1) the availability of an equivalent amount of more economical energy to AP&L from other sources, (2) AP&L's not requiring the capacity and energy from the White Bluff Plant, or (3) the inability of either AP&L or AECC to finance its respective investment in the continuing construction of the White Bluff Plant.

In addition to the above payments to be made by AECC to AP&L with respect to its acquisition of an undivided ownership interest in the White Bluff Plant, and in recognition of the fact that AP&L has incurred certain overhead costs and has developed expertise in the construction, operation and maintenance of the White Bluff Plant to the benefit of AECC, AECC is to pay to AP&L $875,000 at the closing and an additional $875,000 no later than January 2, 1978. In the event that AECC is unable to obtain, within two years from the date of closing, permanent financing by means of a long-term loan guaranteed by the Rural Electrification Administration, AP&L will be required to repurchase AECC's interest in the White Bluff Plant.

AP&L expects to apply the total proceeds of the sale, estimated not to exceed $59,000,000, to the repayment of short-term indebtedness incurred to finance its construction program.

AP&L will also enter into an operating agreement with AECC ("Operating Agreement") providing for the sole operation and maintenance of the White Bluff Plant by AP&L. The Operating Agreement AECC will be responsible for that portion of all costs of operation and maintenance, other than fuel costs, in accordance with its ownership interest. AECC will also make payments to AP&L for fuel costs for all electricity generated at the White Bluff Plant for its account. The Operating Agreement will further provide for the sharing by AECC of certain other overhead, administrative and general expenses and costs to be incurred by AP&L in operating and maintaining the White Bluff Plant. The Operating Agreement will terminate on the earlier of the date the White Bluff Plant is retired from commercial service or December 31, 2015, or on such other date as is agreed to by the parties thereto.

In addition to the above described transaction, AP&L has made similar arrangements for the sale to City Water and Light Plant of the City of Jonesboro, Jonesboro, Arkansas ("CWL"), of a 5 percent undivided ownership interest as tenant in common in the White Bluff plant. Assuming that the closing of such sale were to take place on August 1,1977, AP&L would expect to receive approximately $8,831,000 from CWL in respect of the purchase of such undivided ownership interest. Such sale and subsequent operation of the White Bluff Plant will be governed by the same Ownership and Operating Agreements which will govern the relationship of AP&L and AECC with respect to the White Bluff Plant. The sale to CWL is excepted from the provisions of the Act by reason of Rule 44(b)(3) promulgated thereunder.

It is stated that a statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The Arkansas Public Service Commission has jurisdiction over the proposed transaction. It is stated that no other state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 14, 1977, 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 the filing 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 upon the declarants 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 amended or as it may be further amended, may be granted and 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 any notices or orders issued 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15178 Filed 5-26-77;8:45 am]

[File Nos. 81-228; 3-5153]

ARWOOD CORP.

Application and Opportunity for Hearing

MAY 11, 1977.

Notice is hereby given that Arwood Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from the provisons of Section 15(d) of that Act, insofar as such provisions would require the Applicant to file reports on Form 10-Q for the fiscal quarters ended June 30 and September 30, 1976 and Form 10-K for the fiscal year ended December 31, 1976.

Section 15(d) provides that each issuer that has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of the 1934 Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. On April 29, 1976 Applicant became a wholly-owned subsidiary of Interlake, Inc. ("Interlake") through the merger of an Interlake subsidiary into Applicant.

2. Interlake files reports with the Commission under Section 13 of the 1934 Act.

3. Prior to the merger, Applicant had common stock registered pursuant to Section 12(b) of the 1934 Act and filed reports under Sections 13 and 15(d) of that Act.

4. As a result of the merger, Applicant's only publicly-held securities are its Convertible Debentures held of record by about 213 persons. There is no significant trading in the debentures.

5. The Applicant will undertake to file information on Form 8-K with respect to any change in its condition, financial or otherwise, which would have a material effect on the rights of the debentureholders for the period of time during which the Applicant would continue to file 1934 Act reports if this Application were not granted.

In the absence of an exemption, Applicant would be required to file reports on Form 10-Q for the fiscal quarters ended June 30 and September 30, 1976 and Form 10-K for the fiscal year ended December 31, 1976. Applicant believes that its request for an order exempting it from the provisions of Section 15(d) of the 1934 Act is appropriate in view of the fact that Applicant is now a wholly-owned subsidiary, and its only publicly held securities are the Debentures, held of record by about 213 persons. Applicant believes that the time, effort and expense involved in the preparation of the periodic reports for the interim period, before the obligation to file such reports is suspended pursuant to Rule 15d-6, would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than June 6, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W. Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15179 Filed 5-26-77;8:45 am]

[Release No. 13551]

BRADFORD NATIONAL CLEARING CORP.

Application for Exemption From Registration as a Securities Information Processor; Order Granting

MAY 19, 1977.

Section 11A(b)(1) of the Securities Exchange Act of 1934 (the "Act") provides for registration with the Commission of those securities information processors which perform the functions of a securities information processor on an exclusive basis on behalf of a national securities exchange or registered securities association. That section also authorizes the Commission to exempt, by rule or order, any securities information processor from any provision of Section 11A or the rules and regulations thereunder, if the Commission finds that "such exemption is consistent with the public interest, the protection of investors, and the purposes of [Section 11A], including the maintenance of fair and orderly markets in securities and the removal of impediments to and perfection of the mechanism of a national market system."

On February 16, 1977, Bradford National Clearing Corporation ("Bradford") and its parent, Bradford National Corporation, entered into a facilities management agreement ("Agreement") with the Pacific Stock Exchange ("PSE") and its wholly-owned subsidiary, P.C. Service Corporation ("PCSC"), pursuant to which Bradford undertook to perform, among other things, the securities information processing services performed at that time by PCSC on an exclusive basis for PSE. Those services include the automated collection and processing of trade data transmitted by PSE on the Los Angeles and San Francisco floor of the PSE and re-transmission of the trade data in sequential order to the Securities Industry Automation Corporation for inclusion on the Consolidated Tape.[1]

On January 22, 1976, the Commission granted PCSC an exemption from registration as a securities information processor,[2] and by its letter dated February 4, 1977, Bradford requested a similar exemption. Pending determination of its application for permanent exemption, the Commission, in Securities Exchange Act Release No. 13278 (February 17, 1977)[3] granted Bradford a 90-day temporary exemption from registration. Notice of Bradford's application for exemption was published for public comment;[4] however, no comments were received.

The Commission finds that the exemption of Bradford from registration with respect to its performance of the securities information processing services heretofore performed by PCSC is appropriate and consistent with the public interest, the protection of investors, and the purposes of Section 11A. Such exemption is conditional upon Bradford's compliance with Sections 17 (a) and (b) of the Act (concerning the making, keeping and filing of prescribed records and authorization for Commission inspection of records kept). As a further condition of this exemption, Bradford shall be subject to the direction and control of PCSC with respect to compliance with the requirements of Section 11A(b)(5) of the Act and any rules thereunder concerning any notice of prohibition or limitation of access to securities information processing services performed by Bradford on behalf of PCSC.

Accordingly, it is ordered, pursuant to Section 11A(b)(1) of the Act, that Bradford, with respect to the services and upon the conditions stated herein, is hereby exempt from registration as a securities information processor.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15180 Filed 5-26-77;8:45 am]

[1] Pursuant to the "Plan submitted pursuant to Rule 17a-15 of the Securities and Exchange Commission under Securities Exchange Act of 1934" (the "Plan"), last sale transaction reports in exchange-listed securities which qualify under the Plan are disseminated by the Consolidated Tape Association on Network A or B of the Consolidated Tape. See Securities Exchange Act Release No. 10787 (May 10, 1974).

[2] Securities Exchange Act Release No. 12036 (January 22, 1976), 41 FR 4369 (January 29, 1976), 8 SEC Docket 1100 (February 3, 1976).

[3] 11 SEC Docket 1749 (March 1, 1977).

[4] Securities Exchange Act Release No. 13386 (March 17, 1977), 42 FR 15995 (March 24, 1977), 11 SEC Docket 2010 (March 22, 1977).

[Rel. No. 20033; 70-6006]

CENTRAL POWER & LIGHT CO. AND PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Charter Amendments and Order Authorizing Solicitation of Proxies in Connection Therewith

MAY 20, 1977.

Notice is hereby given that Central Power and Light Company ("CP&L") P.O. Box 2121, Corpus Christi, Texas 78403, and Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, electric utility subsidiaries of Central and South West Corporation ("CSW"), a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L and PSO each propose to amend their respective Articles of Incorporation ("Articles") so as to modify the minimum deductions required in computing "Common Stock equity". Both CP&L and PSO state that, at present, payment of common stock dividends are limited, so long as any Preferred Stock is outstanding, payable in any 12-month period ending with and including the date on which the particular dividend is proposed to be paid (a) to 75 percent of the net income available for Common Stock dividends for the 12 months ending with 60 days next preceding the month in which such dividend is proposed to be declared if the ratio of "Common Stock equity" to total capitalization on the last day of a calendar month ending within such 60-day period is or would be 20 percent or more but less than 25 percent and (b) to 50 percent of such net income if such ratio is or would be less than 20 percent plus any amounts that could have been declared as dividends pursuant to such limitations, but which were not actually declared, during any previous year or years. If such ratio is 25 percent or more, the total amount of all Common Stock dividends may not exceed a sum which would reduce such ratio below 25 percent, except to the extent permitted by clauses (a) or (b) above. At December 31, 1976, such ratio was about 45.4 percent for CP&L and 39.6 percent for PSO.

For this purpose "Common Stock equity" is defined generally as the par value of, and premiums in respect of, all outstanding shares of stock ranking junior to Preferred Stock as to dividends or assets and the company's surplus (retained earnings) subject to certain deductions. One such deduction is the excess, during a stated period, of an amount equal to 15 percent of gross operating revenues (less non-operating income, revenues derived directly from properties leased to the company and the cost of power purchased for exchange or resale) over the aggregate amount charged or provided on the books for mainte-

nance, repairs and depreciation of property for such period.

CP&L and PSO's respective Boards have proposed that the Articles be amended to provide that the foregoing deduction remain in effect for the period through December 31, 1976, but that for all periods after that date there be required to be deducted annually instead the excess, if any, of an aggregate amount equal to 3.2 percent and 3.0 percent respectively (or such other percentage as may upon application be approved by this Commission) of the arithmetical average of the amount of depreciable property, bondable under the Indenture, owned by each company during each calendar year and portion thereof after January 1, 1977, over the aggregate amount charged or provided on the books for depreciation, retirements, renewals and replacements and/or amortization for such periods. It should be noted that the provision for the minimum deduction for periods after December 31, 1976, would relate solely to depreciation, rather than maintenance, repairs and depreciation.

Both CP&L and PSO state that while present projections indicate no restrictions on customary dividend payments are likely as a result of this test, the inflation of gross operating revenues resulting from recovery of higher costs of fuel could make it difficult, as time goes on, for them to maintain the required imputed capitalization ratios and thereby avoid the operation of the limitations on declaration of Common Stock dividends.

CP&L and PSO do not intend, if the amendment is adopted, to modify, because of such adoption, its traditional practice with resepct to the amount of Common Stock dividends declared. Each company states that it has traditionally paid approximately two-thirds of its earnings in dividends, but may modify this ratio from time to time. The respective Indentures contains various limitations on Common Stock dividends based on operating revenues which will not be affected by this amendment to the Articles. These limitations may at various times impose limitations on the ability of both CP&L and PSO to pay dividends even when such payment is permitted under the proposed amendment to the Articles.

Secondly, the respective Articles presently prohibit, without the approval of the holders of a majority of Preferred Stock outstanding, the issuance of additional Preferred Stock unless the company's Common Stock equity is not less than the aggregate amount payable upon liquidation in respect of all shares of outstanding Preferred Stock. The definition of Common Stock equity for purposes of the Common Stock dividend limitation set forth above applies as well with resepct to the limitations on issuing Preferred Stock.

While it is unlikely that the limitation referred to in this paragraph will ever limit the issuance of Preferred Stock because of the limited amount of outstanding Preferred Stock, the reasons previously set forth for changing the deduction apply equally to this proposed change. The respective Boards therefore have proposed that the Articles be amended so that the amended definition of Common Stock equity used above be permitted to apply also for the purpose set forth in this pargaraph. The Boards are also of the opinion that it is desirable to have the same definition of "Common Stock equity" apply to all sections of the Articles, rather than have several different definitions for the same term.

Finally, CP&L and PSO's respective Articles presently provide, that if earned surplus is considered to determine that the liquidation amount for issuing Preferred Stock is sufficient, dividends on common stock cannot be paid if such payment would result in reducing Common Stock equity to an amount less than the aggregate amount payable upon liqundation in respect to all outstanding Preferred Stock. Common Stock equity for this purpose is defined in the same manner as it is defined for purposes of the Common Stock dividend limitation set forth above. While it is again unlikely that the limitation referred to in this paragraph wil ever restrict the payment of dividends on Common Stock, the reasons for changing the deduction set forth above apply equally to this proposed change. The respective Boards therefore have proposed that the Articles be amended so that the proposed amended definition of Common Stock equity, above, be permitted to apply here too.

Both CP&L and PSO state that they have previously amended their Articles, pursuant to Commission authorization, (see HCAR No. 19271 and 19572 respectively), to change the earnings test that must be satisfied as a precondition for the issuance of Preferred Stock without approval of the holders of a majority of Preferred Stock then outstanding, eliminating from that computation the 15 percent maintenance, repairs and renewals deduction and substituting for it a deduction equal to 3.2 percent and 3.0 percent respectively, annually, of the amount of their depreciable bondable property. They now seek to make analogous modifications here.

CP&L proposes to call a special meeting of its shareholders (both Common Stock and Preferred Stock) to be held on or about July 5, 1977 to consider and vote upon the adoption of the proposed amendments and to solicit proxies in connection therewith.

PSO proposes to call a special meeting of its shareholders (both Common Stock and Preferred Stock) to be held on or about July 19, 1977 to consider and vote upon the adoption of the proposed amendments and to solicit proxies in connection therewith.

Each share of outstanding Preferred Stock of CP&L is entitled to one vote with respect to each of the proposed CP&L amendments. Each share of outstanding Preferred Stock of PSO is entitled to 10 votes with respect to each of the proposed PSO amendments. The voting requirements under the Articles and Texas law for CP&L require, for passage, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock (voting as a class) entitled to vote at the meeting and the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock and Common Stock (voting together) entitled to vote at the meeting. Central and South West Corporation is the holder of all 6,755,535 shares of CP&L's Common Stock and has indicated its intention to vote such shares in favor of all the proposed amendments.

The voting requirements under the Articles and Oklahoma law for PSO require, for passage, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock (voting as a class) entitled to vote at the meeting and the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock and Common Stock (voting together) entitled to vote at the meeting. Central and South West Corporation is the holder of all 10,482,000 shares of PSO's Common Stock and has indicated its intention to vote such shares in favor of all the proposed amendments.

Fees and expenses to be incurred in connection with the proposed transaction are estimated at $5,000 for each of CP&L and PSO including in each case $1,500 in counsel fees. No state commission and no federal commission other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1977, 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 upon the declarants of the above-stated addresses, 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes to solicitation of proxies from CP&L and PSO's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered That the declaration regarding the proposed solicitation of

proxies of CP&L and PSO's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-15181 Filed 5-26-75;8:45 am]

[Rel. No. 9774; 812-4119]

FUND FOR MUTUAL DEPOSITORIES, INC., ET AL.

Filing of Application for Order

MAY 20, 1977.

Notice is hereby given that Fund for Mutual Depositors, Inc. ("FMD"), 200 Park Avenue, New York, New York 10017, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), Mutual Depositors Service Corp. ("Service Corp.") 200 Park Ave., New York, New York 10017, and Roger F. Murray, 2nd ("Murray") Columbia University, Graduate School of Business, 625 Uris Hall, New York, New York 10027, (collectively, the "Applicants"), filed an application on April 5, 1977, and an amendment thereto on April 28, 1977, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission (1) permitting an agreement ("Supplemental Agreement") whereby Service Corp. will indemnify FMD up to $20,000 for certain presently unascertained liabilities, and (2) permitting Murray to provide certain required collateral to secure FMD's indemnity of Scudder, Stevens & Clark Common Stock Fund, Inc. ("Scudder"), an open-end, diversified management investment company registered under the Act, under an Agreement and Plan of Reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that FMD was organized in 1969 by individual savings bank officers and trustees for the purpose of making available a low-cost mutual fund to people who already have the primary financial protection of savings bank deposits. Service Corp., organized and operated solely for the purpose of paying certain expenses of FMD, has as its sole stockholder Central Industry Fund, Inc., a nonstock corporation whose members are mutual savings banks and the National Association of Mutual Savings Banks. Murray has been a director and President of both FMD and Service Corp. for the last five years. Of the remaining four directors of Service Corp., two are directors and two are officers of FMD. Murray and the other directors or officers of FMD or Service Corp. have never received compensation from FMD or Service Corp. for their services as such.

The application states that under an agreement with Service Corp. ("Service Corp. Agreement"), FMD bears the cost of its stock transfer, custodian, accounting and legal services and any expenses incurred for taxes, brokerage commissions, or the purchase or sale of FMD's assets, as well as the investment advisory fee payable to FMD's investment adviser, Smith Barney, Harris Upham & Co. Incorporated. The remainder of FMD's expenses, including but not limited to FMD's organization expenses, are paid by Service Corp. In return, the agreement obligates FMD to reimburse Service Corp. for the Fund's organization expenses and to pay Service Corp. an annual fee equal to .6 percent of the first $20,000,000 of the Fund's average daily net assets, .5 percent of the next $20,000,000 of such net assets and .4 percent of such net assets in excess of $40,000,000.

Applicants state that the fees paid by FMD have been insufficient to cover Service Corp.'s obligations under its agreement with FMD. As of December 31, 1976, unrepaid organization expenses of FMD amounted to $39,058, and Service Corp. had a cumulative deficit of approximately $219,037. Applicants further state that to meet its obligations, Service Corp. borrowed an aggregate of $300,000 from certain banks by issuing two series of notes in 1969 and 1974 ("Notes"): $65,000 principal amount of 7⅛ percent notes maturing June 30, 1984, and $235,000 principal amount of 9 percent notes maturing December 31, 1989. As of March 1, 1977, (i) no lending bank held more than $15,000 of Notes; (ii) the lending banks included banks which held an aggregate of approximately 405,334 FMD shares; (iii) three of the lending banks own more than 5 percent but less than 10 percent of the outstanding shares of FMD; and (iv) four members of the Board of Directors of FMD were trustees of lending banks holding an aggregate of $50,000 of Notes and approximately 75,398 FMD shares. After the Board of Directors of FMD voted in principle on March 18, 1977, to recommend the sale of its assets to Scudder, Murray purchased the $15,000 of Notes held by one of the affiliated lending banks for the principal amount thereof plus interest accrued since January 1, 1977. This purchase was made pursuant to an undertaking given by Murray just prior to his retirement as a trustee of that affiliated lending bank in January, 1977, after 27 years as a member of its Board of Trustees.

In order to relieve Service Corp. of the burden of some of its expenses, at the annual meeting in the fall of 1975 FMD shareholders were asked to approve an amendment to the Service Corp. Agreement under which FMD would assume the kind of expenses normally carried by other investment companies (see previous paragraph). This amendment became effective on November 1, 1975. Under the amended agreement with FMD, Service Corp. has operated at a profit since November 1, 1975, and during the six months ended December 31, 1976, realized a profit of $14,050. Under the terms of the Service Corp. Agreement, Service Corp. has the right to retain any profits realized until its accumulated deficit has been eliminated. Any profit realized by Service Corp. thereafter would be credited to the fee payable by FMD, and would therefore redound to the benefit of FMD shareholders. If the proposed exchange with Scudder is not consummated, on the basis of FMD's current net assets it is estimated that the fee payable to Service Corp. would exceed its expenses, and that Service Corp. would continue to be profitable. If FMD's net assets increase, Service Corp.'s net operating profit and the amount available for repayment of the Notes would also increase.

The Application also states that under the Service Corp. Agreement, if FMD's shareholders approve the consolidation of FMD with another open-end diversified management investment company, FMD may terminate the Service Corp. Agreement with no further obligation to Service Corp., except for the portion of the unreimbursed organization expenses and fee accrued to the date of termination.

FMD proposes to enter into an Agreement with Scudder, consummation of which is subject to the approval of its shareholders, the granting of this Application and other conditions. The Agreement provides for the transfer of substantially all of the assets of FMD to Scudder in exchange for shares of capital stock of Scudder on the basis of the value of said assets on the business day preceding the Closing Date as defined in the Agreement. Applicants state that there is no connection between FMD and Scudder's Adviser; no affiliated person of FMD is an affiliated person of Scudder or Scudder's Adviser; and no affiliated person of Scudder is an affiliated person of FMD. If the Agreement is approved by the shareholders of FMD and is consummated, FMD will be dissolved as soon as practicable pursuant to Article 10 of the New York Business Corporation Law. Applicants further state that the effect of the ultimate dissolution of FMD on FMD shareholders will be the distribution to them of the shares of Scudder Capital Stock received by FMD in exchange for the transferred assets and the subsequent distribution to them of all assets, if any, remaining after all FMD's liabilities have been paid and its dissolution completed. FMD does not anticipate that its shareholders will receive any distribution other than the shares of Scudder Capital Stock.

Applicants also state that under the terms of the Agreement with Scudder, FMD is obligated to bear its expenses in connection with the proposed reorganization. FMD estimates that its reorganization expenses may approximate $60,000, but will not exceed $65,000. Under the existing Service Corp. Agreement, Service Corp. would not be liable for such expenses. As part of the proposed reorganization, Scudder's Adviser (Scudder Stevens & Clark) has agreed to pay to FMD at the Closing Date the

sum of $65,000 for expenses incurred by FMD in connection with the proposed reorganization and other liabilities of FMD. If the proposed reorganization is not consummated, FMD will not be reimbursed for its expenses in connection with the proposed reorganization. Under the Agreement, FMD has the right to withhold from the assets transferred to Scudder cash ("Retained Cash") in an amount not to exceed $30,000, sufficient to pay known and contingent liabilities accrued as of the Closing Date, and its anticipated expenses for dissolving and winding up its affairs. It is anticipated that such liabilities will accrue solely from normal expenses of operation which, under the existing Service Corp. Agreement, would be payable by FMD (see above analysis for a description of such expenses). These known and contingent liabilities specifically will not include expenses incurred by FMD in connection with the proposed reorganization. The exact amount of Retained Cash to be set aside cannot be stated at this time, and will be determined shortly before the Closing Date. Since FMD is already obligated to bear such expenses, withholding cash for such known and contingent liabilities will have no adverse effect on the calculation of FMD's net asset value for purposes of the exchange under the Agreement with Scudder. If the Retained Cash amount is not sufficient to pay the above known and contingent liabilities, they will be paid first from any excess of the $65,000 contributed by Scudder's Advisor over the amount of the reorganization expenses, and thereafter from a $20,000 indemnity to be provided by Service Corp. under the Supplemental Agreement.

The application states that the Agreement provides that all representations and warranties made thereunder shall terminate one year after the Closing Date, and requires the deposit in escrow, as security for FMD's obligations, representations and warranties, of the number of shares of Scudder Capital Stock (or equivalent value) distributed by FMD upon the reorganization in exchange for not less than 9,500 FMD shares. Scudder has agreed that such security shall constitute its exclusive remedy for any such breaches by FMD. Murray has agreed to personally provide the required security for FMD.

Under Section 719 of the New York Business Corporation Law, directors of a corporation who authorize the distribution of its assets to shareholders after dissolution without adequately providing for all known liabilities of the corporation could be liable to the corporation for the benefit of its creditors. In addition to such known liabilities, FMD would be liable for any unknown liabilities represented by valid claims filed prior to the expiration of a period of six months ("Claims Period") following publication of a notice under Section 1007 of the Business Corporation Law requiring creditors to present their claims in writing. Applicants state that in lieu of setting aside an additional reserve for such unknown liabilities, FMD will, subject to the approval of its shareholders, enter into a Supplemental Agreement with Service Corp. pursuant to which Service Corp. will agree, if FMD's liabilities during the Claims Period exceed its assets, to indemnify FMD up to $20,000 for liabilities which are not known by FMD on the Closing Date. This $20,000 indemnity will also be applicable to any known and contingent liabilities of FMD that cannot be met by the Retained Cash account to be established by FMD. In consideration of Service Corp.'s agreement to indemnify FMD, the Supplemental Agreement provides that, at the expiration of the Claims Period, FMD will pay to Service Corp. any excess of the $65,000 received from Scudder's Adviser for FMD's reorganization expenses over the sum of (1) FMD's expenses fairly allocable to the reorganization and (2) any other liabilities of FMD, to the extent that the Retained Cash account shall be insufficient for the payment thereof. Under no circumstances will any portion of the Retained Cash account be paid to Service Corp. or any other affiliated person of FMD in connection with the proposed reorganization.

Applicants state that as soon as practicable following the Closing Date, Service Corp. will dissolve. In addition, upon the Closing Date, Service Corp. will be required under the terms of the Service Corp. Agreement with FMD, to take as a loss the unrepaid organization expenses of FMD amounting to approximately $32,180, thereby substantially reducing the present asset coverage of the Notes. Applicants further state that Service Corp.'s assets will be insufficient, after the payment of current liabilities in accordance with its existing agreement with FMD, to pay the principal and interest of its outstanding Notes. It is estimated that the amount available for the payment of such Notes, excluding any payment which Service Corp. will make to, or receive from, FMD pursuant to the Supplemental Agreement, will not exceed $60,000. The Service Corp. Noteholders have indicated that they will agree that, if the Agreement is consummated, Service Corp. may liquidate its obligations under the Notes by making a pro rata distribution to all Noteholders of the amount remaining after payment of Service Corp.'s current liabilities. This would permit a pro rata distribution to the Noteholders of approximately twenty cents for each dollar of the outstanding principal amount of the Notes. As a holder of $15,000 of the Notes, Murray will participate in such distribution to the same extent as all the other Noteholders. Each Noteholder, including Murray, will therefore incur a loss equal to the difference between (1) the face amount of its Notes and the interest accrued thereon since January 1, 1977, and (2) the amount received from Service Corp. in liquidation of its obligation on the Notes.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under Section 2(a)(3) of the Act, any officer or director of an investment company, or any person controlled by an investment company is an affiliated person of such investment company. Service Corp. may be considered under the effective control of FMD, and therefore to be an affiliated person of FMD, because (1) Service Corp. was organized solely for the purpose of paying certain expenses of FMD, (2) the Board of Directors of FMD, under the terms of the Service Corp. Agreement, reviews and approves the reasonableness of Service Corp.'s expenses, and (3) all of the directors of Service Corp. are either directors or officers of FMD. The Supplemental Agreement between FMD and Service Corp. may therefore result in an affiliate of an investment company participating in, or effecting a transaction in connection with, a joint arrangement in which the investment company is a participant. Moreover, because Murray is an officer and director of FMD, he is an affiliated person of FMD; and his personally providing the required security for FMD in furtherance of the Agreement, in conjunction with his status as a holder of the Notes and being directly affected as such by the Agreement, could result in an affiliate of an investment company participating in, or effecting a transaction in connection with, a joint arrangement in which the investment company is a participant.

Applicants submit that, but for the arrangements under the Supplemental Agreement with Service Corp., FMD would find it advisable to withhold a reserve for liabilities not known on the Closing Date. Further, if the expenses incurred by FMD in effecting the proposed reorganization are not less than the estimated $60,000 and no unknown liabilities arise during the Claims Period,

no more than $5,000 will be payable to Service Corp. by FMD under the Supplemental Agreement. If, on the other hand, unknown liabilities arise during the Claims Period, or the Retained Cash account set aside to pay known and contingent liabilities of FMD is not sufficient to meet such liabilities, Service Corp. may, depending on the amount thereof, receive no payment from FMD and be obligated to pay FMD up to $20,000 pursuant to its indemnification of FMD under the Supplemental Agreement. In any event, consummation of the Agreement will result in a substantial loss to all the Service Corp. Noteholders, including Murray. For these reasons, the Board of Directors of FMD, excluding those directors who are also directors of Service Corp., unanimously approved the Supplemental Agreement and recommended its adoption by the FMD shareholders.

Applicants also represent that by personally providing the required collateral to secure FMD's agreement with Scudder, Murray cannot receive any benefit not available to the shareholders of FMD, and may incur additional losses. Moreover, even if Service Corp. receives approximately $5,000 under the Supplemental Agreement with FMD, the proposed reorganization will result in an immediate loss to the holders of the Notes, including Murray, equal to the interest accrued on the Notes since January 1, 1977, and approximately 78 percent of the principal value of the Notes. By contrast, if the reorganization were not consummated, it is anticipated that Service Corp. could continue to operate at a profit that would result in a reduction of its accumulated deficit and a corresponding increase in the amount available for the payment of the Notes. In this sense, consummation of the proposed reorganization will be disadvantageous to the holders of the Notes, including Murray.

For the reasons outlined above, Applicants submit that the granting of the Application and the issuance of such an order would be consistent with the provisions, policies and purposes of the Act and that, to the extent that the participation of FMD is different from that of Service Corp. or Murray, it is more advantageous to FMD. Accordingly, Applicants request an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder (1) permitting the Supplemental Agreement whereby Service Corp. will indemnify FMD up to $20,000 for certain presently unascertained liabilities, and (2) permitting Murray to provide certain required collateral to secure FMD's indemnity of Scudder under the Agreement.

Notice is further given that any interested person may, not later than June 14, 1977, 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 reasons 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses 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. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15182 Filed 5-26-77;8:45 am]

[Rel. No. 9773; 812-4121]

KEYSTONE CUSTODIAN FUNDS, INC., ET AL.

Filing of Application for Order Exempting Proposed Combination of Two Funds

MAY 17, 1977.

Notice is hereby given that Keystone Custodian Funds, Inc. ("Keystone"), a Delaware corporation, as Trustee of Keystone Custodian Fund, Series S-1 (the "S-1 Fund"), and Keystone Custodian Fund, Series S-2 (the "S-2 Fund") (Keystone and the S-1 and S-2 Funds are hereafter sometimes referred to as "Applicants"), 99 High Street, Boston, Massachusetts 02104, filed an application on April 8, 1977, and an amendment thereto on May 13, 1977, pursuant to Section 17(b) of the Investment Company Act of 1940 (the "Act") for an order exempting a proposed combination of the S-1 Fund and the S-2 Fund (the "Funds") pursuant to an Agreement and Plan of Reorganization (the "Plan") from the provisions of Sections 17(a) (1) and (2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Plan provides that the S-2 Fund will transfer all of its assets to the S-1 Fund in exchange for the assumption by the S-1 Fund of all of the liabilities of the S-2 Fund and for shares of the S-1 Fund having an aggregate net asset value equal to the net asset value of the assets and liabilities of the S-2 Fund transferred to it. On or prior to the Valuation Date, as defined in the Plan, the Funds will distribute to their respective shareholders of record on June 10, 1977 all net investment income undistributed on the record date and, in the case of the S-2 Fund, its net realized capital gains undistributed on such date, if any. Net asset values of the Funds will be computed in the manner described in the current prospectus of the S-1 Fund as of the close of business on the business day next preceding the Closing Date as defined in the Plan. In addition, as a result of the combination of the Funds, any capital tax loss carryforward of the S-2 Fund, which at February 28, 1977 amounted to $1,289,000, will be transferred to the S-1 Fund. As soon as practicable after such transfer takes place, Keystone, acting on behalf of the S-2 Fund, will distribute to the shareholders of the S-2 Fund the shares of the S-1 Fund received by the S-2 Fund, and the S-2 Fund will be terminated and liquidated.

The closing of the transaction contemplated by the Plan will take place on July 15, 1977 or such earlier date as Keystone, acting on behalf of the Funds, may determine unless the required approval by the shareholders of the S-2 Fund of the Plan, the required approval of the shareholders of the S-1 Fund of certain proposals, the required order of the Commission to which the application relates or the required tax ruling or opinion described below has not been obtained prior to that date, in which case the closing shall be on such other business day as Keystone may determine after such conditions have been fulfilled.

Both the S-1 Fund and the S-2 Fund are diversified open-end management companies registered under the Act and were organized in July 1935 pursuant to identical Trust Agreements as common law trusts under the laws of The Commonwealth of Pennsylvania. As of February 28, 1977 the S-1 Fund had total net assets of $38,351,074 and the S-2 Fund had total net assets of $58,398,713. Applicants state that Keystone has acted as trustee for each of the Funds since they were organized. Applicants also state that while their investment objectives differ in that the S-1 Fund seeks to obtain the best possible capital growth performance from securities of corporations with established records of divided payments, and the S-2 Fund seeks long-term growth of income without sacrificing the capital performance provided by investment grade stocks, and while there is no overlap in their portfolios, they are identical in almost all other respects. Moreover, Applicants represent that the capital and income performance of the Funds has been strikingly similar.

Applicants state that the principal difference between the Funds over the years has been the distinct universes or classes from which their investment securities have been selected. In recent years, however, it has become increasingly difficult to distinguish between issues belonging to the universe of investments of the S-1 Fund and that of the S-2 Fund, because, in 1971, the S-2 Fund's investment objective of current income was changed by vote of its shareholders to one of long-term growth of in-

come, and, since then, the computer evaluation and selection techniques used to select their investment securities have made it increasingly apparent that issues of higher investment quality—i.e., candidates for the S–1 Fund's class of investments—also generally experience increases in their long-term rates of growth of income—i.e., the principal characteristic of candidates for the S–2 Fund's class of investments. Accordingly, Keystone believes that the proposed combination, together with a proposed revision of the investment objective of the S–1 Fund to incorporate certain features of the investment objective of the S–2 Fund, would solve the issue selection problem of Keystone and would result in the combined fund having a universe of issues from which its investments could be drawn larger than the present universe of either of the Funds, thereby benefiting the shareholders of both the S–1 Fund and the S–2 Fund by the increased investment opportunities and flexibility of portfolio management which would result.

Applicants state that neither of the Funds nor their shareholders will realize any monetary savings from the proposed combination since, under the provisions of their Trust Agreements, Keystone is required to pay all of the operating expenses of the Funds, except interest and taxes. Consequently, any monetary savings resulting from the combination will inure to the benefit only of Keystone.

Because the continuance of the Funds' separate identities involves some duplication of expense and diversion of time which would be eliminated if they were operated as a combined fund, with resulting savings to Keystone estimated by it at approximately $10,000 per year, all expenses, currently estimated at approximately $80,000, to be incurred in connection with the combination of the Funds, including the registration fee under the Securities Act of 1933 for the shares of the S–1 Fund to be issued in connection with the combination, the cost of the preparation, printing and mailing of the Post-Effective Amendment, and the Ballot Statement and Prospectus included therein, of the Ballot Statement of the S–2 Fund and of the accompanying Ballots and legal and accounting expenses, will be paid by Keystone. Neither Fund nor any of their shareholders will bear any part of such expenses.

Applicants state that the investment policies and restrictions of the two Funds are virtually identical and the management fee and recurring charge rates, sales and conversion charges, allocation of brokerage, rights of shareholders and shareholder services are identical for both Funds.

As of February 28, 1977, the S–1 Fund had $1,107,296 of net realized but undistributed long-term taxable capital gain and $33,178 of unrealized taxable capital gain. At the same date, the S–2 Fund had $1,289,489 of net realized but undistributed long-term capital loss which could be carried forward through its fiscal year ending August 31, 1983 and $3,229,714 of unrealized capital gain. Given the relative sizes of the two Funds, application of a tax adjustment formula of the type sometimes used in investment company combinations to take account of the differences between the two Funds in net realized but undistributed long-term taxable capital gain (or loss) and in net unrealized taxable capital gain (or loss) would not have resulted in a change in the net asset value of either Fund as of February 28, 1977 of more than one half of one percent. For that reason and in view of the inherent uncertainty following a combination of two investment companies of the impact of the realized and unrealized capital gain or loss of one investment company on the individual shareholders of the other and the likelihood that any such impact would be uneven because of the widely differing tax bases and tax rates of such shareholders, the board of directors of Keystone, acting on behalf of both Funds, has determined that it would not be appropriate to apply any such tax adjustment formula in the proposed transaction described herein.

As alluded to above, consummation of the Plan is subject to receipt of a ruling of the Internal Revenue Service or an opinion of Messrs. Sullivan and Cromwell, special counsel to the S–1 Fund, with respect to the United States Federal income tax consequences of the transactions contemplated by the Plan, including that no gain or loss will be recognized to the S–1 Fund, the S–2 Fund or (except in respect of cash, if any, received in lieu of fractional shares of the S–1 Fund) to the shareholders of the S–2 Fund. The two Funds have applied for such a ruling from the Internal Revenue Service.

Sections 17(a) (1) and (2) of the Act provide, in part, that it shall be unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to sell to or purchase from such investment company any security or other property. Section 17(b) of the Act provides, in part, that the Commission, upon application, shall exempt from the provisions of Section 17(a) a proposed transaction if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve any overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that the Funds might be deemed to be "affiliated persons" of one another because they might be considered to be under "common control" as a result of Keystone acting as trustee of each, although Applicants do not concede that the Funds are "affiliated persons." Applicants believe that an exemption from the provisions of Sections 17(a) (1) and (2) is necessary to avoid any question being raised thereunder with respect to the proposed combination of the Funds in the manner described herein.

Applicants submit that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned in that the S–1 Fund will be issuing its shares in exchange for property at a price equal to the net asset value thereof and without payment of any commission or other expense. Similarly, the stockholders of the S–2 Fund will receive shares of common stock of the S–1 Fund equal in value to the S–2 Fund's net assets. All expenses incurred in connection with the combination of the two Funds will be paid by Keystone. Moreover, Applicants believe the proposed transaction is consistent with the respective policies of the S–1 Fund and the S–2 Fund and the general purposes of the Act.

Notice is further given that any interested person may, not later than June 13, 1977, 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) 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. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15183 Filed 5–26–77;8:45 am]

[Release No. 20043; 70–6012]

LOUISIANA POWER & LIGHT CO.

Proposed Transactions Related to Financing of Pollution Control Facilities

MAY 20, 1977.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12(d)

of the Act and Rule 44(b)(3) as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Louisiana states that it will construct and install certain water pollution control facilities at its Little Gypsy Steam Electric Generating Station ("Little Gypsy Station") and Units 1 and 2 of its Waterford Steam Electric Generating Station ("Waterford 1 and 2") in St. Charles Parish, Louisiana, (collectively, the "St. Charles Stations"), and at its Sterlington Steam Electric Generating Station ("Sterlington Station") in Ouachita Parish, Louisiana, in order to comply with water discharge standards prescribed by the Environmental Protection Agency and thereby to maintain in effect the National Pollution Discharge Elimination System permits which Louisiana has heretofore obtained for these generating stations. The present filing relates to Louisiana's proposed long-term financing of such pollution control facilities, and also of $1 million of additions and improvements (the "Industrial Development Facilities") to Unit 3 (presently under construction) of its Waterford Steam Electric Generating Station in St. Charles Parish, Louisiana ("Waterford 3"), by sale and repurchase of such facilities.

To effect the contemplated financing of the pollution control facilities at the St. Charles Stations, Louisiana, proposes to enter into a sale agreement with the Parish of St. Charles, Louisiana ("St. Charles Agreement"). The St. Charles Agreement will provide for the construction, installation, equipment and completion of the pollution control facilities at the St. Charles Stations ("St. Charles Facilities") by Louisiana and for the issuance and sale by the Parish of pollution control revenue bonds ("St. Charles Series 1977 Bonds") in the principal amount of $4,000,000, sufficient to cover construction and related costs of such facilities. The proceeds derived from the sale of said bonds will be deposited with a Trustee pursuant to an Indenture ("St. Charles Indenture") to be entered into by the Parish and the Trustee. The St. Charles Agreement further provides for the sale by Louisiana of the St. Charles Facilities to the Parish (in one or more completed portions) for cash, which is to be paid by the Trustee out of such proceeds, and for the simultaneous repurchase of said facilities by Louisiana from the Parish, on an installment payment basis, for an aggregate price equal to the amount of money that will be required to fully pay or retire the St. Charles Series 1977 Bonds in accordance with their terms. Title to said facilities or any portion thereof will be transferred to the Parish and the Parish will, simultaneously with each conveyance, reconvey said facilities to Louisiana.

The repurchase price will be an amount equal to the aggregate principal amount of the Series 1977 Bonds and will be payable by Louisiana in semi-annual installments over a term of years. Louisiana will also pay as interest on the purchase price an amount equal to the interest and premium, if any, on said bonds. Such installment payments are to be made directly to the Trustee pursuant to an assignment and pledge thereof by the Parish to the Trustee as set forth in the St. Charles Indenture and as assented to by Louisiana in the St. Charles Agreement.

The St. Charles Agreement will provide that Louisiana may prepay the repurchase price at any time upon payment of a premium corresponding to the redemption premium on the St. Charles Series 1977 Bonds as provided in the St. Charles Indenture. Said bonds are noncallable for redemption prior to July 1, 1987, except under certain conditions as specified in the St. Charles Agreement.

To effect the contemplated financing of the Industrial Development Facilities at Waterford 3, Louisiana proposes that it will enter into a sale agreement with the Parish of St. Charles, Louisiana ("Industrial Development Agreement"), and that the Parish will enter into an Indenture with a Trustee ("Industrial Development Indenture"), which, except as hereinafter set forth, are substantially similar to the St. Charles Agreement and the St. Charles Indenture, respectively. The Industrial Development Agreement will provide for the construction, installation and completion of the Industrial Development Facilities by Louisiana and for the issuance and sale by the Parish of industrial development revenue bonds ("St. Charles Industrial Development Bonds") in the principal amount of $1,000,000, sufficient to cover construction and related costs of the Industrial Development Facilities. The Industrial Development Agreement further provides for the sale by Louisiana of the Industrial Development Facilities to the Parish for cash, to be paid by the Trustee out of the proceeds derived from the sale of said bonds, and for the repurchase of said facilities from the Parish on an installment payment basis in the same manner and under the same terms as the St. Charles Facilities. There will be no provision for the issuance of additional series of such bonds. The Industrial Development Agreement and Industrial Development Indenture will provide for the subordination by the Parish of all liens, conditions and rights in the Industrial Development Facilities in connection with the resale to Louisiana of said facilities. This subordination will be in lieu of the waiver by the Parish of all liens and resolutory conditions in connection with the resale to Louisiana of the St. Charles Facilities as set forth in the St. Charles Agreement and St. Charles Indenture.

To effect the contemplated financing of the pollution control facilities at the Sterlington Station in Ouachita Parish ("Ouachita Facilities"), Louisiana proposes that it will enter into a sale agreement with the Parish of Ouachita, Louisiana ("Ouachita Agreement") and that said Parish will enter into an Indenture with a Trustee ("Ouachita Indenture") which, except as hereinafter set forth, are substantially similar to the St. Charles Agreement and the St. Charles Indenture, respectively. The Ouachita Agreement will provide for the construction, installation, equipment and completion of the Ouachita Facilities, and for the issuance and sale by the Parish of its pollution control revenue bonds (the "Ouachita Bonds") in the principal amount of $2,000,000 sufficient to cover construction and related costs of said facilities. The Ouachita Agreement further provides for the sale by Louisiana of the completed facilities to said Parish for cash, to be paid by said Trustee out of the proceeds derived from the sale of said bonds and for the simultaneous repurchase of said facilities from the Parish on an installment payment basis, in the same manner and under the same terms as hereinabove set forth with respect to the St. Charles Facilities.

Each issue of bonds will mature thirty years after the first day of the month in which it is (initially) issued and be subject to a mandatory sinking fund which will retire not less than 25 percent of the aggregate principal amount of said issue prior to maturity. Each of the sale agreements provides that the Parish will sell, issue and deliver the bonds as and when but only if requested by Louisiana, provided that the issuance date requested by Louisiana shall be no later than December 1, 1977. Louisiana will not be a party to any of the Indentures nor to the underwriting arrangements for any of the bonds. Louisiana states that since the amounts of the respective installment payments to be made by Lousiana in payment of the respective repurchase price will be determined by the interest rate or rates of the respective bond issues, Louisiana will request the sale, issuance, and delivery of such bonds only if it considers satisfactory the interest rate or rates thereof offered (and the amounts of underwriter's fees proposed) by the underwriter or underwriters, and only with the further authorization of this Commission. Louisiana understands that interest payable on any of the bonds will be exempt from Federal income taxes. It is Louisiana's further understanding that the interest rates on bonds and other debt obligations, the interest on which is so tax exempt, historically have been and can be expected at the time of issuance of said bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is not so exempt.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the transactions proposed. The fees and expenses incurred in connection with the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than June 13, 1977, 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 should the Commission order a hearing in respect thereof. 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 upon the applicants at the above-stated addresses, 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegate authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15184 Filed 5-26-77;8:45 am]

[Release No. 20041; 70-6010]

MIDDLE SOUTH UTILITIES, INC.

Proposed Issuance and Sale of Short-Term Notes to Banks

MAY 20, 1977.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell, pursuant to a $218.5 million revolving credit agreement "Credit Agreement"), its unsecured short-term promissory notes to a group of commercial banks headed by Manufacturers Hanover Trust Company ("MHTC"). Under the terms of the Credit Agreement, Middle South may borrow and reborrow until June 30, 1978, up to an aggregate of $218.5 million outstanding at any one time, to be evidenced by its unsecured promissory notes payable 90 days from the date of issuance thereof, but in no event later than June 30, 1978 ("Notes"). The Notes will be issued to the participating banks to the extent of their participation (collectively, the "Commitments") as follows:

Name of bank	Group	Maximum amount to be borrowed
Manufacturers Hanover Trust Co.	B	$61,300,000
The First National Bank of Chicago	A	35,000,000
Bank of America National Trust and Savings Association	B	25,000,000
Continental Illinois National Bank and Trust Co. of Chicago	B	20,000,000
The First National Bank of Boston	B	15,000,000
The Northern Trust Co	A	11,100,000
Irving Trust Co	B	11,100,000
Morgan Guaranty Trust Co. of New York	A	10,000,000
North Carolina National Bank	B	10,000,000
First Pennsylvania Bank, N.A.	A	5,000,000
The Fidelity Bank	A	5,000,000
Crocker National Bank	A	5,000,000
Hartford National Bank and Trust Co.	A	5,000,000
Total		218,500,000

Each subsequent borrowing and each payment by Middle South will be made pro rata among the participating banks according to their original Commitment, with appropriate adjustment for the interest rate differential.

The Notes issued to those banks designated as A Banks in the Credit Agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 105 percent of the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers ("MHTC Rate"). The Notes issued to those banks designated as B Banks in the Credit Agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 115 percent of the MHTC Rate. Middle South will agree to pay to each participating bank a commitment fee for the period from and including June 30, 1977, to June 30, 1978 (or any earlier date of termination of the Commitments), computed at the rate of ½ of 1 percent per annum on the average daily unused portion of the Commitments in effect during the period for which payment is made. Based on a 6¼ percent prime rate, the weighted average interest cost, assuming balances of 10 percent on the line from the A Banks, would be 7.29 percent, and on the B Banks would be 7.19 percent.

Middle South presently intends to repay the principal of the Notes out of the proceeds of the sale of additional shares of its common stock. The Notes will be prepayable at any time on two business days' notice in whole or in part without premium. Middle South shall have the right at any time on three business days' notice to the participating banks to terminate, or, from time to time, to reduce the Commitments, at which time it will prepay the Notes and accrued interest thereon to the extent that the aggregate principal amount thereof then exceeds the Commitments.

The initial borrowing under the Credit Agreement will be used for the payment of short-term notes issued by Middle South to MHTC and various commercial banks under a Credit Agreement dated as of June 1, 1976 (See File No. 70-5863). As of February 28, 1977, such notes payable amounted to $62 million and, it is estimated, will amount to $93 million at the time the initial borrowing is made under the Credit Agreement. Such borrowings were utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies. Subsequent borrowings under the Credit Agreement will be used by Middle South to purchase additional common stock of its subsidiaries. The issuance and acquisition of such common stock will be the subject of separate filings with this Commission.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that no special or separate expenses are anticipated in connection with the proposed transactions except for a $2,000 filing fee.

Notice is further given that any interested person may, not later than June 13, 1977, 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 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 its 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 any notices and orders issued 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15785 Filed 5-26-77;8:45 am]

[Rel. No. 34-13562; File No. SR-MSE-77-12]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L.

No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Amendment to Rule 6 of Article XLVII, Obligations of Market Makers.

Additions Italicized—[Deletions Bracketed]

Rule 6(a) No change in text.
6(b) (i) No change in text.

6(b) (ii) Bidding no more than $1 lower and/or offering no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share (or other unit of trading) of the underlying security has changed [by more than $1] since the last preceding transaction for the particular option contract [.] *in which event a Market Maker may then bid no lower than or offer no more than $1 plus the aggregate change in the price per share (or other unit of trading) of the underlying security since the time of the last preceding transaction for the particular option contract. Nothing in this subparagraph (b) (ii) shall alter the maximum bid/ask differentials established by subparagraph (b) (i) of this Rule.*

(b) (iii) Whenever in the judgment of two Floor Officials the interest of maintaining a fair and orderly market so requires, those Floor Officials may waive the requirements of section (ii) above on a case by case basis.

(c) No change in text.
(d) No change in text.
Interpretations and Policies: No change in text.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

Our experience with the provisions of Rule 6(b) (ii) has shown that in certain market conditions, a literal application of the rule does not protect market orders to the extent they should be protected in the maintenance of a fair and orderly market.

As the rule presently reads, there is a restriction on trading in options more than one point away from the last option trade unless the underlying security has moved more than one point. This hinders the option price from reflecting with accuracy the price change in the underlying issue. In many cases, a change of less than one point, even that of ¼ point, may signal significant market movement. The proposed amendment is designed to eliminate this artificial constraint on trading and allow option contracts to be valued in proper relationship to the price of the underlying security.

This Amendment provides that a Market Maker may decrease his bid or increase his offer by not more than one dollar ($1.00) plus the aggregate change in the price per share (or other unit of trading) of the underlying security since the last preceding transaction for the particular option contract. Of course, the maximum bid/ask differentials contained in subparagraph (b) (i) of the rules will not be altered.

Also, the new rule provides in new subparagraph (b) (iii) that Floor Officials may waive the limiting provisions of subparagraph (b) (ii), if in their judgment a fair and orderly market will be promoted. Such a waiver of the rule, for example, would be justified in the case of an illiquid series when business or economic news is transmitted to the floor which would significantly affect the price of the underlying security. In case of such a news break, Floor Officials may judge that a revaluing of the price of an option is in order, a revaluing even greater than allowed by the amended subparagraph (b) (ii). The Exchange believes that these Officials, persons closest to the actual trading and cognizant of the particular market circumstances, should be granted this authority.

The basis for the proposed rule change described above is found in section 6(b) (5) of the Securities Exchange Act of 1934 as amended, which, in pertinent part, states that the rules of the Exchange should be designed to promote just and equitable principles of trade, protect investors and the public and not permit unfair discrimination between customers, brokers and dealers.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77-15194 Filed 5-26-77;8:45 am]

[Rel. No. 34-13563; File No. SR-MSE-77-13]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 12, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Additions Italicized—[Deletions Bracketed].

Article XLIV, Rule 6, Priority of Bids and Offers.

Rule 6. Except as provided by Rule 8 of this Article, the following rules of priority shall be observed with respect to bids and offers:

(a) No change.
(b) No change.
(c) Openings. Notwithstanding anything in Paragraphs (a) and (b) to the contrary, where necessary in order to achieve a single-price opening, [the Order Book Official may give] market orders *in which no member or any non member broker/dealer has an interest* [entitled to participate in the opening] *shall have* priority over limit orders at the same opening price on the Order Book Official's Book. The Floor Procedure Committee shall establish the cut-off time for orders entitled to participate in the opening.
* * * Interpretations and Policies:
.01 No change.
.02 No change.
.03 No change.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this rule change is to ensure fair and orderly markets through the use of single price openings. Therefore, in an effort to standardize the opening rotation procedures utilized by Order Book Officials to achieve this goal, it is proposed that this rule be amended to require, rather than permit, market orders to be given priority over limit orders held by the Order Book Official. It should be noted that only market orders for those other than members and non-member broker/dealers should be afforded priority treatment in order to effect single price openings.

The Midwest Stock Exchange, Incorporated believes that it is clearly consistent with the standards of the Act des-

ignated for the protection of investors. This provision maintains the priority afforded the orders of public customers.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above- mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77-15194 Filed 5-26-77;8:45 am]

[Release No. 34-13554; File No. SR-MSRB-77-4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 11, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Board's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") filed the following proposed amendment to Rule G-8(g) (hereinafter referred to as the "proposed rule change"):

Rule G-8[1] Books and Records to be Made by Municipal Securities Brokers and Municipal Securities Dealers.

(g) Effective Date. The requirements of this rule shall become effective on April 25, 1977, and nothing herein contained shall be construed to require the making of the records specified in paragraph (a) of this rule for events occurring prior to such effective date. The customer account records required by subparagraph (a)(ii) and customer account information required by subparagraph (a)(xi) shall be required only for customers for whom transactions in municipal securities are effective on or after such date. *Notwithstanding the foregoing, subparagraphs (a)(xi)(G) and (a)(xi)(K) shall not become effective until September 1, 1977.*

The Board's Statement of Basis and Purpose of Proposed Rule Change

The basis and purpose of the foregoing proposed rule change is as follows:

The Board's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to provide to the Board and the Commission sufficient time to file and consider proposed substantive amendments to subparagraphs (a)(xi)(G) and (a)(xi)(K) of rule G-8. The Board contemplates filing such amendments with the Commission on or about June 1, 1977.

The Board's Statement of Basis Under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(G) of the Securities Exchange Act of 1934, as amended (the "Act"), which requiries and empowers the Board to adopt rules prescribing the records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records shall be preserved.

Comments Received from Members, Participants or Others on Proposed Rule Change

Comments were not solicited or received on the proposed rule change.

The Board's Statement of Burden on Competition

The Board is of the opinion that the proposed rule change will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for a finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15195 Filed 5-26-77;8:45 am]

[1] Italics indicate new language; brackets indicate deletions.

[Release No. 13550; SR-NASD-76-5]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

MAY 19, 1977.

On April 28, 1976, the National Association of Securities Dealers, Inc., 1735 "K" Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would amend in certain respects the requirements of Schedule E of Article IV of the NASD's By-Laws relating to public offerings by members and affiliates of members of their own securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 12406 (May 4, 1976)) and by publication in the FEDERAL REGISTER (41 FR 19176 (May 10, 1976)). The NASD filed with the Commission certain technical amendments to the proposed rule change on October 7, 1976, and on January 11, 1977.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities associations, and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on April 28, 1976, and subsequently amended, be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15786 Filed 5-26-77;8:45 am]

[Release 34-13560; File No. SR-NASD-77-2]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

SELF-REGULATOTY ORGANIZATIONS; PROPOSED RULE CHANGE

Pursuant to Section 10(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on May 17, 1977 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Association's Statement of the Terms of Substance of the Proposed Rule Change Text of Proposed Rule Change

The following is the full text of the proposed rule contained in this amendment No. 4. The NASDAQ Options Plan: An Overview, will be amended by the deletions and additions to the following paragraph at page 2. (Brackets indicate deletions; italics indicate new material:)

[The Association will interface its NASDAQ System with OPRA's new technical specifications to be implemented in September 1977.]

Last sale price reporting to OPRA will not commence at the start-up of the NASDAQ Options Program. The Association has requested that the Securities and Exchange Commission (SEC) approve a delayed interface with OPRA until such time as OPRA's new high-speed line is operational. It is presently anticipated, therefore, that the Association will interface its NASDAQ System with OPRA in October 1977.

The SEC has indicated to the Association that, on preliminary consideration, it would not object to a delayed interface and that it further believes that the time lapse from the commencement of NASDAQ options trading until such interface would not be substantial.[1]

Despite the fact that OPRA will not receive and distribute last sale price information on NASDAQ options until October, 1977, such information will be made available to the public from the start-up date of the NASDAQ options program. The Association will supply last sale information directly to vendors of interrogation devices. The vendors will, in turn, make such information available for distribution to the public.

Association's Statement of Basis and Purpose of Proposed Rule Change

The purpose of the proposed rule change is to enable the Association to delay the commencement of last sale reporting to OPRA of transactions in NASDAQ Options until October 1977, the anticipated commencement date for operation of OPRA's new high-speed data transmission line.

No comments have been received regarding the proposed changes.

No burden on competition is or will be imposed by the proposed rule change.

[1] Letter to Gordon S. Macklin from Sheldon Rappaport dated March 21, 1977.

Within 35 days of the date of this publication, or within such longer period as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15196 Filed 5-26-77;8:45 am]

[Release No. 13549; SR-NYSE-77-10]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change by New York Stock Exchange, Inc.

MAY 18, 1977.

On March 25, 1977, the New York Stock Exchange, Inc. (the "NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to rescind a provision in the NYSE Constitution which authorized the NYSE to direct a member to sever a business connection if the interest or good repute of the NYSE could suffer. The Commission had previously indicated its concern with this provision in connection with its review of rules of self-regulatory organizations under Section 31(b) of the Securities Acts Amendments of 1975.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Securities Exchange Act Release No. 13414 (March 30, 1977) and by publication in the FEDERAL REGISTER (42 FR 18315 (April 6, 1977). The Commission did not receive any comments with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15187 Filed 5-26-77;8:45 am]

[1] Securities Exchange Act Release No. 12157 (March 2, 1976), 41 FR 10662 (March 12, 1977).

[Release No. 34-13541; File No. SR-PSE-77-12]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 6, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 7(b) of Rule I of the Rules of its Board of Governors as follows (brackets indicate deletions and italics indicate additions):

RULE I—DEALING UPON THE EXCHANGE

Trading Differentials

SEC. 7(b). Unless specifically ruled otherwise the trading differentials on stocks shall be as follows:

(1) On stocks other than those traded on the New York or American Stock Exchange:

Selling price	*Trading differential*
Below ½ of $1	1/32
½ of $1 but under [$1] *$5*	1/16
[$1] *$5* and above	1/8

(2) On stocks also traded on the New York or American Stock Exchange the trading differentials shall be the same as those prescribed by such Exchange.

PSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendment is to change the trading differentials of local PSE stocks trading between $1 and $5 to permit PSE specialists to make tighter markets on these lower price securities.

By tightening the trading differentials on lower priced PSE local stocks the proposed rule change will lead to better markets and assist in the promotion of

just and equitable principles of trade and foster protection of investors and the public interest. The PSE therefore concludes that Section 6(b)(5) of the Act provides the statutory basis for the proposed amendment.

The Exchange states that comments have neither been solicited nor received from members on the proposed rule change.

The PSE believes that the proposed rule change imposes no burden upon competition.

Within thirty-five (35) days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 13, 1977.

[FR Doc.77-15197 Filed 5-26-77;8:45 am]

[Release No. 34-13561; File No. SR-PSE-77-11]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 A.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 28, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Rule VI, Section 5 of the Rules of its Board of Governors and Commentary .05 thereunder as follows (brackets indicate deletions; italics indicate additions):

RULE VI—EXCHANGE OPTIONS TRADING

POSITION LIMITS

SEC. 5. Except with the plor written approval of the Exchange in each instance, no member organization shall effect, for any account in which such member organization has an interest or for the account of any partner, officer, director, or employee thereof or for the account of any customer, an opening transaction in an option contract of any class of options dealt in on the Exchange if the member organization has reason to believe that as a result of such transaction the member organization or partner, officer, director, or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of:

(a) An aggregate long position in any class of options; or

(b) [An aggregate long position in any expiration month in any class of options; or] *An aggregate short position in any class of options; or*

(c) [An aggregate short position in any class of options; or] *An aggregate position on the same side of the market in the same underlying stock, which position shall be ascertained by combining long call options with short put options and short call options with long put options; or*

(d) [An aggregate short position in any expiration month in any class of options; or] *An aggregate uncovered short position in any class of options in excess of such number of option contracts as shall be fixed from time to time by the Exchange as the position limit for that particular class of options or expiration month.*

[(e) An aggregate uncovered short position in any class of options in excess of such number of option contracts as shall be fixed from time to time by the Exchange as the position limit for that particular class of options or expiration month.]

Commentary:

.05 The current position limits established pursuant to Section 5 follow: [(a)] aggregate positions [,whether long or short, in the same class of options] shall be 1000 contracts *on the same side of the market in the same underlying stock.* [; and (b) the aggregate position, whether long or short, in option contracts of the same class and the same expiration month shall be 500 contracts. *These position limits shall include 1000 long call options, or 1000 short put options, or any combination thereof not to exceed an aggregate of 1000 contracts, and 1000 short call options, or 1000 long put options, or any combination thereof not to exceed an aggregate of 1000 contracts.*

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to establish revised position limits in light of the anticipated start of trading put options on the PSE on or after June 1, 1977.

The proposed rule change by establishing aggregate position limits for call and put options and combinations thereof is consistent with the desire to promote just and equitable principles of trade and provide for the protection of investors and the public interest ,and enables the PSE to enforce compliance with the Act and the rules and regulations thereunder.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

Within thirty-five (35) days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15198 Filed 5-26-77;8:45 am]

[Release No. 13548; SR-PHLX-77-2]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 18, 1977.

On March 23, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and

Rule 19b–4 thereunder, copies of a proposed rule change relating to the affiliation of the Exchange President with wholly owned corporate subsidiaries of the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13412 (March 30, 1977)) and by publication in the FEDERAL REGISTER (42 FR 19203; April 12, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 23, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15188 Filed 5–26–77;8:45 am]

[File No. 500–1]

RANCHERS PACKING CORP.

Notice of Suspension of Trading

MAY 17, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Ranchers Packing Corporation being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:10 p.m. (EDT) on May 17, 1977 through May 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15189 Filed 5–26–77;8:45 am]

[Release No. 9775; 812–4122]

SCUDDER, STEVENS & CLARK COMMON STOCK FUND, INC. AND SCUDDER, STEVENS & CLARK

Notice of Application for Order Granting an Exemption

MAY 20, 1977.

Notice is hereby given that Scudder, Stevens & Clark Common Stock Fund, Inc. ("Fund"), 175 Federal Street, Boston, Massachusetts 02110, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Scudder, Stevens & Clark, the Fund's investment adviser ("Adviser") (collectively, "Applicants"), have filed an application on April 8, 1977, and an amendment thereto on May 12, 1977 pursuant to Rule 17d–1 of the Act for an order exempting Applicants from the provisions of Section 17(d) of the Act to the extent necessary (1) to permit the Adviser and the Fund to join in the sharing of certain of the Fund's expenses in connection with the proposed acquisition by the Fund, in exchange for shares of the Fund, of substantially all the assets of Fund for Mutual Depositors, Inc. ("FMD"), a registered open-end diversified investment company and (2) to permit the Adviser to pay FMD $65,000 in connection with such acquisition. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicants state that the Fund and FMD propose to enter into an Agreement and Plan of Reorganization (the "Plan") which provides for the transfer of substantially all the assets of FMD to the Fund in exchange for shares of capital stock of the Fund on the basis of the value of said assets and the net asset value per share of the Fund on the business day preceding the Closing Date as defined in and pursuant to said Plan. In connection with this Plan, the Adviser and the Fund have agreed, subject to obtaining the requested relief, that the Fund's out-of-pocket expenses related to this transaction up to a maximum of $40,000 shall be borne one-half by the Fund and one-half by the Adviser, with the remainder of such expenses in excess of $40,000 being borne by the Adviser. The Fund's out-of-pocket expenses for the purpose of this agreement shall include legal and accounting fees and the filing fees associated with this application, but shall not include state and federal registration fees applicable to the shares of the Fund to be issued pursuant to the Plan. The Adviser has also agreed that it will pay to FMD on the Closing Date $65,000 in cash for expenses incurred by FMD in connection with this Plan and to insure that, following its dissolution, FMD will have adequate reserves for its liabilities and estimated expenses. Any excess will be paid to Mutual Depositors Service Corp., a company organized solely for the purpose of paying ongoing expenses of FMD.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any point enterprise or other point arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in Rule 17d–1 includes any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The application states that the proposed payment to FMD by the Adviser, an affiliated person of the Fund, and the proposed expense sharing arrangement between the Fund and its Adviser may each be deemed to be a joint and several transaction by the Fund with an affiliated person of it and that an order pursuant to Rule 17d–1 may consequently be necessary for each transaction. Applicants submit that to the extent the Fund's participation is different than that of the Adviser, (1) with respect to the $65,000 payment, the Fund benefits because such payment, which will be borne solely by the Adviser, is necessary to induce FMD to enter into the transaction with the Fund, which transaction will benefit the shareholders of the Fund, and (2) with respect to the shared expenses, the Fund's participation is more advantageous than that of its affiliate because the $40,000 of expenses to be shared by Scudder and the Adviser are, in the first instance, expenses of the Fund, and because any expenses in excess of $40,000 will be borne solely by the Adviser. Applicants further state that there is no connection between the Fund and FMD; no affiliated person of FMD is an affiliated person of the Fund; and no affiliated person of the Fund is an affiliated person of FMD; and that the granting of the application would be consistent with the provisions, policies and purposes of the Act.

Notice is further given that any interested person may, not later than June 13, 1977, 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) 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.

As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15190 Filed 5–26–77;8:48 am]

[Release No. 34–13553;
File No. SR–TAD–77–1]

TAD DEPOSITORY CORP.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 4, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change is an addition to existing services presently performed by the TAD Depository Corporation ("TAD"), in that TAD intends to open an interface account with The Depository Trust Company (DTC).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

To provide TAD and its participants with a vehicle to deliver shares from TAD to participants in DTC and to receive shares from DTC participants by book entry transfer in dually eligible securities and to make book entry transfers from their TAD accounts or DTC accounts where securities will be available for their disposition.

The interface account will provide for an automated mode of delivery between TAD, TAD participants and participants of DTC thereby increasing TAD's capacity to facilitate the prompt and accurate clearance and settlement of securities.

The system provides for the safekeeping of participants' accounts by eliminating the need for the participant to physically withdraw shares between depositories for settlement of participant transactions.

TAD's participants have encouraged the depository to enter into interfaces with other depositories. No comments were formally solicited.

The TAD Depository Corporation believes that no burden has been placed on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 19, 1977.

[FR Doc.77–15199 Filed 5–26–77;8:45 am]

[File No. 500–1]

U.S. COAL CORP.

Notice of Suspension of Trading

MAY 17, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of U.S. Coal Corporation, being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:45 p.m. (EDT) on May 17, 1977, through May 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15191 Filed 5–26–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP76–15 and RP76–98]

ALGONQUIN GAS TRANSMISSION CO.

Order Approving Settlement Agreement and Extending Purchased Feedstock Adjustment Clause for One Year

MAY 23, 1977.

Pipeline rates: Settlement. Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Hollowman, and James G. Watt.

On December 6, 1976, the Presiding Administrative Law Judge certified to the Commission for consideration and disposition a proposed Stipulation and Agreement in settlement of the proceedings in the above-captioned dockets. The proposed agreement pertains to Algonquin's Gas Transmission Company's (Algonquin) purchased feedstock adjustment clause (PFAC). For the reasons discussed below, the Commission shall approve the Stipulation and Agreement and allow the PFAC to continue through its next cycle.

Algonquin SNG, Inc., a wholly owned subsidiary of Algonquin, owns and operates a synthetic natural gas (SNG) plant in Freetown, Massachusetts. Algonquin SNG, Inc., sells this SNG to Algonquin which, in turn, sells it to on-system customers and off-system customers under Algonquin's Rate Schedule SNG–1.

Under Algonquin's contracts with its suppliers, the price of naphtha feedstock can be changed at any time. Feedstock costs account for approximately 70 percent of total SNG project costs. As a result, Algonquin has sought to be allowed to track changes in feedstock costs through a PFAC. Under the PFAC, Algonquin establishes a base cost for naphtha to be used for purposes of current billings. Any differences between actual feedstock costs and the base cost during a winter heating season are recorded in a deferred account. Amounts recorded in the deferred account are charged or credited to Algonquin's customers during the succeeding winter heating season by means of a surcharge adjustment to the base cost. Should Algonquin's revenues under the base cost be more than actual feedstock costs, Algonquin must refund the amount of overcollection, with interest, through a surcharge decrease or lump-sum repayment. Should Algonquin's revenues under the base cost be less than actual feedstock cost, its customers are charged the amount of the undercollection, plus interest, through a surcharge increase.

By order issued October 24, 1975, in Docket No. RP76–15 the Commission accepted for filing and suspended a proposed PFAC for the 1975–1976 winter season. The Commission ordered a hearing to be held at the close of the 1975–76 season to determine the reasonableness of the PFAC and the charges being collected under it. In taking this action, the Commission stated:

> We believe this offers Algonquin the temporary protection it desires and allows the Commission ample opportunity to review the operation and effect of the PFAC on Algonquin and its customers. By permitting Algonquin to collect this charge subject to refund, we stress that we have not passed judgment on the reasonableness of Algonquin's proposal, nor should this indicate that we have passed judgment that normal Section 4 procedures are insufficient to allow Algonquin to recover its expenses for naptha reasonably incurred.

Algonquin requested in Docket No. RP76–98 that use of the PFAC be al-

lowed through the 1976–77 winter heating season. On May 28, 1976, the Commission accepted the proposed 1976–77 PFAC for filing, suspended its use for one day, and consolidated Docket Nos. RP76–98 and RP76–15 for purposes of hearing and decision. Hearings were held; however, prior to the completion, the parties reached the agreement before the Commission, and all procedural dates were suspended pending Commission action.

The proposed stipulation and agreement clarifies the position of the parties with respect to Algonquin's PFAC. The parties agree that the surcharge adjustment for over-collections realized by Algonquin during the 1975–1976 winter heating season under the PFAC including interest shall be 42 cents per MMBTu for on-system customers. Off-system customers will receive a lumpsum refund of $575,391 including interest.[1] The proposed agreement provides for carrying charges on the deferred PFAC account. The monthly carrying charges are to be calculated by multiplying the deferred account balance by 1/12 of the Commission's effective annual interest rate. The agreement contemplates an indefinite extension of the PFAC, provided, however, that if the Commission finds that an indefinite extension should not be granted, the parties agree to an extension of the PFAC for one additional cycle in order to provide time for a remand to the Presiding Judge and a determination on the present record as to whether the PFAC should be extended indefinitely. Finally, the agreement is proposed to become effective on the date when the Commission's order approving it is no longer subject to judicial review.

Public notice of the proposed settlement agreement was issued on December 28, 1976, providing for comments to be filed on or before February 11, 1977. Comments were filed by Algonquin and the Commission Staff. Neither party opposes the settlement.

In response to an informal request for clarification by the staff, Algonquin on April 15, 1977, filed a letter with the Commission's Secretary setting forth its interpretation and understanding of certain of the terms of the proposed settlement, particularly those dealing with the annual review and refund provisions of the PFAC. Algonquin states as follows:

> If a rate case is not pending covering the SNG-1 period at issue, the PFAC provisions contemplate a separate annual review of the claimed actual SNG-1 cost of service with the actual revenues collected under said rate schedule.
>
> * * * * *
>
> The costs which would be the subject of any such separate Commission review would be submitted in the cost of service study required under Section 10.8. Sheet 20-C, in Section 10.9 provides that any amounts collected by Algonquin Gas under the PFAC shall be subject to refund, but the limitation of such refund obligation to feedstock cost revenues will not affect the ability of the Commission, in the course of its cost-revenue review for SNG-1 service, to require refunds of fixed-cost revenues to the extent that such reviews are found to exceed the revenues that would have resulted from just and reasonable rates.

Algonquin states that the SNG cost of service study will be filed with the Commission pursuant to Section 10.8 of the PFAC in September of each year and proposes that 90 days be established as a time limit for commencement by the Commission of formal review proceedings with respect thereto. The contemplated post-audit period is the 12-month period ending September 30th. The undertakings and procedures set forth in Algonquin's letter of April 15, 1977, appear reasonable and are approved.

The Commission finds that Algonquin's PFAC should be extended at this time for only one additional cycle covering the 1977–78 winter heating season and subsequent 1978–79 amortization period. The Commission finds it would be desirable and in the public interest to review the actual operation of the PFAC, including the post-audit review procedures, prior to giving approval for an indefinite extension. The Commission finds, however, that there is no need to remand the record of these proceedings for further hearings on the issue of further extensions of the PFAC. Following the submission and review of Algonquin's report pursuant to Section 10.8 of the PFAC in September 1977, the Commission will be prepared, upon proper motion of the parties, to rule on the question of further extension.

Based upon a review of the entire record of these proceedings, including the proposed settlement agreement, the comments of the parties, and Algonquin's letter of clarification, the Commission finds that the proposed agreement represents a reasonable resolution of the issues in this proceeding in the public interest and that the settlement agreement should accordingly be approved and adopted for the purpose of approving Algonquin's proposed PFAC for an additional year.

In its letter of clarification, Algonquin has included a suggested condition incorporating procedures which shall govern the post-audit review of Algonquin's SNG–1 service pursuant to the PFAC. The suggested condition appears reasonable and shall be adopted.

On April 6, 1977, Algonquin tendered for filing Second Revised Sheet No. 20–A and Third Revised Sheet No. 20–B to its FPC Gas Tariff, First Revised Volume No. 1. Algonquin states that these tendered sheets are identical to those found in the proposed settlement agreement. Algonquin states further that "the Commission may disregard this filing if it approves said settlement." In view of the action taken in this order, the Commission believes that Algonquin's filing of April 6, 1977, is rendered moot.

The Commission orders: (A) The proposed settlement agreement certified to the Commission on December 6, 1976, is incorporated herein by reference and is hereby approved and adopted.

(B) Algonquin is authorized to continue use of its PFAC for one additional cycle.

(C) Algonquin Gas shall file and serve the report as provided for in Section 10.8 of its FPC Gas Tariff, First Revised Volume No. 1, Sheet 20–C, showing total actual revenues and actual claimed total cost of service, including fixed costs, under Rate Schedule SNG–1 for the 12-month period ending September 30 of the year in which such report is filed. To the extent that Algonquin Gas is required to rely upon estimated costs for purposes of the report, it can furnish, if necessary, actual figures when they become available, and such actual figures if furnished shall supersede the estimates previously reported. If review proceedings with respect to any such report are not instituted through issuance of a formal Commission order within 90-days after the filing of such report, the report shall be deemed accepted and Algonquin Gas shall no longer be obligated to make refunds of revenues for the period covered by such report. Any review proceeding with respect to such report shall be limited to a Commission determination of excess revenues, if any, above the revenues which would have resulted from the charging of just and reasonable rates for SNG–1 service during such period; to the related requirement that Algonquin Gas refund any such excess revenues to the customers who received SNG–1 service during such period; and to the consideration of any question, if any, as to whether actual feedstock costs for the period in question were reasonably incurred. Any refunds thus ordered shall be made in lump-sum payments unless otherwise ordered by the Commission, or unless Algonquin Gas and the other parties to such review proceedings shall have agreed upon a procedure for effecting refunds through a prospective unit adjustment to the SNG–1 rate and the Commission approves such alternative refund procedure in its final order in such review proceeding.

(D) Algonquin's Second Revised Sheet No. 20–A and Second Revised Sheet No. 20–B are accepted for filing and made effective as of October 16, 1976, *Provided, however,* That they shall be effective for one additional cycle only unless otherwise ordered by the Commission upon appropriate motion.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15236 Filed 5–26–77;8:45 am]

[Docket No. CP77–376]

CITIES SERVICE GAS CO.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Cities Service Gas Company (Appli-

[1] The refunds referred to in the proposed agreement have been paid, with interest, to Algonquin's on-system and off-system customers pursuant to the Commission's orders of October 15, 1976, and December 10, 1976, in these dockets.

cant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-376 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Union Gas System, Inc: (Union), and the installation and operation of certain minor facilities in order to transport such volumes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport approximately 1,000 Mcf of natural gas per day for Union pursuant to the terms of a transportation agreement between Union and Applicant dated March 7, 1977, as amended April 22, 1977. It is stated that by the terms of the transportation agreement, Union would deliver volumes of gas to Applicant at a point near Union's Herd Compressor Station in Osage County, Oklahoma, and Applicant would redeliver volumes to Union at three new delivery points in Osage County, Oklahoma, and through existing facilities in Montgomery County, Kansas.

Applicant states that Union is purchasing and producing gas from lands in Osage County, Oklahoma, and Chautaugua County, Kansas, and its facilities are not adequate to transport the gas to points where it is needed on its system. Union's pipeline system in this area is a deteriorating condition and Union's current experience with this line indicates that there is a significant loss of gas due to leakage, it is said. It is stated that Union desires to end the unnecessary loss of significant volumes of gas due to leakage, and it has determined that it is not economically feasible to improve the efficiency of its pipeline system in this area and operate and maintain it in conformance with the minimum safety standards applicable to its system, especially since most of the reserves of gas originally available to Union have already been produced. Pursuant to the terms of the instant transportation agreement, Applicant would transport this gas for Union to its market area. Applicant indicates that this arrangement would permit Union to abandon a significant portion of its pipeline system in the area and, in the interest of conservation, end the unnecessary loss of significant volumes of gas due to leakage.

Applicant states that it has the option of purchasing a portion of this gas from Union subject to the terms of a gas purchase contract dated March 7, 1977. The purchase price for the gas sold to Applicant by Union would be the authorized FPC rate with all price adjustments, including tax reimbursement, plus a 1.5 cent per Mcf gathering charge, it is said.

Applicant states that in order to implement the transportation arrangement it proposes to install a meter station near Union's Herd Compressor Station (Herd Exchange Point), on a site to be furnished by Union and Union would construct approximately ¾ of a mile of 4-inch gas pipeline from this meter station to a point of connection with Applicant's Blackwell-Caney 16-inch gas pipeline where Applicant would install a tap and connect this 4-inch line. Applicant also proposes to install taps at three locations (Mullendore Exchange Point) on its 16-inch line in Osage County to deliver gas to Union to enable Union to serve several existing customers, and the remaining volumes would be redelivered to Union at an existing sales meter site in Montgomery County, Kansas (Compton Exchange Point).

Applicant indicates that it would charge Union 10 cents per Mcf for all gas transported for under the transportation agreement, and that it has the option of purchasing up to 25 percent of all gas defined as "new vintage".

Applicant estimates that the cost of the facilities proposed to be installed and operated would be approximately $6,650, which would be paid from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15239 Filed 5-26-77;8:45 am]

[Docket No. CP76-421]

COLORADO INTERSTATE GAS CO.

Notice of Petition To Amend

MAY 19, 1977.

Take notice that on April 29, 1977, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-421 a petition to amend the Commission's order of January 19, 1977 (57 FPC _____), issued in the instant docket pursuant to section 7 of the Natural Gas Act so as to authorize the exchange of natural gas with Northern Natural Gas Company, operating as Peoples Natural Gas Division (Peoples) at two additional exchange points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that on January 19, 1977, it was authorized to transport for and exchange natural gas with Peoples, pursuant to an exchange agreement dated April 20, 1976, between the two parties, and that it delivers gas to Peoples at two delivery points in southwest Kansas on a generally uniform basis throughout the year. Petitioner states that it has the option to purchase 25 percent of all gas volumes so delivered in excess of 37,500 Mcf per month, and that redeliveries to Peoples during the period April 1 through October 15 are made at five locations, of which four are in southeast Colorado and one in the Texas Panhandle. It is stated that the exchange is beneficial to both parties. Peoples controls certain quantities of gas in locations remote from its system, and that by virtue of the exchange, Peoples is able to make gas available to its irrigation customers for agricultural purposes during the growing season, it is said. Petitioner states that it receives, but does not redeliver, gas during the colder months to assist it in meeting its customers' heating season requirements.

By this amendment Petitioner proposes an additional point for deliveries by Peoples to Petitioner in Kiowa County, Colorado, and an additional point for redelivery by Petitioner to Peoples which deliveries would be made at an existing point of interconnection between Petitioner and Panhandle Eastern Pipe Line Company (Panhandle) in Texas County, Oklahoma, it is said. It is indicated that Peoples has made the necessary arrangements to receive the gas from Panhandle which Petitioner would deliver at this point.

Petitioner states that it has been informed by Peoples that there is a critical gas supply shortage on its system in southwest Kansas because the state of Kansas has ordered constraints on the operation of certain gas wells under control in that state, and that these constraints include the shutting-in of two wells and limitation of production from 13 others because the wells have been overproduced to various degrees. Because of the curtailment of its gas supply, Peoples is unable to make the necessary gas deliveries to certain of its agricultural customers during the irrigation season which begins on or about April 1.

Petitioner asserts that the two new exchange points proposed herein would permit Peoples to provide additional gas to its southwest Kansas customers to fulfill high priority agricultural irrigation requirements during the growing season.

Petitioner states that it would receive the additional volumes of gas during the colder months and redeliver gas during the warmer months.

Petitioner further states that it would be necessary for People to install only minor facilities to deliver and measure gas at the Peoples-to-Petitioner delivery point, and that Petitioner would provide a suitable valve to receive deliveries at that point, which would be constructed under current gas purchase budget authority.

It is stated that volumes delivered at the Colorado delivery point would be limited to those gas supplies for which Peoples presently has long-term commitments and would not exceed 6,000 Mcf per day, it is said.

It is indicated that Petitioner would pay Peoples the following for each Mcf purchased:

(a) For deliveries at the two Kansas delivery points, the same average price that Peoples pays for the gas delivered to Petitioner which it purchases in the Kendall Field area from wells contracted and connected on or after January 1, 1973.

(b) For deliveries at the Colorado delivery point, the same average price that Peoples pays for gas delivered to Petitioner which it purchases in designated areas from wells commenced on or after January 1, 1975.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15214 Filed 5-26-77;8:45 am]

[Docket No. CP77-366]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 19, 1977.

Take notice that on May 4, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-366 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon the existing 969-horsepower Vilas compressor station and appurtenant equipment located in Baca County, Colorado and for a certificate of public convenience and necessity authorizing the construction and operation of a new 2,400-horsepower Vilas compressor station at a site approximately 1,400 feet from the existing station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it originally contracted for natural gas in the Vilas Field area in 1967, and the new gas supply was connected to its transmission system by 2.8 miles of 6-inch pipeline and the 569-horsepower Vilas compressor station which were constructed under budget authority. Applicant further states that the new supply added 16.3 Bcf of gas to its system reserves and produced an average daily volume of 2,032 Mcf initially. It is stated that a 1974 drilling program resulted in ten successful wells out of twelve drilled and added 2,364 million Mcf of new gas reserves and an average daily volume of 4,200 Mcf, and that Applicant's gas purchase contracts with the Vilas Field area producers were renegotiated at this time to include the 10 new gas wells and additional acreage committed to Applicant and to revise the minimum gathering system pressure. The increased gas supply and reduced gathering system pressure requirements created an immediate requirement for additional compression horsepower, it is said. Applicant indicates that it was authorized to install at Vilas compressor station a 400-horsepower compressor which was in its stock. Applicant further indicates that this 400-horsepower compressor was not designed for the Vilas Field operation conditions and that it was most expedient to utilize an existing compressor at that point in time because ordering a new compressor would have added months to the project. Applicant states that the additional supply was even greater than expected and that that, along with the fact that the recently added 400-horsepower compressor unit was not designed for the existing operating conditions, led to operational problems. As a consequence of these operating difficulties two leased 425-horsepower field compressors were installed temporarily and 3.3 miles of gathering line was looped in 1975, it is said.

Applicant states that the Vilas field area operator has recently committed more acreage to Applicant and has commenced an 18-well drilling program which is projected significantly to increase the Vilas field area reserves and deliverability and necessitates additional compression.

Applicant proposes to abandon the existing single-stage Vilas compressor station and construct and operate a new two-stage station at a site approximately 1,400 feet from the existing station. Applicant states that the existing compressor station has 969 installed horsepower and is located in Baca County, Colorado. The cost of the facilities proposed to be abandoned is $373,988 and reusable salvaged materials removed upon abandonment would be retained for future use elsewhere on Applicant's system, it is said. Applicant states that the new 2,400-horsepower station that it proposes to construct and operate at a more suitable location is estimated to cost $1,352,002, and the compressor unit would be housed in a prefabricated building whereas the present units are not enclosed.

Applicant states that the abandonment of the existing single-staged station and construction of the new two-stage station would enable it to accommodate additional gas supplies projected from this on-going 18-well developmental drilling program which is scheduled to be complete in June 1978 and that greater efficiency and operational flexibility would result.

Applicant states that the cost of the project would be financed from working funds on hand, funds from operations, short-term borrowings, or long-term financing. Applicant projects that the program would result in an additional 15,316 million Mcf of recoverable gas reserves and increased deliverability of 5,880 Mcf of gas per day.

It is stated that relocating the Vilas compressor station approximately 1,400 feet to the east, would benefit Applicant and the landowner. Presently, runoff water accumulates at the Vilas station posing a hazard to Applicant's employees and impeding their ability to perform maintenance and operating procedures, it is said. Applicant states that after relocation, the runoff water can be utilized by the landowner for agricultural purposes, and Applicant would restore the land presently occupied at the existing site, making it suitable for future agricultural use.

Applicant asserts that it is in need of additional gas supplies as a result of declining deliverability from existing sources of supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is re-

quired, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15213 Filed 5-26-77;8:45 am]

[Docket No. ER76-320]

CONNECTICUT LIGHT & POWER CO.

Notice of Extension of Time

MAY 20, 1977.

On May 18, 1977, The Connecticut Light and Power Company filed a motion to extend the time within which to file a response to the Motion for Summary Judgment, filed May 9, 1977, by the Connecticut Municipal Group in the above docketed proceeding. The motion states that counsel for all parties have no objection to the extension.

Upon consideration, notice is hereby given that the time for filing a response to the Motion for Summary Judgment is extended to and including June 8, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15228 Filed 5-26-77;8:45 am]

Administrator, Emergency Natural Gas Act of 1977

[Docket No. E77-94]

COLUMBIA GAS OF OHIO, INC.

Supplemental Emergency Order

By order issued April 14, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), Columbia Gas of Ohio, Inc. (Columbia-Ohio), was authorized to make a number of emergency purchases under Section 6(a). Included in the authorized purchase was a purchase from Pride Refinery, Inc. (Pride).

On April 18, 1977, Lone Star Gas Company (Lone Star) filed a protest to Columbia-Ohio's petition and questioned whether Pride had the legal authority to sell gas to Columbia-Ohio. By supplemental order issued April 19, 1977, pursuant to Section 6 of the Act, Columbia-Ohio, Lone Star and Pride were ordered by the Administrator to submit a joint statement to the Administrator which was to determine if Pride had the legal authority to make the proposed sale to Columbia-Ohio.

On May 9, 1977, Lone Star filed an individual statement which it believes is uncontradicted by any other individual statement and is consistent with the individual statement submitted by Columbia-Ohio. Lone Star states that Pride does not have title to the gas which it proposes to sell, and consequently no legal authority to make such sale to Columbia-Ohio. Therefore, Lone Star seeks a permanent stay of the April 14, 1977 Emergency Order in Docket No. E77-94 which authorized Columbia-Ohio to purchase gas from Pride or, in the alternative, Lone Star requests that said emergency order be amended to delete any reference to such purchase from Pride.

On May 10, 1977, a letter from Pride to the Administrator stated that due to Lone Star's refusal to cooperate, it was necessary to terminate the Columbia-Pride contract without performance being initiated.

After giving the individual statements of Lone Star and Pride careful consideration, I order that any reference to "Pride", or, inter alia, to the Columbia-Ohio contract to purchase gas from Pride, or to the Administrator's authorization for Columbia-Ohio to purchase gas from Pride be deleted from the April 14, 1977 Emergency Order in Docket No. E77-94, Columbia Gas of Ohio, Inc.

However, to the extent not inconsistent with the provisions of this order, the provisions of the April 14, 1977 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia-Ohio, James P. Dunigan, Inc., Energy Industrial Development, Inc., Marie Edwards Gillespie, et al., Kilgore Brothers, Mid-Plains Pipeline Company, Onix Corporation, Pride, Rocanville Corporation, Amoco Gas Company, Lone Star, Lone Star Gathering Company, Natural Gas Pipeline Company of America, Trunkline Gas Company, Tennessee Gas Pipe Line Company, Columbia Gulf Transmission Company, and Columbia Gas Transmission Corporation. This order shall also be published in the FEDERAL REGISTER.

This order is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15241 Filed 5-26-77;8:45 am]

[Docket No. ER77-364]

CONSUMERS POWER CO.

Notice of Tariff Change

MAY 20, 1977.

Take notice that Consumers Power Company on May 9, 1977, tendered for filing Supplemental Agreement No. 9 to the Interconnection Agreement dated September 1, 1973 between (1) Consumers Power Company (Consumers) and (2) Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., City of Grand Haven, Michigan, and City of Traverse City, Michigan, collectively denoted the "MMCPP members." Consumers indicates that the Interconnection Agreement is designated Consumers Power Company Rate Schedule FPC No. 34.

According to Consumers, Supplemental Agreement No. 9, provides for the establishment of a fifth interconnection point between the electric systems of Consumers and the MMCPP members, and is dated April 1, 1977. Consumers states that construction of the facilities needed to effect the interconnection is expected to be complete in mid May, 1977.

Consumers indicates that Supplemental Agreement No. 9 does not affect the rates charged for electric power energy interchanged under the terms of the Interconnection Agreement Consumers also indicates that it does provide, however, for Northern Michigan Electric Cooperative, Inc., to bear the capital cost of the installation of certain facilities that will be owned by Consumers and for Consumers to sell its interest in certain facilities to Northern Michigan Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed by or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15210 Filed 5-26-77;8:45 am]

[Project No. 2683]

CROWN ZELLERBACH CORP.

Order Denying Motion

MAY 23, 1977.

Before Commissioners James G. Watt, Acting Chairman; Don S. Smith, and John H. Holloman III.

On March 8, 1977, a motion was filed jointly by the Secretary of the Interior and the Lower Elwha Indian Tribe (Petitioners), both of whom are intervenors in the above-captioned proceeding. Petitioners request that this Commission take immediate action, pursuant to Section 4(a) of the Federal Power Act, to determine whether the Elwha River Project (Project No. 2683) constitutes a public safety hazard and to issue such orders as are necessary and appropriate to protect the public safety during the pendency of the instant proceeding, in which the Project's jurisdictional status is to be determined.

Petitioners state that in 1968 the Commission received a safety inspection report of Crown Zellerbach (Applicant) on the Elwha hydroelectric facility.[1] The Commission also received comparable reports, prepared in 1968 and 1972, on the Applicant's licensed Glines Canyon Dam

[1] The cover letter to the report (filed June 13, 1969) indicates that the inspection and report, which were voluntary, were made so as to conform to the requirements of Commission Order No. 315 (see footnote 3, infra).

(Project No. 588), which is situated some miles upstream from the Elwha facility.[2] Petitioners state that these reports raised questions concerning the safety of both facilities, especially regarding the inadequate spillway capacities and, in the case of Elwha, structural problems creating a threat to downstream safety. Petitioners note that the Commission issued, on July 7, 1976, an order requiring modifications to the Glines Canyon Project to increase its spillway capacity and ensure its structural integrity during probable maximum floods. But Petitioners state that no comparable modifications to the Elwha facility have been proposed by the Applicant or ordered by the Commission.

Petitioners further report that recent attempts by both Petitioners and the Washington State Department of Ecology (which claims to lack the authority to ensure the safety of existing power facilities) to obtain from the Applicant verification of the safety of the Elwha dam have been unsuccessful. Finally, Petitioners explain that concerns about the safety of the dam have prompted the Department of Housing and Urban Development to cancel plans for a 25 unit housing project on the Lower Elwha Indian Tribe reservation.

In its Answer to the Motion, filed March 23, 1977, the Commission Staff expresses its concurrence with the conclusions of the 1968 safety study and therefore regards an additional safety study, as requested by Petitioners, as unnecessary at this time. The Staff also directs our attention to a letter from the Commission Secretary, dated March 23, 1977, informing Crown Zellerbach of the Staff's concern for the safety of the Elwha Dam and urging the Applicant to execute immediately the corrective measures recommended in the safety studies.[3] For these reasons the Staff believes it is also unnecessary for the Commission to decide here whether, under the circumstances of this case, Section 4(a) grants authority to perform this type of formal investigation.

The Staff argues that nothing in the Federal Power Act or in Commission precedent supports the Petitioners' request for an order to protect the public safety pending the outcome of the instant proceeding to determine the Elwha project's jurisdictional status. The Staff concludes therefore that the Commission is without authority to issue any such order until its jurisdiction over the Elwha project has been established.

On February 11, 1977, the Commission issued an Order Providing For Hearing in this proceeding to determine licensing jurisdiction. The order ruled that, in the event the Commission ultimately finds it has jurisdiction over Project No. 2683, only then may a hearing be set, if needed, for examining any other issues raised by the application for license.

The type of protective order which the Petitioners seek in this proceeding is authorized for the Commission under Section 10(c) of the Federal Power Act, which states in pertinent part:

> That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power * * * and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health and property.

"Licensee" is defined in Section 3(5) as "any person, State, or municipality licensed under the provisions of section 4 of this Act, and any assignee or successor in interest thereof."

The very subject of this proceeding is to establish whether or not the Elwha Project falls within the jurisdiction of this Commission and consequently whether we have the authority to require licensing of the project under the provisions of the Federal Power Act. In advance of such finding, therefore, Crown Zellerbach is not a Licensee as to the Elwha Project, and we cannot enforce a Section 10(c) protective order against the Applicant.

The Petitioners also request that the Commission determine whether the Elwha River Project constitutes a public safety hazard. In its Answer Staff subscribes to the findings of the 1968 safety study of the Elwha facility. Moreover, the Commission Secretary's letter of March 22, 1977, to Crown Zellerbach (to which Staff refers) included the following language: [4]

> The Commission's staff has reviewed the recommendations made by R. W. Beck (the independent engineering consultant which prepared the 1968 report) and believes that compliance with all of the recommendations would significantly improve the safety of the dam.
>
> The matter of Commission jurisdiction over the Elwha project is in the process of being determined; however, the procedures could be protracted. Meanwhile the Elwha dam could become more unsafe since none of the deficiencies are self correcting. Therefore, as a matter of public interest, you are urged to immediately initiate a program to correct the deficiencies in Elwha dam as set forth in the R. W. Beck Associates 1968 inspection report.

On August 9, 1976, a visual pre-license inspection of the Elwha facility was made by an engineer from the Commission's San Francisco Regional Office. The engineer's report to the Commission, filed September 13, 1976, contained the following conclusions:

> From visual inspection, the writer found the Elwha Dam and Power Plant structures to be in similar condition to that found in 1968. There was no evidence of any appreciable increased deterioration or distress of the concrete structures or foundation over that noted eight years ago.

In view of (1) the existence of the 1968 safety inspection report, the findings of which Staff supports, (2) the 1976 visual pre-license inspection which updates the earlier report's findings, and (3) the Commission's March 22, 1977 letter to Crown Zellerbach expressing concern over the project's safety deficiencies and urging that the deficiencies be corrected, together with Crown Zellerbach's response, we conclude that at this time sufficient information as to the condition of the facility is available so that it is unnecessary to decide whether, under the circumstances of this case, Section 4(a) grants us the authority to perform the type of investigation which Petitioners request. This conclusion should not be taken to mean that we believe that deficiencies affecting the project's safety should not be corrected. We urge that such deficiencies be corrected immediately.

Our decision to deny Petitioners' motion does not preclude the Washington State Department of Ecology, or any other duly authorized State or Federal agency, from acting at this juncture with respect to the safety of the Elwha facility.[5] Such action would not prejudice any future jurisdiction which this Commission may determine it has over the Elwha project.

This policy pertains all the more to a project over which the Commission's jurisdiction has not yet been determined.

The Commission finds: Good cause exists to deny the motion filed by Petitioners on March 8, 1977.

The Commission orders: (A) The motion filed by Petitioners is hereby denied. (B) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15237 Filed 5-26-77;8:45 am]

[Docket Nos. RP72-150 (Rate Design), *et al.*]

EL PASO NATURAL GAS CO.

Notice of Payment of Refunds

MAY 19, 1977.

Take notice that on May 17, 1977, El Paso Natural Gas Company ("El Paso") tendered for filing a Report of Refunds Made on March 25, 1977, to its interstate

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[2] The Commission received the latest periodic report on Glines Canyon Dam in April 1977.

[3] See pg. 4, infra.

[4] By letter dated March 25, 1977, Crown Zellerbach responded to the Secretary's letter, stating that, based on recomputations from the report's basic data, the company has concluded that the Elwha facility is currently safe for operation up to flows of 45,000 CFS, which is above any reasonably expected level.

[5] Order No. 315 (34 FPC 1551) promulgated the regulations requiring licensees to provide safety inspections of hydroelectric project works by independent consultants at regular five-year intervals or more frequently, if necessary. In an order issued February 25, 1966, dismissing application for rehearing of Order No. 315, the Commission wrote:

> * * * in a matter as important as the safety of hydroelectric projects, where a failure can result in catastrophic results, federal action by the responsible licensing agency does not purport to pre-empt the field and duplicative inspectoral activities are mutually beneficial rather than inconsistent with one another.

jurisdictional and nonjurisdictional keyed customers. El Paso states that such refunds were made in accordance with El Paso's Stipulation and Agreement dated and filed August 6, 1976, as approved by the Commission "Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint" issued February 16, 1977, at Docket Nos. RP72–150 (Rate Design), RP73–104, RP74–57 and RP75–39.

El Paso further states that the refunds made are comprised of $78,730,833.34 principal refunds, plus interest thereon of $11,600,215.39, computed through March 24, 1977, at the interest rates for each of the docketed proceedings, as set forth in Article IV, Section A(ii), of the aforementioned Stipulation and Agreement. The aggregate amount of refunds made by El Paso on March 25, 1977, is $90,331,048.73.

El Paso states that copies of the filing were served on all of El Paso's affected interstate transmission customers, all parties of record in Docket Nos. RP72–150 (Rate Design), RP73–104, RP74–57 and RP75–39, and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15217 Filed 5–26–77;8:45 am]

[Docket No. E77–102]

EL PASO NATURAL GAS CO.

Supplemental Emergency Order

By order issued May 17, 1977, El Paso Natural Gas Company (El Paso) was authorized, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), to make certain emergency purchases of natural gas in Eddy County, New Mexico at a price of $2.25 per MMBtu from eleven wells of Yates Petroleum Corporation, from three wells of Yates Drilling Company, from two wells of Alan J. Antweil and Moranco, from six wells of Depco, Inc. and from five wells of Husky Oil Company through July 31, 1977.

By telegram filed May 18, 1977, El Paso requested that the following third and fourth paragraphs on page two and the first paragraph on page three be deleted from the May 17, 1977 order:

El Paso advises and I find that the gas made available by Sellers will result in a commingling of interstate natural gas with Sellers' normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Sellers and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale of gas for which El Paso seeks approval may result in some commingling of interstate natural gas with Sellers' normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.

Under the provisions of section 9(b), (c) of Pub. L. 95–2 (91 Stat. 4, 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Sellers or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractural termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Sellers are selling gas for El Paso pursuant to Section 6(a) of that Act. Sellers and any third person whose gas is commingled with El Paso's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition § 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Upon review of this matter, it is my opinion that said paragraphs should not have been included and therefore should be deleted from the order issued May 17, 1977. To the extent not inconsistent with this order, the provisions of the May 17, 1977 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), shall be served upon El Paso, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company.

This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977

[FR Doc.77–15242 Filed 5–26–77;8:45 am]

[Docket No. E77–106]

EL PASO NATURAL GAS CO.

Emergency Order

On May 16, 1977, El Paso Natural Gas Company (El Paso) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to make certain emergency purchases of natural gas from Read & Stevens, Inc. (Read & Stevens). For the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 13, 1977, El Paso agreed to purchase natural gas from Read & Steven's W. R. State Com No. 1 Gas Well, Eddy County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Read & Stevens to sell El Paso natural gas from the W. R. State Com No. 1 Gas Well, Eddy County, New Mexico, on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Read & Stevens. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administator.

MAY 23, 1977.

[FR Doc.77–15244 Filed 5–26–77;8:45 am]

[Docket No. E77–109]

EL PASO NATURAL GAS CO.

Emergency Order

On May 20, 1977, El Paso Natural Gas Company (El Paso), filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)) an application for authorization to make certain emergency purchases of natural gas from Inexco Oil Company and Sol West III (Seller). For

the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 19, 1977, El Paso agreed to purchase natural gas from Seller's Federal No. 1-7 Gas Well, Lea County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act I hereby authorize Seller to sell El Paso natural gas from the Federal No. 1-7 Gas Well, Lea County, New Mexico on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Seller. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administator.

MAY 23, 1977.

[FR Doc.77-15245 Filed 5-26-77;8:45 am]

[Docket No. E77-110]

EL PASO NATURAL GAS CO.

Emergency Order

On May 20, 1977, El Paso Natural Gas Company (El Paso), filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to make certain emergency purchases of natural gas from Coquina Oil Corporation, Coquina '76 Exploration Program, and Nautilus Venture VI (Seller). For the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 20, 1977, El Paso agreed to purchase natural gas from Seller's Bass-State No. 1 Gas Well, Eddy County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act I hereby authorize Seller to sell El Paso natural gas from the Bass-State No. 1 Gas Well, Eddy County, New Mexico, on the terms and conditions set forth in El Passo's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Arder No. 11969 (February 2, 1977), and shall be served upon El Paso and Seller. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-15246 Filed 5-26-77;8:45 am]

[Docket No. CP75-362]

EL PASO NATURAL GAS CO., APPLICANT

Availability of Final Environmental Impact Statement

MAY 25, 1977.

Notice is hereby given in the above docket that on May 25, 1977, a Final Environmental Impact Statement (FEIS), "Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas (As Proposed By SOHIO Transportation Company)", prepared by the Department of the Interior, Bureau of Land Management (Interior), was made available. The pipeline abandonment proposal by El Paso Natural Gas Company (El Paso) filed with the Federal Power Commission in Docket No. CP75-362 pursuant to Section 7(b) of the Natural Gas Act is one of several integral parts of SOHIO's proposed crude oil transportation system. El Paso's proposal would involve the abandonment of 667.3 miles of 30-inch O.D. gas transmission pipeline, 57,050 horsepower of compressor facilities at six exlisting compressor stations, and five right-of-way grantor taps. The El Paso abandonment proposal is described and the environmental impacts of the El Paso abandonment are identified and evaluated in the Interior FEIS.

In order to fulfill the requirements of Section 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), for compliance with the National Environmental Policy Act of 1969, it is the intention of the FPC staff to adopt parts of the Interior FEIS in lieu of preparing a separate impact statement. Interior's FEIS will be incorporated into the record developed in the FPC proceedings in Docket No. CP75-362.

The following parts of Interior's DEIS will be adopted by the FPC staff:

(i) *Chapter 1—Description of the Proposal.*

(ii) *Chapter 2 (2 volumes)—Description of the Environment.*

(iii) *Chapter 3 to 7—Environmental Impacts of the Proposed Action; Mitigating Measures; Adverse Impacts That Cannot Be Avoided; Short Term Uses and Long Term Productivity, Irreversible or Irretrievable Commitments of Resources* (Except the portion of Chapter 3, Section 3.1.16.5—Energy Supply and Demand, entitled *Natural Gas* on Pages 3-426 to 3-432.)

The subsection in Chapter 3, Section 3.1.16.5 entitled *Natural Gas* contains an analysis of El Paso's capability to deliver all presently dedicated and reasonable future supplies of gas through its transmission system after the abandonment. This topic was the subject of extensive analysis by the FPC staff, El Paso and parties to the proceeding in Phase I of the FPC hearings. In addition, the analysis is incomplete in that it only considers southern California and does not analyze northern California which could also be affected by the proposed abandonment. For these reasons, the staff does not adopt this portion of the FEIS.

(iv) *Chapter 8 and Appendices—Alternatives to the Proposed Action.*

(v) *Chapter 9—Consultation and Coordination*—This volume also contains comments which were received by Interior on the DEIS and Interior's responses to those comments.

(vi) Attachment 1—Map Volume.

(vii) Attachment 2—Map Volume.

The FPC has sent copies of the Interior FEIS to all Parties in the FPC proceeding. A list of Federal, state and local agencies to which Interior has sent copies of the FEIS is included in the Summary Sheet in Chapter 1 of the FEIS. In addition, Interior's FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426. Copies of the FEIS are available in limited quantities from the FPC's Office of Public Information, Washington, D.C., at its regional offices located at 555 Battery Street, San Francisco, California 94111, and 819 Taylor Street, Fort Worth, Texas 75102, and from the Office of Public Affairs, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15143 Filed 5-26-77;8:45 am]

[Docket No. CP77-368]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Petition for Declaratory Order

MAY 20, 1977.

Take notice that on April 22, 1977, Lone Star Gas Company, a Division of ENSERCH Corporation (Petitioner), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-368 a petition pursuant to Section 16 of the Natural Gas Act and Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order to remove uncertainties which have arisen as a result of an application filed with the Commission in Docket No. CI77-246, by a producer to abandon the sale of natural gas to Petitioner, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that on July 15, 1955, R. J. Carraway, et al. (Carraway) executed a gas purchase contract with Lone Star Gas Company (predecessor to Pe-

titioner) to sell gas to Petitioner from certain lands in Grayson County, Texas, including two gas units, the M. J. Turner Unit and the W. N. Garr Unit, and Carraway was issued authorization for such sale by the Commission in Docket No. G-9182.

Petitioner further states that the Commission in Docket No. CI68-291 subsequently amended its certificate previously issued Carraway so as to redesignate Gordon Oil Company (Gordon) as operator and authorize the sales from the Garr and Turner Units, and redesignated Carraway Gas Rate Schedule No. 2 as Gordon Gas Rate Schedule No. 1. Petitioner states that Gordon continued to sell gas to Petitioner from said units pursuant to a small producer certificate in Docket No. CS72-1181.

Petitioner asserts that it was advised by Gordon that Gordon had requested Commission authorization to enable it to terminate its sale of gas to Petitioner on December 31, 1976, concurrent with the expiration of the gas purchase contract between Carraway and Petitioner, which contract had been assumed by Gordon. Petitioner further asserts that Gordon at the same time advised that it was Gordon's belief that the gas covered by said contract was not flowing into Petitioner's interstate transmission facilities. Gordon, it is stated, requested Petitioner's approval to terminate the gas purchase contract and disconnected the pipelines on December 31, 1976, but Petitioner refused approval and demanded that the pipeline be reconnected, which was accomplished approximately one month later.

Petitioner states that as a result of Gordon's allegations and requests, it proceeded to investigate the arrangement of facilities in the Sherman Field, Grayson County, Texas, to determine if gas was being inadvertently diverted from the interstate transmission facilities. Petitioner determined as a result of this investigation that in 1961 gas which was produced from the Carraway wells out of the Garr and Turner Units was flowing into an uncertificated gathering facility designated gathering Line EC, thereafter being delivered into Petitioner's certificated transmission Line E. Petitioner further states that during 1961, for reasons presently unclear, Petitioner constructed a pipeline from a point on gathering Line EC to a point on its wholly separate intrastate transmission Line D-9, thereby diverting some volumes of gas produced from the Garr and Turner Units to Petitioner's intrastate gas transmission system. Petitioner asserts that subsequently, in 1966, for reasons presently unclear, Petitioner removed a portion of gathering Line EC, thereby causing all gas from the Carraway wells to flow into Line D-9. Petitioner states that upon investigation and discovery of this misalignment, Petitioner directed the severance of Line D-9 from the gathering facilities and directed the replacement of that portion of gathering facility EC removed in 1966 so as to return the Carraway (Gordon) gas to certificated transmission Line E, which was accomplished in November 1976.

Pursuant to the investigation of the gathering facilities in the Sherman Field, Petitioner believes that other producers also delivered gas into gathering Line EC during the period from November 1, 1961, to November 24, 1976. Petitioner asserts that the following operators sold gas to Petitioner from wells which were connected to gathering Line EC:

R. J. Carraway, et al. (Predecessor to Gordon).
Walter H. Gant, et al.
Walter H. Gant.
R. P. Karll.
Langford Drilling Co.
Larson and Thomas, et al.
Perry E. Larson, et al.
Perry E. Larson.
H. S. Moss, et al.
Moss Petroleum Co.
Hugh E. Prather.

Petitioner believes that all, or substantially all, of the above named operators sold gas during the period in question to Petitioner for sale in interestate commerce pursuant to authorization of the Commission. Petitioner estimates further that during the period from November 1, 1961, until November 24, 1976, the gas sold Petitioner by said operators in the Sherman Field totaled 16,983,455 Mcf; and of the total, Petitioner believes all but 15,074 Mcf was delivered into Petitioner's intrastate D-9 system.

Petitioner believes that the gas inadvertently diverted, if any, may be made up from a source of gas currently dedicated to Petitioner's intrastate transmission system, if proper authorization can be obtained. Petitioner, therefore, requests a declaratory order exempting from jurisdiction any natural gas from Petitioner's intrastate system which could be used to payback any deficiencies in the interstate system caused by possible diversions of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15238 Filed 5-26-77;8:45 am]

[FPC Gas Rate Schedule Nos. 7 and 10]

LOUISIANA LAND AND EXPLORATION CO.

Extension of Time

MAY 20, 1977.

On May 17, 1977, the Louisiana Land and Exploration Company filed a request for an extension of time in which to submit rate reduction filings in accordance with Ordering Paragraph (E) of Opinion No. 749, and required by letter order issued April 6, 1977.

Upon consideration, notice is hereby given that an extension of time for submitting rate reduction filings is granted to and including June 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15235 Filed 5-26-77;8:45 am]

[Docket No. CP77-384]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

MAY 19, 1977.

Take notice that on May 16, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-384 an abbreviated application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate an offshore gas gathering facility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct a 5.3 mile 16-inch offshore gas gathering pipeline and other appurtenant facilities from a point of connection with Sea Robin Pipeline Company's (Sea Robin) existing 24-inch offshore pipeline in Eugene Island Block 295, offshore Louisiana, to a production platform located in Eugene Island Block 305, offshore Louisiana. Applicant states that the estimated cost of the proposed facilities is $4,400,800, and that such costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15218 Filed 5-26-77;8:45 am]

[Docket No. ER76-818]

NORTHERN STATES POWER CO. (MINNESOTA)

Order Accepting Settlement Agreement and Setting Hearing

MAY 23, 1977.

Before Commissioners: James G. Watt, Acting Chairman; Don S. Smith, and John H. Holloman III.

On July 29, 1976, Northern States Power Company tendered for filing revised rate schedules for service to Northern States' sixteen total requirements wholesale customers. In accord with a moratorium provision reached in a prior settlement agreement the proposed increase was suspended and permitted to become effective January 1, 1977. The proposed rates would increase test year revenues by $1,453,000.

On September 13, 1976, a settlement agreement was reached between Northern States and the Intervenors, represented by River Electric Association (REA). The settlement agreement reduced the proposed rate increase by $200,000 and imposed a moratorium on further rate increases until July 1, 1978. By letter of September 20, 1976, the City of Shakopee advised the Commission of its intent to continue to be an Intervenor in this proceeding and revoked the authority of REA to settle the instant rate case on Shakopee's behalf. All the other wholesale customers continued to support the settlement agreement.

In its amended petition to intervene Shakopee stated that none of the wholesale customers had had the benefit of a full review of Northern States' rate filing. Shakopee raised numerous cost of service questions and alleged that it would face a price squeeze under Northern States' proposed rate increase and under the settlement rates proposed herein. In its petition Shakopee stated that it had filed an antitrust suit against Northern States in the United States District Court in Minnesota. Shakopee's antitrust suit alleges price squeezes created by past and present wholesale rate filings by Northern States.

A further settlement conference was convened by order of the Commission on December 1, 1976. According to the various comments filed in this proceeding, it was evident at that settlement conference that the wholesale customers favored the approval of the original settlement agreement. Commission Staff suggested a modified settlement agreement reducing the rate increase by a further $200,000 and eliminating the moratorium provision. Northern States and REA agreed to continue to support the originally tendered settlement agreements. Shakopee's position is that it will not accept any settlement which may jeopardize its rights in the pending antitrust suit. Shakopee does not want Northern States to be able to use Shakopee's agreement to any settlement agreements as an argument that Shakopee has acceded to a price squeeze by agreeing to settlements in prior cases before the Commission.

On January 14, 1977, Northern States renewed its motion for approval of a settlement agreement. In support of the settlement agreement including a moratorium provision Northern States pointed out that without a moratorium it would immediately file for another rate increase to take advantage of the Commission's recent orders granting more favorable treatment for construction work in progress and tax normalization. Northern States argued that if Shakopee refused to concede that the settlement rates end Shakopee's price squeeze contentions then the Commission should institute a full investigation of the price squeeze issue in this case. Northern States contends that it does not want to put into effect any settlement rates that are allegedly anticompetitive without a complete Commission investigation. Northern States argues that because of Shakopee's allegations and the fact that it has instituted an antitrust action in the District Court Northern States has a legitimate interest in seeing that the price squeeze issue is resolved as soon as possible.

Shakopee's comments contend that the Commission is faced with two alternatives, either determine that there is no price squeeze on the basis on an inadequate and untested record, or, force Shakopee alone into a lengthy hearing on the price squeeze issue. Shakopee contends that there is a price squeeze but that it cannot afford to carry on a costly rate proceeding to litigate this matter before both the Commission and the U.S. District Court. Shakopee points out that its antitrust suit against Northern States was instituted prior to the Supreme Court's decision in Conway.[1] The action was commenced at a time when the Commission refused to consider price squeeze issues and an antitrust action in the District Court was the only remedy available to Shakopee. Shakopee states that in October 1976, the District Court found that it had jurisdiction over Shakopee's complaint even though the Supreme Court had ruled in June that the Federal Power Commission must consider price squeeze allegations in the context of wholesale rate proceedings.

Shakopee argues that Northern States is seeking to obtain a Commission finding that no price squeeze exists based on inadequate data submitted in support of its motion. Shakopee argues that Northern States would then take this Commission determination and offer it to the District Court as an expert determination on the price squeeze question. Alternatively, if Northern States cannot obtain a summary finding that a price squeeze does not exist, Shakopee argues that it is trying to compel Shakopee to litigate the same issue in two different forums simultaneously. Shakopee contends that its limited resources will not permit it to litigate this issue in both forums. Shakopee points out that Northern States filed a motion to dismiss Shakopee's antitrust action on the grounds that Shakopee had acceded to a price squeeze in the past by being a party to prior settlements of rate proceedings before this Commission. In order to avoid a recurrence of this situation Shakopee is contesting this settlement. Shakopee requests that the price squeeze issue be excluded from consideration by the Commission and permit the District Court to consider that issue. On that basis Shakopee states its willingness to accept the settlement.

In its comments on the settlement agreement Staff points out that the Supreme Court's mandate in Conway establishes that the Commission has a duty to consider price squeeze allegations in evaluating wholesale rate filings. Shakopee has made such an allegation and therefore Staff believes the Commission is obligated to investigate the price squeeze issue in this proceeding. Northern States conditioned its motion in this proceeding on the Commission's addressing and making a determination on the price squeeze issue. In support thereof Northern States has submitted revenue comparison data which Staff reviewed. Staff's comments indicate that after a review of the data, Staff can make no final determination of whether a price squeeze exists or not. Staff concedes that the data indicates there is no price squeeze but that a final determination cannot be made. Staff concedes that it is the only party objecting to the proposed rate settlement from a cost of service viewpoint.

On February 2, 1977, the City of North St. Paul, a wholesale customer of Northern States, filed a motion requesting that the Commission approve the proposed settlement agreement without acting on the price squeeze issue because Shakopee has failed to present evidence indicating the existence of a price squeeze. Alternatively, if the Commission must consider the price squeeze issue North St. Paul requests that the settlement agreement be approved and the price squeeze issue severed for separate hearing.

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[1] *FPC* v. *Conway Corporation*, 426 U.S. 271 (1976).

On February 17 Northern States filed a response to North St. Paul's motion. Northern States indicates that it is prepared to go forward with the settlement agreement despite Shakopee's withdrawal. However, since Shakopee continues to allege that the settlement rates are anticompetitive, Northern States has conditioned its motion for approval on a Commission determination on the price squeeze issue. Northern States points out that a price squeeze investigation need not hold up the approval of the settlement agreement. Northern States notes that Commission approval of the settlement agreement, while severing the price squeeze issue, will result in immediate refunds down to the settlement level for all wholesale customers. Northern States points out that the negotiated settlement rate could in no way be increased as a result of a decision on the price squeeze issue. Northern States argues that, in light of the Supreme Court's decision in Conway, the Commission cannot make the necessary determination that the settlement rates are just and reasonable without making a determination on the price squeeze issue. Northern States argues that the Commission has primary jurisdiction over price squeeze claims and that a wholesale customer does not have the option to have a price squeeze claim taken up exclusively in the U.S. District Court.

On March 14 Shakopee's counsel filed a letter with the Commission in response to Northern States' February 17 filing. Shakopee argues that Northern States' comments, while superficially addressed to the motion of North St. Paul, actually constitute a rebuttal to the comments of Shakopee and the Staff on the settlement agreement. Shakopee argues that the Court's decision in Conway does not find that the FPC has exclusive jurisdiction over price squeeze nor does it find that the FPC has primary jurisdiction. Shakopee argues that Conway does not hold that the Commission is to enforce the Federal antitrust laws. Shakopee argues that there are times when an administrative agency should defer to a court on the decision of a matter pending before that court citing *California* v. *FPC*.[2] Shakopee argues that the Commission jurisdiction can only deal with a portion of Shakopee's antitrust claims and cannot grant the remedies Shakopee requires. Shakopee states that the Commission cannot reach the real problem faced by Shakopee, the initiation of rates which are discriminatory but which go into effect subject to refund and pending examination; the Commission cannot enjoin the initiation of discriminatory rates; the Commission cannot reach the conduct of the utility which is designed to prevent the expansion of a municipal utility and; the Commission cannot award triple damages for violation of the antitrust laws that Shakopee is seeking. Accordingly, Shakopee argues that the Commission should defer to the jurisdiction of the District Court in this instance.

[2] 369 U.S. 482 (1962).

On March 31, Commission Staff filed a response to Shakopee's letter to the Commission and gave its recommendations regarding the impact of Commission Order No. 563[3] on this proceeding. Staff states that unless the Commission denies Northern States' motion for cost of service reasons it must affirmatively deal with the primary jurisdiction and price squeeze issues which have been raised in this case. Staff argues that the public interest would best be served by the Commission's proceeding to determine the anticompetitive effect, if any, of Northern States' settlement rates and providing a remedy therefore. Staff argues that this action would not preclude the District Court from examining the price squeeze issue and it would make available to the Court an expert determination by the Commission on the question. Staff argues that Shakopee, by alleging the existence of a price squeeze, has made price squeeze a material issue in this docket which must be addressed. Staff believes Shakopee must affirmatively pursue its price squeeze allegation in this proceeding or risk a finding of no price squeeze. Staff believes that, should the Commission decide to accept the settlement agreement, it should set the price squeeze issue for hearing in order that a prehearing conference be held in accordance with the provisions of Order No. 563.

We believe that the rates set forth in a settlement agreement should be permitted to take effect. Setting aside for the moment the price squeeze question, it is clear that these rates are just and reasonable and should be approved. The comments in this proceeding show that the wholesale customers of Northern States prefer the inclusion of a moratorium in the proposed settlement agreement rather than a lowering of the settlement rates as proposed by Commission Staff. Additionally, permitting these settlement rates to take effect, without deciding the price squeeze issue, will permit Northern States to immediately lower its rates to the settlement level thus making refunds available to its wholesale customers. Any determination made on the price squeeze question in the future can only result in a further lowering of these rates.

The price squeeze issue must be severed and set for hearing. Shakopee has raised the price squeeze issue and, this issue having been raised in a rate proceeding before this Commission, we must make a determination on it. Our consideration of the issue is necessarily limited to the instant rate filing. If a price squeeze is found to exist the Commission can adjust the rates, within the zone of reasonableness, to eliminate or ease the price squeeze.

Our examination of the price squeeze will not affect Shakopee's District Court action. That action seeks damages for allegedly anticompetitive activity that occurred in the past. As the District Court noted in its October 18, 1976, order denying Northern States' motion to dismiss, should Shakopee prove itself entitled to relief the regulatory process would not be disrupted by an award of damages for past conduct nor by an enjoining of certain future conduct. These remedies are beyond our jurisdiction as we cannot look to past rate schedules and, if a price squeeze were found, we could not take any remedial action.[4] Accordingly there is no alternative to this issue being litigated in both forums, one concerning itself with present rates and the other with past rates and possible future conduct.

The Commission finds: (1) The amended petition to intervene filed by the City of Shakopee on October 12, 1976, should be granted.

(2) It is desirable and in the public interest that the settlement agreement submitted by Northern States in this proceeding be accepted, subject a future determination of the price sequeeze issue.

(3) Good cause exists to sever and set for hearing the issue of whether or not a price squeeze is caused by the rates set forth in the proposed settlement agreement.

The Commission orders: (A) The City of Shakopee's petition to intervene is hereby granted.

(B) The Stipulation and Agreement submitted by Northern States, and incorporated herein by reference, is approved. Such approval does not constitute a determination with respect to the merits of the price squeeze allegations raised by the City of Shakopee.

(C) The price squeeze issue is hereby severed and set for hearing in this docket.

(D) Within 60 days of the issuance of this order Applicant shall file a revised cost of service and any necessary amendments to its rate schedules in lieu of those at issue herein, in accordance with the findings and conclusions on this decision, subject to the approval of the Commission.

(E) Within 30 days of the Commission's approval of Applicant's substitute tariff sheets, Applicant shall refund to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in this proceeding, together with interest at a rate of nine percent per annum from the date of payment to Applicant to the date of refund.

(F) Within 15 days after refunds have been made Northern States shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and adjudicated rates; monthly adjudicated rate increase, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

[3] Order No. 563, Docket No. RM76-29 (March 21, 1977).

[4] Cf., *Carnation Co.* v. *Pacific Westbound Conference* 383 U.S. 213, 222 (1966).

(G) Pursuant to the authority of the Federal Power Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter 1) a prehearing conference shall be held before a Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge, at a date to be designated by the Presiding Administrative Law Judge, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(H) The Presiding Administrative Law Judge shall preside at the initial conference in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Pratcice and Procedure).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15234 Filed 5-26-77;8:45 am]

[Docket No. CP77-380]

NORTHWEST PIPELINE CO.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Northwest Pipeline Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-380 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a one-inch farm-type tap and necessary appurtenances located on Applicant's 6⅝-inch O. D. Coeur d'Alene Lateral in Kootena County, Idaho, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to the Commission's order issued January 9, 1961, in Docket No. CP61-108 as amended, El Paso Natural Gas Company (El Paso), Applicant's predecessor in interest, was authorized inter alia, to construct and operate a line tap and necessary appurtenances on El Paso's O. D. Coeur d'Alene Lateral for the purpose of selling natural gas to Washington Water Power Company (Water Power) for resale to the U.S. Forest Service located at Coeur d'Alene, Idaho. Applicant states that service at such location is currently being rendered by Applicant to Water Power under the terms and conditions of a service agreement dated May 4, 1974, providing for the sale and delivery of gas on a firm basis.

It is indicated that Water Power has informed Applicant of its intent to extend its present distribution system to include the service to the U.S. Forest Service location, and that the service rendered by Applicant at the subject tap would no longer be required. The facilities as presently installed do not permit orderly maintenance and require that deliveries to the U.S. Forest Service be disrupted during inspection and repairs, it is said. Applicant states that Water Power has a distribution line in the immediate vicinity of the tap serving the Forest Service and has indicated its willingness to continue to deliver gas directly to Forest Service. Water Power would be required to extend its distribution main approximately 1,130 feet at a cost of approximately $2,600 in order to continue to serve the Forest Service without Applicant having to upgrade its facilities, it is asserted. Applicant further states that there would not be any interruption, reduction or termination of natural gas service rendered by Applicant to Forest Service as a result of the abandonment and that it would continue to provide Water Power with the gas it requires to meet its requirements in Water Power's Coeur d'Alene service area.

Applicant proposes to remove and salvage the surface materials of the line tap and necessary appurtenances, and to place such items in stock pending need therefor, and to abandon in place the subsurface tap. It is stated that the total estimated cost of the facilities to be abandoned is $249.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15230 Filed 5-26-77;8:45 am]

[Docket No. CP77-379]

NORTHWEST PIPELINE CORP.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-379 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and the exchange of approximately 500 Mcf of natural gas per day with Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a gas purchase contract dated August 5, 1976 between Mountain Fuel and Marathon Oil Company (Marathon), Mountain Fuel acquired a 33.75 percent share of the Wilson Ranch No. 2 well which is connected to Applicant's gathering system in Lincoln County, Wyoming. It is further stated that in order to make the volumes of gas to be purchased from Marathon available to Mountain Fuel's transmission system at the least possible investment, Mountain Fuel and Applicant have entered into a Gas Purchase, Transportation and Exchange Agreement (Agreement) dated March 9, 1977. Mountain Fuel proposes to deliver up to 500 Mcf of natural gas per day from the Wilson Ranch No. 2 well to Applicant at a point on Applicant's gathering line located in Lincoln County pursuant to the instant agreement. Applicant states that it would receive for exchange such volumes as are delivered by Mountain Fuel at the well head separator of the Wilson Ranch No. 2 well and would redeliver equivalent volumes, subject to Applicant's right to purchase up to 25 percent of the volumes delivered for transportation and exchange, at an existing point of interconnection between the facilities of Applicant and Mountain Fuel in or near Grange, Wyoming.

Applicant indicates that the term of the agreement is for 10 years and that the price to be paid by Applicant for the gas Mountain Fuel proposes to sell to Applicant would be equal to the purchase gas cost paid by Mountain Fuel to Marathon. The current price being paid for Applicant's share of the Wilson Ranch No. 2 well is 93.0 cents per Mcf adjusted for Btu content. It is stated that Mountain Fuel would pay Applicant its transportation cost-of-service, including a reasonable rate of return, for all costs incurred from the delivery point to the point of redelivery to Mountain Fuel, and that the initial cost-of-service charge would be 18.2 cents per Mcf.

Applicant states that it does not propose to construct any facilities to implement the proposed transportation and exchange service.

Any person desiring to be heard or to make any protest with reference to said

application should on or before June 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15231 Filed 5-26-77;8:45 am]

[Docket No. E-9586]

NORTHWESTERN WISCONSIN ELECTRIC CO.

Declaration of Intention

MAY 23, 1977.

Public notice is hereby given that a declaration of intention was filed on February 28, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Northwestern Wisconsin Electric Company (Applicant) (Correspondence to: Mr. Hugh H. Bell, Bell, Blake and Metzner, S.C., P.O. Box 1807, Madison, Wisconsin 53701; and Mr. Mark F. Dahlberg, Vice President, Northwestern Wisconsin Electric Co., 104 Pine Street, Grantsburg, Wisconsin 54840) to purchase the Black Brook Dam facilities from Polk County, Wisconsin and install two hydroelectric generating units. The project is located on the Apple River in Polk County, Wisconsin.

The Black Brook Dam facilities were built in 1917-1919 and had been in continuous operation until 1967 when the generating equipment was dismantled and the dam was sold by Northern States Power Company to Polk County. The project would consist of: (1) the existing Black Brook dam, about 131 feet long with a spillway section containing two twelve-foot high tainter gates and one sixteen-foot high tainter gate; (2) the existing 98-acre reservoir, about two miles long; (3) the existing powerhouse, integral with the dam; (4) two proposed turbine generator units rated at 327 kva and 485 kva (650 kW total capacity); (5) a proposed substation; (6) a proposed 15kV transmission line; and (7) appurtenant facilities.

Applicant would enter into a wheeling agreement with Northern States Power Company to transmit the power to the Dairyland Power Cooperative System.

Any person desiring to be heard or to make any protest with reference to said declaration of intention should on or before June 16, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15233 Filed 5-26-77;8:45 am]

[Project No. 2796]

SISKIYOU COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Application for Preliminary Permit

MAY 20, 1977.

Public notice is hereby given that on April 8, 1977, the Siskiyou County Flood Control and Water Conservation District, California (Applicant) filed an application for preliminary permit, pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r) (Correspondence to: Mr. D. A. Gravenkamp, Director of Public Works, Siskiyou County Department of Public Works, 305 Butte Street, Yreka, California 96097, and to: Frank J. DeMarco, Esquire, County Counsel, County of Siskiyou, 304 Lane Street, P.O. Box 659, Yreka, California 96097) for proposed Project No. 2796, to be known as the Lake Siskiyou Power Plant, located on the Sacramento River in Siskiyou County, California. The proposed project would produce hydroelectric power to be used in interstate commerce and might affect lands of the United States located within Shasta National Forest. Project energy would be sold, either to the State of California, a public utility, or an investor-owned utility serving northern California and Southern Oregon.

According to the application, the proposed Lake Siskiyou Power Plant would have a total installed capacity of 4,000 kW and would consist of Applicant's existing Box Canyon Dam and Lake Siskiyou reservoir at elevation 3181 feet with a total storage of 26,000 acre-feet, an existing 60-inch outlet conduit approximately 200 feet long installed in the dam, and a proposed powerhouse adjacent to the dam, containing three turbine-generator units.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15211 Filed 5-26-77;8:45 am]

[Docket No. CP77-364]

SOUTHERN CONNECTICUT GAS CO.

Notice of Application

MAY 19, 1977.

Take notice that on May 2, 1977, The Southern Connecticut Gas Company (Applicant), a customer of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 1540, Bridgeport, Connecticut 06609, filed in Docket No. CP77-365 an application pursuant to Section 3 of the Natural Gas Act for authorization to import up to 250,000 Mcf of vaporous equivalent of liquefied natural gas (LNG) from Montreal, Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import 250,000 Mcf vaporous equivalent of LNG during the months of June and July 1977, from Montreal, Canada to its LNG storage facility located in Milford, Connecticut. Applicant states that the LNG which it proposes to import would be purchased from Gas Metropolitan Inc. (Gaz Metro) of Montreal, Canada pursuant to a liquefied natural gas sales contract dated March 9, 1977, between Applicant

and Gaz Metro. Gaz Metro would sell the LNG to Applicant at Gaz Metro's Montreal storage facility and the LNG would be transported to Applicant's storage facility in Milford, Connecticut by cryogenic tank trucks owned and operated by Gas Incorporated (Gas Inc.), a motor carrier of Lowell, Massachusetts, it is said. Applicant indicates it would pay Gaz Metro $2.60 per Mcf equivalent for all gas delivered during the months of June and July 1977, and would pay Gas Inc., approximately $1.10 per Mcf equivalent to transport this LNG from Montreal to Milford. Applicant asserts that no new or additional facilities are necessary to effectuate this importation of LNG.

Applicant indicates that the LNG proposed to be imported is needed to assist it in meeting its high priority requirements next winter and would be used solely to meet such requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15215 Filed 5-26-77;8:45 am]

[Docket No. CP77-109]

TEXAS EASTERN TRANSMISSION CORP.

Amended Application

MAY 20, 1977.

Take notice that on May 17, 1977, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed an Amendment to its application previously filed in Docket No. CP77-109 on December 27, 1976, pursuant to Section 7(c) of the Natural Gas Act and the Regulations thereunder for a certificate of public convenience and necessity for the transportation of gas by Transcontinental Gas Pipe Line Corporation (Transco) of natural gas volumes for Texas Eastern from the Block 110 High Island Area, Offshore Texas.

Within Section V of the application (Footnote 3) Texas Eastern advised the Commission that it would furnish when available, the gas transportation agreement between itself and Transco. The gas transportation agreement dated March 30, 1977, with Transco being filed herewith provides for the receipt of natural gas volumes at the High Island Block 110 "A" Platform and delivery to Texas Eastern at a point of intersection with Texas Eastern's proposed Sabine River facilities, Jefferson County, Texas; all as more fully set forth in the application on file with the Commission, which is open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15232 Filed 5-26-77;8:45 am]

[Docket No. E77-45]

TEXAS GAS TRANSMISSION CORP.

Supplemental Emergency Order

By order issued March 3, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), Texas Gas Transmission Corporation (Texas Gas) as agent for certain of its customers,[1] was authorized to purchase approximately 1,500 Mcf of natural gas from United Cities Gas Company (United Cities).

By telegram dated May 13, 1977, Texas Gas requested that the order be amended to permit Texas Gas to purchase up to 2,300 Mcfd of natural gas from United Cities. Texas Gas states that on May 9, 1977, it amended the contract with United Cities to provide for the purchase of these additional volumes.

[1] These customers are local distribution companies and interstate pipelines as defined in § 2(1), (5) of the Act (91 Stat. 4 (1977)).

The March 3, 1977 order in this proceeding is hereby amended to permit Texas Gas, as agent, to purchase up to 2,300 Mcfd of natural gas from United Cities and transport and deliver that gas to the customers for which it is an agent. The provisions of the March 3, 1977 order remain in full force and effect to the extent not inconsistent with the provisions of this order.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and United Cities. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15240 Filed 5-26-77;8:45 am]

[Docket No. E77-105]

TEXAS GAS TRANSMISSION CORP.

Emergency Order

On May 16, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas, as an agent for certain of its customers,[1] from Louisiana Land and Exploration Company (LL&E). Texas Gas also requests permission to construct those facilities necessary to receive the natural gas purchased and to transport and deliver this gas to certain of its customers.

By contract executed May 3, 1977, Texas Gas as agent, agreed to purchase 2,000 to 2,500 Mcfd of natural gas from LL&E at the Bayou Piquant Field, Terrebonne Parish, Louisiana. The contract between Texas Gas and LL&E is to terminate on July 31, 1977.

Texas Gas, as agent, will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Texas Gas, as agent, will receive delivery of the subject gas from LL&E at Terrebonne Parish, Louisiana and transport and deliver such gas to its customers along the Texas Gas Pipeline System at existing delivery points. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlements rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP77-38, and the retention of a percent of the transported volumes for compressor fuel and company use and

[1] These customers are local distribution companies and interstate pipelines as defined in §§ 2(1), (5) of the Act (91 Stat. 4 (1977)).

loss. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

Further, Texas Gas advises that it will have to construct and install a meter station and 1000 feet of 2-inch pipeline at an estimated cost of $30,915 in order to transport these volumes to its customers. The cost of said facilities will be paid on a pro rata basis by those customers of Texas Gas for whom Texas Gas is acting as an agent.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from LL&E and to transport and deliver such gas for certain of its customers and to construct those facilities necessary to receive the subject gas. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, and (ii) those customers agreeing to submit reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and LL&E. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15243 Filed 5-26-77;8:45 am]

[Docket No. RP77-48]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Denying Application for Rehearing and Request for Stay

MAY 23, 1977.

On May 4, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed an application for rehearing and immediate stay of the Commission's letter order issued on April 27, 1977, in the above-captioned proceeding. The April 27th order rejected Transco's proposed increased rates for interruptible transportation services.

The Commission's rejection of Transco's proposed transportation rates was based upon Transco's failure to comply with the requirements of the Commission's regulations, particularly section 154.63 thereof. However, the rejection was made without prejudice to Transco's right to resubmit its transportation rate proposals in compliance with the applicable regulations. The Commission further pointed out that the proposed transportation rates appeared to duplicate costs already claimed by Transco in Docket No. RP76-136, and would thus result in revenues in excess of Transco's total cost of service.

In its application for rehearing Transco argues that the Commission's rejection exposes it to undercollections in the event the staff's recommended higher transportation rates in RP76-136 are approved by the Commission to be effective prior to the date of decision. Transco therefore prays in the alternative that the Commission announce that any change in the method of cost allocation resulting in higher transportation rates will be made prospective only in Docket No. RP76-136. While the Commission cannot at this time judge the final outcome of the issues in RP76-136, the Commission nevertheless will consider all relevant facts and circumstances, including the potential effect of the rejection of Transco's filing in RP77-48, in reaching a final decision on cost allocation issues in Docket No. RP76-136.

On May 9, 1977, Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation filed a joint answer in opposition to Transco's application for rehearing and request for stay. The North Carolina companies, however, support Transco's alternative request that the Commission's determination of the issue of allocation of costs to interruptible transportation services be prospective only. On May 12, 1977 Pennsylvania Gas and Water Company also filed in support of Transco's alternative request. As indicated above, the Commission will give full consideration to this request in deciding the cost allocation issues in Docket No. RP76-136.

Based upon a review of Transco's application for rehearing and request for stay, the Commission finds that no facts or principles of law have been shown which would warrant any change in the letter order of April 27th, and Transco's application shall therefore be denied.

The Commission orders: (A) Transco's application for rehearing and request for stay filed herein on May 4, 1977, are denied. (B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15229 Filed 5-26-77;8:45 am]

[Docket Nos. CP75-17 and CP75-277]

TRANSWESTERN PIPELINE CO.

Notice of Petition To Amend

MAY 19, 1977.

Take notice that on May 2, 1977, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket Nos. CP75-17 and CP75-277 a petition to amend the Commission's order issued November 15, 1976 in said docket (56 FPC ____), so as to authorize the construction and operation of three additional taps to be used for the direct sale of natural gas to its right-of-way grantors and the adjustment of the previously authorized annual volume requirement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that on March 25, 1975, it filed for certificate authorization in Docket No. CP75-277 for the continued operation of facilities which were being used for the direct sales of natural gas to its 50 right-of-way grantors in various locations along Petitioner's pipeline system in Texas, New Mexico and Oklahoma, and that on December 29, 1975, April 26, 1976, and June 21, 1976, it filed in Docket No. CP75-17 separate petitions to amend the Commission's order issued October 17, 1974 which requested authorization for the construction and operation of 12 additional taps for service to Petitioner's right-of-way grantors in various locations in Texas. By the Commission's order issued November 15, 1976, Petitioner was granted the authorizations sought in Docket Nos. CP75-277 and CP75-17.

Petitioner indicates that by this petition it seeks authorization to construct and operate the following additional facilities:

(1) A one-inch tap, meter and related equipment located in Ellis County, Oklahoma, for the delivery of natural gas to Shatuck Farms, Inc.;

(2) A one-inch tap, meter and related equipment located in Eddy County, New Mexico, for the delivery of natural gas to Mr. W. C. Welch; and

(3) A one-inch tap, meter and related equipment located in Survey, Sherman County, Texas for delivery of natural gas to Vincent Bros.

Petitioner states that the cost of the proposed facilities is estimated to be $33,770, and that it would own the taps and related equipment on its line and would be partially reimbursed by the customers for the cost of taps and all connections, design, installation, inspection, operation and maintenance of the proposed facilities.

Petitioner also seeks authorization to increase the previously authorized annual sales volumes. Petitioner states that the proposed increases are necessary due to the low yearly estimates erroneously made by Petitioner in the absence of sufficient market data in Petitioner's original filings. Annual requirements originally estimated by Petitioner in CP75-17 for Harold Biggs and Floyd Cole of 1,000 Mcf each should be increased to 73,000 Mcf each, for Leon Daugherty (CP75-277) from 139 Mcf to 9,000 Mcf, it is said. It is stated that the new estimates for CP75-277 would increase from 375,995 Mcf to 384,856 Mcf, and the new estimate for CP75-17, including the three new taps, would increase from 199,800 to 498,250 Mcf. The total authorization for farm tap deliveries under the two dockets, including the 13,000 Mcf in the original application in Docket No. CP75-17, would be 896,106 Mcf, less than .4 percent of Petitioner's total 1976 sales volumes, it is said.

Petitioner indicates that the proposed authorization is sought in order to implement agreements entered into by Petitioner to provide direct gas service to the following grantors under the right-of-way grants: William Schultz and wife Marguerite, John Barton Doyle and wife Joretta G. Boyle, Paul Terry and Julia S. Terry, Thelma Vincent and husband, H. L. Vincent. These

grantors have reserved in such grants of easements and rights-of-way a right to have a tap installed on Petitioner's pipeline and to purchase natural gas from Petitioner for domestic and agricultural uses, it is said. Petitioner states that it would render natural gas service not in excess of 200 Mcf per day, and that the total service under these contracts is estimated to be 154,450 Mcf of natural gas annually.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15216 Filed 5-26-77;8:45 am]

[Docket No. ER77-313]

UNION LIGHT, HEAT AND POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Granting Intervention, Granting Waiver, and Establishing Procedures

MAY 19, 1977.

On April 19, 1977, Union Light, Heat and Power Company (Union) tendered for filing revised rates for service to its single wholesale customer, the City of Williamstown, Kentucky (Williamstown). For the reasons set forth below, the Commission shall accept the tendered rates for filing, suspend their effectiveness for two months and establish hearing procedures to determine the justness and reasonableness of the proposed rates and charges.

Union states that the proposed tariff, FPC Electric Tariff Original Volume No. 1, would cancel and supersede Rate Schedule FPC No. 10, which is the present tariff established in the Contract for Electric Service with the City of Williamstown for the period August 1, 1966 to July 31, 1976. The proposed rates would result in an estimated increase of $137,146 (37%) based upon the twelve month period ended June 30, 1976.

The present rate schedule contains a three step demand charge and a five step energy charge. Union states that the proposed rate schedule changes the present rate by providing for an increased single step demand and energy charge and by changing the demand determination from kilovoltamperes recorded in a fifteen minute interval to the kilowatts for a thirty minute interval.

A comparison of the present and proposed rates is as follows:

Present	
Demand Charge	*Energy Charge*
1st 50 kVA at $112.50	1st 10,000 kWh at 2.5802¢/kWh.
Next 100 kVA at $2/kVA	Next 30,000 kWh at 2.0802¢/kWh.
All over 150 kVA at $1.35/kVA	Next 60 kWh/kVA at 1.5802¢/kWh.
	Next 120 kWh/kVA at 1.4302¢/kWh.
	Additional kilowatt-hour at 1.2302¢/kWh.
Proposed	
All kilowatt at $5.0153/kW	All kilowatt-hour at 1.275¢/kWh.

The proposed rate schedule also contains a fuel adjustment clause, a minimum bill and a 70 percent ratchet provision.

By motion filed on April 19, 1977, as part of its rate filing Union has requested the Commission to waive Section 35.13(b)(4)(iii) of its Regulations Under the Federal Power Act (18 CFR 35.13(b)(4)(iii))[1] which requires that the last day of the twelve months of actual experience upon which the Company's statement of the cost of service is based should be no more than seven months prior to the date of tender for filing of the proposed notice of change in rates. Union's statement of the cost of service contains unadjusted system costs for the twelve months ending June 30, 1976, which is approximately 9½ months prior to the date of its April 19, 1977 filing. In support of its Motion, Union states that it would have filed within the seven month period had it not been for the settlement of the wholesale electric rate for service to Union from the Cincinnati Gas and Electric Company (CG&E),[2] which has a significant impact upon the cost of service for Williamstown. CG&E's proposed rate for Union became effective on August 25, 1976. However, Union states that it did not want to make an adjustment in the cost of service for Williamstown to reflect the increase resulting from the proposed rate when it expected a settlement with CG&E for a lower rate. A settlement was reached with CG&E on April 4, 1977. Union states that it postponed the filing of the revised rates herein beyond the seven-month period so that adjustment to the cost of service for the City of Williamstown would reflect the lower settlement rates. Upon consideration of the motion filed by Union seeking waiver of the "seven month" rule, the Commission concludes that it is appropriate and in the public interest to grant waiver and to allow Union to use the twelve months ending June 30, 1976 as the test year in this proceeding.

Notice of the proposed increase was issued on May 3, 1977, with comments, protests, or petitions to intervene due on May 11, 1977. A Petition to Intervene was filed by Williamstown on May 2, 1977, in which Williamstown alleges that the $137,146 rate increase proposed by Union exceeds a fair rate of return, and Williamstown requests the Commission to suspend the filing for five months. On May 13, 1977, Williamstown filed an Amended Petition to Intervene and Protest in which Williamstown requests a five month suspension, or in the alternative, a suspension period of not less than ninety (90) days.

The Commission's review indicates that the proposed rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly, the Commission shall accept for filing the proposed rate schedules, suspend their use for two months, and establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing the proposed rate schedule changes filed herein on April 19, 1977, and suspend the use thereof for two months until July 21, 1977, when they shall be permitted to become effective subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of Union's rates as proposed to be revised herein.

(3) Good cause exists to grant the petition to intervene of Union's wholesale customer.

(4) Good cause exists to grant waiver of Section 35.13(b)(4)(iii) of the Commission's Regulations Under the Federal Power Act.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the justness and reasonableness of the rates and charges included in the subject filing of Union.

(B) Pending a hearing and a final decision thereon, Union's filing is hereby accepted and suspended for two months to become effective on July 21, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before July 29, 1977. (See Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene an initial conference in this proceeding on a date

[1] In its Motion, Union has incorrectly cited the Commission Regulation as Section 35.13(b)(4)(ii).

[2] Docket No. ER76-709.

certain within 10 days after service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) The Petitioner is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) Union shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR 35.19a.

(H) Union's Motion to waive Section 35.13(b) (4) (iii) of the Commission's Regulations Under the Federal Power Act (18 CFR 35.13(b) (4) (iii)) is hereby granted.

(I) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15219 Filed 5-26-77;8:45 am]

[Docket No. ER77-311]

UTAH POWER AND LIGHT CO.

Extension of Time

MAY 20, 1977.

On May 13, 1977, and May 16, 1977, respectively, Lincoln Service Corporation and the Utah Division of Public Utilities, Utah Public Service Commission, filed motions for extensions of time within which to file petitions to intervene or protests to the proposed tariff changes tendered for filing in the above indicated docket on April 20, 1977, and noticed April 29, 1977. Both requests state that counsel for Utah Power and Light Company does not object to an extension.

Upon consideration, notice is hereby given that the time for filing petitions to intervene or protests in the above proceeding is extended to and including June 6, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15212 Filed 5-26-77;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

MAY 18, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides:

> At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Aid of Western Oklahoma which is created by the merger of the two programs of Legal Aid Society of Oklahoma County and Southwest Oklahoma Legal Aid Council to serve the counties of Oklahoma, Jackson, Greer, Herman, Comanche, Caddo, Grady and Potawatomie.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado.

THOMAS EHRLICH,
President.

[FR Doc.77-15085 Filed 5-26-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSEUM ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on June 15, 1977, from 9:15 a.m. to 5:00 p.m., and June 16, 1977, from 9:15 a.m. to 1:00 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 15, 1977, from 9:15 a.m. to 1:30 p.m., on a space available basis. Accomodations are limited. The agenda will include a discussion of program guidelines.

The remaining sessions of this meeting on June 15, from 1:30 p.m. to 5:00 p.m., and June 16 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-15137 Filed 5-26-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

Meeting

The Chairman's Task Force on the National Labor Relations Board will hold open meetings at 9 a.m. on Monday, June 6, 1977, and at 9 a.m. on Tuesday, June 7, 1977, in the Board hearing room and other offices of the Agency located at 1717 Pennsylvania Avenue, NW., Washington, D.C.

The Task Force agenda for both meetings will consist of consideration of the actions taken by the National Labor Relations Board on the Task Force recommendations contained in its interim report, and the continuation of deliberations by the Task Force committees on further recommendations to be made.

Requests for further information on the meeting should be addressed to Mr. Earl D. Proctor, Secretary for the Task Force. He may be reached by telephone on (202) 254-8047.

Dated this 24th day of May 1977 in Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc. 77-15268 Filed 5-26-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP REPORTS

Notice of Availability

The National Science Foundation has filed with the Library of Congress reports of those advisory groups which held any closed or partially closed meetings in 1976. The reports were filed in accordance with the Federal Advisory Committee Act. P.L. 92-463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Room 256, Washington, D.C.

In addition, copies of the reports may be obtained by writing the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Washington, D.C. 20550. The names of the groups submitting reports are:

Ad Hoc Advisory Committee on the Sacramento Peak Observatory
Advisory Committee for Research
Advisory Committee for Science Education
Advisory Committee on Ethical and Human Value Implications of Science and Technology
Advisory Group on Anticipated Advances in Science and Technology
Advisory Group on Contributions of Technology to Economic Strength
Advisory Panel for Anthropology
Advisory Panel for Developmental Biology
Advisory Panel for Earth Sciences
Advisory Panel for Ecological Sciences
Advisory Panel for Economics
Advisory Panel for Genetic Biology
Advisory Panel for History and Philosophy of Science
Advisory Panel for Human Cell Biology
Advisory Panel for Law and Social Sciences
Advisory Panel for Linguistics
Advisory Panel for Memory and Cognitive Processes
Advisory Panel for Metabolic Biology
Advisory Panel for Molecular Biology
Advisory Panel for Neurobiology
Advisory Panel for Oceanography Project Support
Advisory Panel for Political Science
Advisory Panel for Psychobiology
Advisory Panel for Regulatory Biology
Advisory Panel for Science Education Projects
Advisory Panel for Sensory Physiology and Perception
Advisory Panel for Social and Developmental Psychology
Advisory Panel for Sociology
Advisory Panel for Systematic Biology
Advisory Panel for Weather Modification
Advisory Panel on the Materials Research Laboratories
Alan T. Waterman Award Committee
International Decade of Ocean Exploration Proposal Review Panel
National Magnet Laboratory Visiting Committee
President's Committee on the National Medal of Science
Joint Meeting of the Ecological Sciences and Systematic Biology Panel

Dated: May 23, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15172 Filed 5-26-77;8:45 am]

ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY PCM/BBS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Developmental Biology/PCM/BBS.

DATE AND TIME: June 13, 14, 15, 1977. 9:00 AM-5:00 PM.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed

CONTACT PERSON: Dr. Mary E. Clutter, Program Director, Developmental Biology, Room 326, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-4314.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in the Developmental Biology Program.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 24, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15175 Filed 5-26-77;8:45 am]

ADVISORY PANEL FOR POLITICAL SCIENCE

Notice of Meeting

In accordance with the Federal Advisory Committee Act. P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Political Science.

DATE AND TIME: June 14, 1977—9:00 a.m. to 5:00 p.m.; June 15, 1977—9:00 a.m. to 5:00 p.m.

PLACE: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Closed, June 14, 1977—9:00 a.m. to 5:00 p.m.; Open, June 15, 1977—9:00 a.m. to 12:00 p.m.; Closed June 15, 1977—1:30 p.m. to 5:00 p.m.

CONTACT PERSON: Dr. Richard E. Dawson, Program Director, Political Science Program, Room 316, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4348.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Political Science.

AGENDA CLOSED SESSIONS: To review and evaluate research proposals and projects as part of the selection process for awards.

AGENDA, OPEN SESSIONS: Discussion with panel members about program goals for the Political Science Program and to identify research topics that should receive special emphasis from the Program in the future.

REASON FOR CLOSING: The proposals being reviewed include: Information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

Dated: May 24, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15174 Filed 5-26-77;8:45 am]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

A special meeting of the Federal Scientific and Technical Information Managers will be held on Tuesday, June 14, 1977, from 10:00 a.m.—12:00 noon, at the National Academy of Sciences, Constitution Avenue, NW, Room 250. The theme of this meeting will be the "Status of the US/USSR Working Group on the Development and Testing of a Common Machine-Readable Format," by Thomas E. Hughes, Library of Congress, and members of his Panel.

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination among public and private scientific and technical information systems.

Any persons wishing to attend this meeting or requiring further information should notify Mr. Andrew A. Aines, Division of Science Information, National Science Foundation, 1800 G Street NW., Washington, DC 20550, telephone: (202) 632-5836.

LEE G. BURCHINAL,
Director, Division of Science Information.

MAY 23, 1977.

[FR Doc.77-15173 Filed 5-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Open Meeting

Pursuant to Executive Order 11671, the Federal Highway Administration announces the meeting dates and relevant information for the mid-year meeting of the National Advisory Committee on Uniform Traffic Control Devices. The meeting will be held June 22–24, 1977, at the Holiday Inn-Downtown, 88 Spring Street, Portland, Maine. The full Committee will convene at 1:00 p.m. June 22. Subcommittee meetings will be held June 22 and June 23 and the full Committee will reconvene at 8:30 a.m. June 23.

Attendance by the public will be limited to space available. For further information contact the Office of Traffic Operations, Federal Highway Administration, Washington, D.C. 20590, Code 202–426–0411.

Purpose. This Committee reviews currently approved standards, guides and warrants for traffic control devices contained in the Manual on Uniform Traffic Control Devices, the national standards for all classes of highways. Recommendations on revisions and proposed new standards to meet new developments and improvements are developed as needed.

Agenda. Agenda items will include recommendations relative to proposed additions to or revisions in traffic control device standards prepared by the technical subcommittees on signs, signals, markings, traffic controls for construction and maintenance areas, bicycle facilities and grade crossings as advice to the Federal Highway Administration in developing appropriate standards as authorized in 23 U.S.C. 109(d) and 402(a).

DAVID M. BALDWIN,
Acting Director, Office of Traffic Operations, Federal Highway Administration.

[FR Doc.77–15168 Filed 5–26–77;8:45 am]

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Reestablishment

Notice is hereby given that the National Advisory Committee on Uniform Traffic Control Devices is being reestablished effective June 10, 1977. The Federal Highway Administration, Office of Traffic Operations, is the sponsor of the Committee which consists of a group of experts on traffic control devices. The Committee periodically reviews currently approved standards, guides and warrants for traffic control devices as contained in the Manual on Uniform Traffic Control Devices, approved by the Federal Highway Administrator under the authority granted in 23 U.S.C. 109(b), 109(d), and 402(a) and recommends revisions and new standards to meet new developments and improvements.

The Secretary of Transportation has determined that the formation and use of the National Advisory Committee on Uniform Traffic Control Devices is necessary in the public interest in connection with the performance of duties imposed on the Federal Highway Administration by law. Meetings of the Committee will be open to the public.

This notice is given in compliance with Pub. L. 92–463.

Issued in Washington, D.C., on May 23, 1977.

DAVID M. BALDWIN,
Acting Director, Office of Traffic Operations.

[FR Doc.77–15169 Filed 5–26–77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 165]

CERTAIN INTERNAL REVENUE SERVICE OFFICIALS

Delegation of Authority Regarding Responses to Appeals; Freedom of Information Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to respond to appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, to acknowledge receipt of FOIA appeals, and to assert mandatory extensions of the FOIA appeal time limits is redelegated to certain Internal Revenue Service officials. The text of the delegation order appears below.

EFFECTIVE DATE: May 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Christina M. Burkeholder, CC:D:F, 1111 Constitution Avenue, NW., Room 3552, Washington, D.C. 20224, 202–566–3321 (Not toll free).

MICHAEL B. FROSCH,
Chief, FOI and Privacy Branch Disclosure Division.

[Order No. 165]

RESPONSES TO APPEALS FILED PURSUANT TO THE FREEDOM OF INFORMATION ACT 5 U.S.C. 552 [FOIA]

The authority vested in the Commissioner of Internal Revenue by 31 CFR 1.5(h) and Appendix B(4) to respond to administrative appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, is hereby delegated to the Deputy Commissioner. This authority may not be redelegated.

In addition, the authority vested in the Commissioner by 31 CFR 1.5(h)–(1) to acknowledge receipt of FOIA appeals and assert mandatory extensions of FOIA appeal time limits is hereby delegated to the Director, Disclosure Division. This authority may be redelegated to the level of Branch Chief, Disclosure Division.

Date of issue and effective date: May 23, 1977.

JEROME KURTZ,
Commissioner.

MAY 20, 1977.

[FR Doc.77–15269 Filed 5–26–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 339]

Assignment of Hearings

MAY 24, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103533 Sub 84, Overnite Transportation Company now being assigned September 12, 1977 (2 weeks) at Charleston, West Virginia in a hearing room to be later designated.

MC 31533 (Sub-14), South Bend Freight Lines, Inc., now being assigned July 19, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 109689 (Sub-333), Melton Truck Lines, Inc., now being assigned July 20, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 123407 (Sub-334), Sawyer Transport, Inc. and MC 136828 (Sub-11), Cook Transports, Inc., now being assigned July 21, 1977 (1 day), at Chicago, Illinois, in a hearing room to be later designated.

MC 128270 Sub 20, Redlehs Interstate, Inc. now being assigned July 14, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 135236 Sub 12, Logan Trucking, Inc. now being assigned July 12, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 139193 (Subs-47 & 49), Robert & Oake, Inc., now being assigned July 22, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 117940 (Sub-190), Nationwide Carriers, Inc., now being assigned July 25, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 140033 (Sub-19), Cox Refrigerated Express, Inc., now being assigned July 26, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.

MC 142555, Emerson Delivery, Inc., now being assigned July 27, 1977 (3 days) at Chicago, Illinois, in a hearing room to be later designated.

MC 114211 Sub 287, Warren Transport, Inc. now being assigned July 11, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 720 Sub 20, Bird Trucking Co., Inc. now being assigned July 7, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 117883 Sub 209, Subler Transfer, Inc. now being assigned July 6, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 101186 (Sub-No. 14), Arledge Transfer, Inc., now being assigned for continued hearing on June 28, 1977 (2 days), in Hearing Room B, Iowa State Office Building, 300 4th Street, Des Moines, Iowa.

MC-F 12753, Whitfield Transportation, Inc.—Purchase—Haywood L. Washum, dba Los Angeles-Yuma Freight Lines and MC 108461 Sub 126, Whitfield Transportation, Inc. now being assigned September 12, 1977 (1 week) at Roswell, New Mexico and September 19, 1977 (1 week) at El Paso, Texas for continued hearings in hearing rooms to be later designated.

MC 141848, Yellow Enterprise Systems, Inc. now being assigned September 26, 1977 (1 week) at Louisville, Kentucky in a hearing room to be later designated.

MC 124796 Sub 67, Continental Contract Carrier Corp. now being assigned September 22, 1977 (2 days) at Nashville, Tennessee in a hearing room to be later designated.

MC 107295 Sub 697, Pre-Fab Transit Corp. now being assigned September 20, 1977 (2 days) at Nashville, Tennessee in a hearing room to be later designated.

MC 52979 (Sub-No. 17), Hunt Truck Lines, Inc., now being assigned July 18, 1977, at Des Moines, Iowa, in a hearing room to be later designated.

MC 2890 Sub 51, American Bus Lines, Inc., MC 41638 Sub 6, Delux Trailways, Inc., MC 54591 Sub 9, Southeastern Trailways, Inc. MC 66810 Sub 20, Peoria-Rockford Bus Company and MC 109780 Sub 72, Continental Trailways, Inc. now being assigned September 13, 1977 (4 days) at Chicago, Illinois and continued September 19, 1977 (2 days) at Rockford, Illinois and September 22, 1977 (2 days) at St. Louis, Missouri in hearing rooms to be later designated.

MC 142467, Hugh A. Mitchell, DBA Mitchell Special Emergency Hauling Service, now being assigned July 25, 1977, at Jackson, Miss., in a hearing room to be later designated.

MC 1301198 (Sub-No. 1), Robert Gavin & Associates, Inc., now assigned June 1, 1977, at Madison, Wis. is canceled and transferred to Modified Procedure.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15254 Filed 5-26-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 138]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, that there are substantial shortages of plain gondola cars on the lines of the Missouri Pacific Railroad Company (MP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the MP of certain of these cars; and the MP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the MP; and that use of these cars by the MP will substantially relieve gondola car shortages on the MP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars owned by the National Railways of Mexico (NDM) identified herein may be used by the Missouri Pacific Railroad Company (MP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain gondola cars identified herein available empty on lines other than the MP must be returned to the MP either loaded or empty and may not be returned to the NDM by any line other than the MP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto.

Effective May 9, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO
REVISED EXEMPTION NO. 138

REPORTING MARKS NDM

055055 055064 055222 055237 055305 055315 055500 055520 055567 055577
055593 055816 055826 055845 055900 055992 056106 056189 056486 082083
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084782 084797 084884 085432 085514 086045 086056 086737 086749 086753
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086815 086824 086830 086855 086861 086862 086872 086875 086879 086901
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086989 087010 087027 087066 087072 087081 087088 087089 087090 087098
087113 087121 087132 087150 087152 087166 087172 087173 087176 087197
087199 087230 087234 087244 087254 087256 087258 087262 087266 087267
087270 087274 087279 087281 087289 087300 087314 087320 087325 087327
087351 087362 087364 087374 087378 087390 087394 087403 087409 087410
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087465 087466 087469 087480 087492 087495 087498 087513 087529 087533
087543 087546 087551 087571 087577 087582 087583 087590 087591 087603
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088404 088418 088420 088428

TOTAL 264

055028 055067 055073 055131 055262 055296 055313 055318 055510 055523
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055833 055843 055880 055928 055961 056000 056024 056055 056193 056271
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087425 087528 087532 087580 087597 087613 087625 087686 087697 087714
087756 087805 087814 087991 088060 088125 088126 088133 088165 088181
088191 088322 088342 088347 088417 088567 088627

TOTAL=0097

[FR Doc.77-15041 Filed 5-26-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P–4–77 (Special certificate-waste products), filed March 16, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *aluminum or steel (tin) containers, aluminum household scrap, bottles, glass, and paper products,* from points in Arizona, to points in California, in furtherance of recognized pollution control programs sponsored by (1) The Beverage Industry Recycling Program, located in Phoenix, Ariz., and (2) Commercial Waste Paper Company, Inc., located at South El Monte, Calif., for the purpose of collecting recyclable waste products for recycling.

P–9–77 (Special certificate-waste products), filed April 21, 1977. Applicant: FOOD CARRIERS, INC., P.O. Box 2287, Savannah, Ga. 31402. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., N.W., Washington, D.C. 20004. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste paper,* from points in Florida, to Savannah, Ga., in furtherance of a recognized pollution control program sponsored by: Union Camp Corporation, of Savannah, Ga., for the purpose of collecting and transporting waste paper for recycling.

P–10–77 (Special certificate-waste products), filed April 27, 1977. Applicant: Robert F. Kazimour, d.b.a. ROBERT F. KAZIMOUR TRANSPORTATION COMPANY, P.O. Box 2011, Cedar Rapids, Iowa 52403. Applicant's representative: George L. Hirschbach, 5000 South Lewis Boulevard, Sioux City, Iowa 51102. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse,* dry, in packages, from the plantsite and storage facilities of the Milwaukee Sewerage Commission of the City of Milwaukee, Wis., located at or near Milwaukee, Wis., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kentucky, Missouri, Nevada, New Mexico, Ohio, Oregon, Tennessee, Texas, Utah and Washington, in furtherance of a recognized pollution control program sponsored by the Milwaukee Sewerage Commission of the City of Milwaukee, Wis., for the purpose of reuse of recycled waste materials.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–15255 Filed 5–26–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 12:15 p.m., May 24, 1977.

PLACE: Telephone conference.

STATUS: Closed to the public.

MATTERS CONSIDERED:

A matter closed to the public under § 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977).

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at (202-634-6748).

This Notice Issued May 25, 1977.

[S-510-77 Filed 5-25-77; 10:02 am]

2

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m., June 1, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Appeal of Jugolinija's Special Permission No. F-2441-I.
2. Agreement No. 57-104, Amendment of the Appendix to the Pacific Westbound Conference Agreement.
3. Agreement No. 10281, Administrative Agreement of the Trans-Atlantic Associated Freight Conferences.
4. Agreement No. T-3130-3, Between the City of Anchorage (Port) and Totem Ocean Trailer Express, Inc.
5. Orlando A. Puig d/b/a Houston Export International (FMC License No. 1744).
6. Agreement No. 10118-3—Atlantic Steamship Energy Conservation Agreement.

Portions closed to the public:

1. Civil Penalty Compromise Guidelines.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-508-77 Filed 5-24-77;4:05 pm]

3

AGENCY HOLDING THE MEETING: Federal Power Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published May 23, 1977 (S464-77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., May 24, 1977.

CHANGE IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman and Watt.

G-26. Docket No. RP74-21, United Gas Pipe Line Company.
G-27. Docket Nos. RP71-130, RP72-58 and RP75-111, Texas Eastern Transmission Corporation.
G-29. Amoco Production Company, Rate Schedule No. 439.
M-2. Docket No. RM76-15, Regulation of Small Producer.

The following items have added to the agenda upon the affirmative vote of Commissioners Smith, Holloman and Watt.

G-30. Docket Nos. CP75-158 and CP77-257, Consolidated Gas Supply Corporation.
G-31. Docket No. RP77-94, Western Gas Interstate Company.
G-32. Docket No. RP77-62, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.
G-33. Docket No. RP77-57, National Fuel Gas Supply Corporation.

KENNETH F. PLUMB, *Secretary.*

[S-506-77 Filed 5-24-77;2:40 pm]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

CHANGE IN TIME OF MEETING: The time of the May 27, 1977, closed meeting of the Board of Governors of the Federal Reserve System at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., has been changed from 10 a.m. to 12 noon.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202-452-3204).

Board of Governors of the Federal Reserve System, May 24, 1977.

THEODORE E. ALLISON, *Secretary of the Board.*

[S-505-77 Filed 5-24-77;2:40 pm]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, June 1, 1977, at 10 a.m., a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.
2. Computer purchase by the Federal Reserve Board. This matter was originally scheduled for a meeting on May 20, 1977.
3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202-452-3204).

Board of Governors of the Federal Reserve System, May 24, 1977.

GRIFFITH L. GARWOOD, *Deputy Secretary of the Board.*

[S-504-77 Filed 5-24-77;2:40 pm]

6

AGENCY HOLDING THE MEETING: National Mediation Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-488-77, published on May 25, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Wednesday, June 1, 1977.

CHANGES IN THE MEETING: Addition to matters to be considered. Amendment to Section 310.0 of the Mediator's Manual—Representation Procedures pertaining to the distribution of employee addresses furnished by Carriers for the purpose of conducting a mail ballot election.

SUPPLEMENTARY INFORMATION: Chairman McMurray and Board Members Ives and Stowe have determined by recorded vote that Agency business requires this change and that no earlier announcement of such change was possible.

(Date of Notice: May 24, 1977.)

[S-507-77 Filed 5-24-77;4:05 pm]

7

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following closed meetings during the week of May 23, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 24 at 10 a.m., and Wednesday, May 25 after the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission or his designee, has certified, that in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9)A and (10) and 17 CFR 200.402(a) (4) (8) (9) (i) and (10).

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closing meeting scheduled for Tuesday, May 24 will be:

Formal orders of investigation
Institution of injunctive actions
Institution of administrative proceedings
Settlement of administrative proceedings
Referral of investigative files to Federal, State or self regulatory authorities
Proposal for exchange listing of certain securities

The subject matter of the closed meeting scheduled for Wednesday, May 25 will be:

Suspension of trading
Freedom of Information Act appeal
Institution of administrative proceeding
Other litigation matter

FOR INFORMATION CONTACT:

Philip N. Lee (202–755–1234).

MAY 23, 1977.

[S–509–77 Filed 5–25–77;8:45 am]

Federal Register

FRIDAY, MAY 27, 1977

PART II

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

Claims Procedure for Employee Benefit Plans

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS

SUBCHAPTER G—ADMINISTRATION AND ENFORCEMENT UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2560—RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

Claims Procedure for Employee Benefit Plans

AGENCY: Department of Labor.

ACTION: Final rules, and interim rules pending adoption of final rules.

SUMMARY: This regulation sets the rules for the claims procedure which ERISA requires all plans to have. The rules are designed to insure that plan participants and beneficiaries have their claims for benefits handled by their plans in a fair way.

DATES: Effective date October 1, 1977. Comments must be received by July 31, 1977.

ADDRESS: Data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Judith Bleich Kahn, Pension and Welfare Benefits Programs, United States Department of Labor, Washington, D.C. (202 523-8686).

SUPPLEMENTARY INFORMATION: The supplementary information on these rules is divided into two parts. Part I, "Description of the Rules", is a general, nontechnical description of what the rules require. It is written for the reader who is not a professional or an expert in the field of employee benefit plans. Part I is designed to help readers to find the sections of the regulation or of the Part II technical explanations that they need for more detailed information. Part II, "Technical Explanation of the Regulation", contains discussions of the background and major issues involved, or significant differences between the proposed sections published in the FEDERAL REGISTER on December 4, 1974 and the final sections published here, and of substantive public comments on the proposals, as well as detailed explanations of certain technical requirements.

PART I—DESCRIPTION OF THE RULES

SCOPE

This regulation applies to all plans which are covered under ERISA except apprenticeship plans. Apprenticeship plans are excluded by subsection (1) of the regulation. Special rules are provided for some plans maintained under labor contracts.

PURPOSE

ERISA requires employee benefit plans to provide reasonable steps for handling claims for benefits filed by participants. If a claim is filed and the plan refuses to pay benefits, the plan must notify the participant. The plan must also offer a chance for a full and fair review of the refusal to pay benefits.

FILING A CLAIM FOR BENEFITS

A plan must set up reasonable rules for filing a claim. The rules must be described in the summary plan description. If a plan fails to set up these rules, the participant or beneficiary may present the claim to the unit or office which normally handles claims. For instance, if an employer's personnel office normally handles claims, a participant can present the claim to anyone working in the personnel office.

The rules allow the plan administrator to take a reasonable amount of time to decide whether to pay benefits. The administrator must decide within 90 days of when the claim is filed. In some special cases, more than 90 days may be needed to decide. If a special case comes up, the administrator shall notify the participant and explain why more time is needed. After giving the notice, the plan administrator may take up to another 90 days to make the decision.

DENIED CLAIMS FOR BENEFITS

If a claim is denied, the administrator shall notify the participant. This notice must explain in detail why the claim was denied. If the claim is denied because the administrator needs more information to make a decision, the administrator must tell the participant what is needed. The notice must also explain the rules of the plan for reviewing the decision to deny the claim.

If the participant doesn't get any answer at all in 90 days—or 180 days, if it's a special case—this is the same as denying the claim. The participant can use the plan rules for appealing denied claims.

REVIEW PROCEDURE

Every plan must set up rules for reviewing denied claims. The review must be full and fair. The review must be done by someone with authority to make a final decision on the claim. As part of the review the participant must be allowed to see all plan documents and other papers which affect the claim. The participant must be allowed to argue against the denial in writing. The participant must also be allowed to have a representative if he or she wishes. The plan rules must give the participant at least 60 days after the claim denial to request this review.

DECISION ON REVIEW

The plan must conduct the review and decide on the appeal within 60 days after the request for review is made. In special cases, more time may be needed to make the decision on review. If the plan notifies the participant that there will be a delay and explains the reasons for needing more time, the plan may have 60 days more.

Some plans provide for review by a committee or board. These plans do not have to decide within the 60 day limit if the committee or board meets at least four times a year (about every 90 days). Instead, they must decide the matter, ordinarily, at the first meeting after the request is filed. The exception is when a request is made less than thirty days before a meeting. Then a decision can wait until the next meeting. Sometimes a hearing must be held. This may cause a delay. In such case, the committee can wait to make its decision until the first meeting after the hearing. If it waits, the committee must notify the participant and explain the delay. If the decision on review is not made within the time limits, the appeal will be considered denied.

The decision must be in writing and it must be clear and understandable. Exact reasons must be given for the decision, not just general statements.

INSURED PLANS

Certain special rules apply to plans run by an insurance company. The claims procedure can be operated by such company. This means that the insurance company can give notice of a decision on a claim, it can review that decision, and it can make the final decision.

COLLECTIVELY BARGAINED PLANS

Some plans maintained under labor contracts do not have to follow the rules set forth above, but may use the grievance and arbitration provisions of the collective bargaining agreement as the claims procedure. This does not apply to "Taft-Hartley" plans administered by a joint board. Some of these plans are also called multiemployer plans. Taft-Hartley plans must have a claims procedure which follows the general rules.

PART II—TECHNICAL EXPLANATION OF THE REGULATION

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42242) of a proposal to adopt Part 2560 of Title 29, later redesignated as proposed § 2560.503-1 of Title 29, which set forth certain minimum requirements for claims procedures established by employee benefit plans. Interested persons were invited to submit written comments on the proposed regulation. After consideration of all such comments received, § 2560.503-1 is adopted in the form set forth below, pursuant to the authority of sections 102, 503 and 505 of the Employee Retirement Income Security Act of 1974 (the Act).

Section 503 of the Act requires that an employee benefit plan which denies a claim for plan benefits give the participant or beneficiary who made the claim (the claimant) adequate written notice of denial and a reasonable opportunity for a full and fair review. The Secretary of Labor is authorized to prescribe regulations concerning the notice and review procedures which plans must establish.

Section 2560.503-1 sets out minimum requirements which the benefit claims procedures of covered plans must meet to be deemed reasonable. It should be noted that a claims procedure which meets the minimum requirements set forth in this regulation nevertheless

may be deemed not reasonable if it contains other provisions which unduly inhibit or hamper the initiation or processing of plan claims. For example, a claims procedure may be deemed unreasonable if it requires a claimant to file a complicated claim form before the claim is considered properly filed, or if it requires the payment of a fee as a condition for filing a claim or obtaining review of a denied claim. It should be noted that a procedure which is reasonable on its face may be deemed unreasonable if it is administered in such a way as to unduly inhibit or hamper the initiation or processing of plan claims.

Paragraph (a) explains the scope and purpose of section 2560.503–1. Paragraph (b) states the general requirement that a plan's claims procedure must be reasonable, and provides certain rules under which a plan's claims procedure will be deemed reasonable.

Subparagraph (b) (1) (ii) states that a claims procedure must be described in the summary plan description, as required by § 520.102–3, to be deemed reasonable. This does not require any special revision of the summary plan description (See § 2520.102–3), nor does it modify § 2520.102–3. However, if the claims procedure is not described in the initial SPD, a summary of material modifications will be required pursuant to 2520.104b–3.

Subparagraph (b) (2) expands in a number of ways the provision in the proposed regulation which stated that plans established and maintained pursuant to a collective bargaining agreement which provides for grievance and arbitration of plan benefits claims are deemed to contain a reasonable claims procedure. First, a grievance and arbitration procedure could be constructed so as to commence only upon an adverse action having been taken against an employee, i.e., only after the denial of a claim. In such a case, there would be no provisions governing the filing of claims and the disposition of them. Therefore, the regulation distinguishes between procedures up to and including the initial denial of a claim, and procedures concerning review of a denied claim. If the plan is not subject to collectively bargained procedures for handling claims up to and including the point of the initial denial of a claim, the plan must establish procedures which comply with paragraphs (d) through (f) of the regulation. Second, the collectively bargained procedures must be described in the collective bargaining agreement or incorporated therein by specific reference.

For example, mere inclusion in the collective bargaining agreement of a grant of authority to plan trustees to establish a claims procedure would not be sufficiently specific; similarly, the object of an incorporation by reference must be a particular set of written rules. Third, subparagraph (b) (2) is applicable only to collectively bargained plans which are not subject to the joint representation provisions of section 302(c) (5) of the Labor Management Relations Act, 1947 (i.e., which are not Taft-Hartley plans). Taft-Hartley plans are therefore subject to the requirements of paragraphs (d) through (h) of § 2520.503–1. Comments received on the proposed regulation urged that Taft-Hartley plans should be required to meet the general provisions of this regulation in view of the dual roles of the employee organization in representing employees and in participating in the operation of the plan. The latter role may not always be consistent with the former. Finally, the reference to "binding" arbitration in proposed § 2560.2 has been deleted to avoid any inference regarding the substantive effect of arbitration under section 503 of the Act. Section 503 establishes only procedural requirements for a claims procedure, and the regulation has been modified to conform to this principle.

Although it might be objected that collectively bargained grievance and arbitration procedures can deviate in significant ways from the general rules in the regulation, particularly the various time requirements, it is the Department's view that such arrangements should not be disturbed. Collectively bargained grievance and arbitration procedures constitute agreements reached at arm's length which accommodate a variety of interests in the employer-employee relationship. In this context, employee benefit plan claims are one among many categories of grievable disputes which may arise under a collective bargaining agreement. As a matter of policy, the Department believes that it should not interfere with the operation of such agreements merely because they involve employee benefit plan claims.

Paragraph (c) of the regulation (proposed § 2560.4) has been amended to apply not only to insured welfare plans but to insured pension plans as well. Comments received on this provision argued persuasively that the rule it establishes should be made applicable to both types of plans. Additionally, the paragraph has been clarified to deal only with the filing and processing of original claims and the issuance of initial decisions on them, rather than on the review process. Insurance company handling of the review of denied claims and issuance of final decisions is addressed in subparagraph (g) (2).

Under paragraph (d), a plan may establish reasonable procedures for the initial filing of a claim. If there are no such reasonable rules, paragraph (d) establishes rules which ensure that any communication reasonably calculated to bring the claim to the plan's attention will constitute filing. Also, paragraph (d) has been expanded, pursuant to comments, to include plans whose benefits are provided or administered by an insurance company, insurance service, or other similar organization. Thus, any communication regarding a claim which is delivered to the insurer of an insured plan which lacks a reasonable procedure for the initial filing of a claim will constitute a proper filing of that claim.

Paragraph (e) of the regulation makes final the terms of proposed § 2560.5, which require that a plan issue any notice of denial of a claim for benefits within a reasonable period of time after receipt of the claim. Comments received on proposed § 2560.5 suggested the establishment of more specific time limit requirements within which an initial decision on a claim should issue. Fixing specific time limits, the comments advised, would induce plans to process the initial claim promptly, and would eliminate unreasonable delays in responding to claims. As adopted, the regulation retains the standard of reasonableness but provides that in no event will a period of more than 90 days be deemed reasonable, unless special circumstances require an extension for an additional period of no more than 90 days. If the plan fails to act on the claim within these periods of time, paragraph (e) provides that the claim is deemed denied and the claimant may proceed to the review stage, described below. A new provision has been added requiring notice to the claimant if an extension is necessary.

Under paragraph (f), notice to a participant or beneficiary of the denial of a claim must contain the following items: the specific reasons for denial, specific references to pertinent plan provisions, a description of any additional material or information necessary for the claimant to perfect the claim, an explanation of why such material or information is needed, and information concerning the procedure the participant or beneficiary must follow to obtain review of the denial.

Under paragraph (g), plan procedures for review of claim denials must include the right of a claimant to request review, have representation, review pertinent documents relating to the denial and submit issues and comments in writing. The decision on review must be made by an appropriate "named fiduciary" as defined in section 402(a) (2) of the Act. Where review and final decision on claims is performed by an insurance company, insurance service or similar organization as provided in a plan's claims procedure, the insurance organization is the "named fiduciary". In other cases, the plan must designate (pursuant to section 402(a) (1)) the person who has the authority to make the final decision on review.

Many insurance carriers and associations objected to the position taken in the proposed regulation concerning insurance carriers as named fiduciaries, on the grounds that the employee benefit plan provided by an employer to its employees is not synonymous with the insurance contract entered into by the employer and the insurer as a vehicle to accomplish the payment of benefit claims. A person is a fiduciary by operation of section 3(21) (A) (iii) of the Act if the person exercises discretionary authority or discretionary responsibility in the administration of a plan. If this is the case under the terms of a particular plan regarding final decision on appeals from claim denials, the plan has effectively designated that person a named fiduciary. It is immaterial that the plan

documents may fail to state that the person is a named fiduciary or indeed a fiduciary..

The regulation also provides that the plan must give claimants at least 60 days from receipt of the notice of denial in which to request review. This provision responds to comments on proposed § 2560.6, which suggested the need for a specific minimum period within which claimants must be allowed to initiate the review procedure.

Under paragraph (h), decisions on review must be issued within 60 days after receipt of a request for review, unless special circumstances, such as the need under a plan procedure to hold a hearing, would make the issuance of a decision within the 60-day limit infeasible. In such cases, an extension of up to 60 days is available, if the claimant is notified of such extension. Because of the particular nature of plans with a committee or board of trustees designated as named fiduciary, the regulation contains special rules for such plans. Comments received indicate that many such plans review claims appeals on a monthly, bi-monthly or quarterly basis by committee, not on a daily basis. The regulation therefore links the time limits for issuing decisions on review to the dates of the meetings of such committee or board, provided such meetings are regularly scheduled and held at least quarterly.

Finally, section (i) provides a interim rule stating that apprenticeship plans are not covered by this regulation. The Department received no comments relating to the applicability of the claims procedure to apprenticeship plans. However, it has come to the Department's attention that there are certain questions concerning the application of claims procedure to apprenticeship plans.

First is the question of the atypical nature of apprenticeship plans as compared to other welfare plans under the Act. Apprenticeship is a temporary status persisting for a relatively short period of time. Thus, the individuals covered by the plan are constantly changing. The benefits are in the form of direct provision of training, and the training is not only for the benefit of the apprentices but also for the benefit of the trade or craft as a whole in preserving and transmitting its skills. Second, there is the concurrent regulation of apprenticeship plans by the Bureau of Apprenticeship Training and by state apprenticeship agencies. Regulations prepared by the Bureau of Apprenticeship Training (BAT) and appearing at 42 FR 10138 (February 18, 1977) provide for the review of complaints raised by apprentices. (See 29 CFR § 29.11 42 FR 10143. Under this procedure, disputes relating to apprenticeship plans can be brought before the appropriate Federal or State registration authority for impartial resolution.

The Department solicits comments on the question of the rules to be applied to apprenticeship plans under section 503. In formulating comments, the effects of the preemption provisions of section 514 of the Act should be considered.

Many comments were received requesting the views of the Department regarding various substantive issues not addressed in this regulation. Specifically, some comments suggested that the Department should state its views as to whether claims procedures must be exhausted by a claimant prior to the initiation of a civil action pursuant to section 502 of the Act (and whether failure to so exhaust would bar a section 502 action), and as to the scope of judicial review of a decision by an arbitrator as to a benefit claim where the grievance and arbitration process is collectively bargained and where it is not. While these issues are not addressed in this regulation, the Department solicits comments from the public relating to them, including comments on whether it is appropriate for the Department to address them, and if so, in what form, as well as comments on the substance of the issues.

Comments on the issues presented in the immediately preceding paragraph and on paragraph (i) should be submitted by July 31, 1977 to "Claims Procedure", Office of Regulatory Standards and Exceptions, Room C-4526, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216.

Accordingly, 29 CFR Chapter XXV is amended by adding a new Part 2560, and a new § 2560.503-1 thereof, which reads:

§ 2560.503-1 Claims procedure.

AUTHORITY: Sections 102, 503 and 505, Pub. L. 93-406, 88 Stat. 893, 894 (29 U.S.C. 1133, 1135), Secretary of Labor's Order No. 76-13.

§ 2560.503-1 Claims procedure.

(a) *Scope and purpose.*—(1) This section sets out certain minimum requirements for employee benefit plan procedures pertaining to claims by participants and beneficiaries (claimants) for plan benefits, consideration of such claims, and review of claim denials, hereinafter referred to in the aggregate as "claims procedures." Except as otherwise noted, these requirements apply to every employee benefit plan described in section 4(a) and not exempted under section 4(b) of the Employee Retirement Income Security Act of 1974 (the Act).

(b) *Obligation to establish a reasonable claims procedure.* Every employee benefit plan shall establish and maintain reasonable claims procedures.

(1) A claims procedure will be deemed to be reasonable only if it:

(i) Complies with the provisions of paragraphs (d) through (h) of this section, or is deemed to comply with some or all of these provisions under the authority of paragraph (b) (2).

(ii) Is described in the summary plan description, as required by § 2520.102-3,

(iii) Does not contain any provision, and is not administered in a way, which unduly inhibits or hampers the initiation or processing of plan claims, and

(iv) Provides for informing participants in writing, in a timely fashion, of the time limits set forth in paragraphs (e) (3) and (g) (3) and subsection (h).

(2) In the case of a plan established and maintained pursuant to a collective bargaining agreement (other than a plan subject to the provisions of section 302(c) (5) of the Labor Management Relations Act, 1947 concerning joint representation on the board of trustees):

(i) Such plan will be deemed to comply with the provisions of paragraphs (d) through (h) of this section if the collective bargaining agreement pursuant to which the plan is established or maintained sets forth or incorporates by specific reference

(A) Provisions concerning the filing of benefit claims and the initial disposition of benefit claims, and

(B) A grievance and arbitration procedure to which denied claims are subject.

(ii) Such plan will be deemed to comply with the provisions of paragraphs (g) and (h) of this section (but will not be deemed to comply with paragraphs (d) through (f)) if the collective bargaining agreement pursuant to which the plan is established or maintained sets forth or incorporates by specific reference a grievance and arbitration procedure to which denied claims are subject (but not provisions concerning the final and initial disposition of benefit claims).

(c) *Claims procedure for an insured welfare or pension plan.*—(1) To the extent that benefits under an employee benefit plan are provided or administered by an insurance company, insurance service, or other similar organization which is subject to regulation under the insurance laws of one or more States, the claims procedure pertaining to such benefits may provide for filing of a claim for benefits with and notice of decision by such company, service or organization.

(2) See paragraph (g) regarding review and final decision on denied claims by insurance companies, insurance services and similar organizations.

(d) *Filing of a claim for benefits.* For purposes of this section, a claim is a request for a plan benefit by a participant or beneficiary. A claim is filed when the requirements of a reasonable claim filing procedure of a plan have been met. If a reasonable procedure for filing claims has not been established by the plan, a claim shall be deemed filed when a written or oral communication is made by the claimant or the claimant's authorized representative which is reasonably calculated to bring the claim to the attention of:

(1) In the case of a single employer plan, either the organizational unit which has customarily handled employee benefits matters of the employer, or any officer of the employer.

(2) In the case of a plan to which more than one unaffiliated employer contributes, or which is established or maintained by an employee organization, either the joint board, association, committee or other similar group (or any member of any such group) administering the plan, or the person or organizational unit to which claims for benefits

under the plan customarily have been referred.

(3) In the case of a plan the benefits of which are provided or administered by an insurance company, insurance service, or other similar organization, which is subject to regulation under the insurance laws of one or more states, the person or organizational unit which handles claims for benefits under the plan or any officer of the insurance company, insurance service, or similar organization.

(4) For purposes of paragraphs (d) (1), (2), and (3) of this section, a communication shall be deemed to have been brought to the attention of an organizational unit if it is received by any person employed in such unit.

(e) *Notification to claimant of decision.*—(1) If a claim is wholly or partially denied, notice of the decision, meeting the requirements of paragraph (f) of this section, shall be furnished to the claimant within a reasonable period of time after receipt of the claim by the plan.

(2) If notice of the denial of a claim is not furnished in accordance with paragraph (e) (1) of this section within a reasonable period of time, the claim shall be deemed denied and the claimant shall be permitted to proceed to the review stage described in paragraph (g) of this section.

(3) For purposes of paragraphs (e) (1) and (2), of this section, a period of time will be deemed to be unreasonable if it exceeds 90 days after receipt of the claim by the plan, unless special circumstances require an extension of time for processing the claim. If such an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of 90 days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the plan expects to render the final decision.

(f) *Content of notice.* A plan administrator or, if paragraph (c) of this section is applicable, the insurance company, insurance service, or other similar organization, shall provide to every claimant who is denied a claim for benefits written notice setting forth in a manner calculated to be understood by the claimant:

(1) The specific reason or reasons for the denial;

(2) Specific reference to pertinent plan provisions on which the denial is based;

(3) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and

(4) Appropriate information as to the steps to be taken if the participant or beneficiary wishes to submit his or her claim for review.

(g) *Review procedure.* (1) Every plan shall establish and maintain a procedure by which a claimant or his duly authorized representative has a reasonable opportunity to appeal a denied claim to an appropriate named fiduciary or to a person designated by such fiduciary, and under which a full and fair review of the claim and its denial may be obtained. Every such procedure shall include but not be limited to provisions that a claimant or his duly authorized representative may:

(i) Request a review upon written application to the plan;

(ii) Review pertinent documents; and

(iii) Submit issues and comments in writing.

(2) To the extent that benefits under an employee benefit plan are provided or administered by an insurance company, insurance service, or other similar organization which is subject to regulation under the insurance laws of one or more States, the claims procedure pertaining to such benefits may provide for review of and decision upon denied claims by such company, service or organization. In such case, that company, service, or organization shall be the "appropriate named fiduciary" for purposes of this section. In all other cases, the "appropriate named fiduciary" for purposes of this section may be the plan administrator or any other person designated by the plan, provided that such plan administrator or other person is either named in the plan instrument or is identified pursuant to a procedure set forth in the plan as the person who reviews and makes decisions on claim denials.

(3) A plan may establish a limited period within which a claimant must file any request for review of a denied claim. Such time limits must be reasonable and related to the nature of the benefit which is the subject of the claim and to other attendant circumstances. In no event may such a period expire less than 60 days after receipt by the claimant of written notification of denial of a claim.

(h) *Decision on review.*—(1) (i) A decision by an appropriate named fiduciary shall be made promptly, and shall not ordinarily be made later than 60 days after the plan's receipt of a request for review, unless special circumstances (such as the need to hold a hearing, if the plan procedure provides for a hearing) require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review.

(ii) In the case of a plan with a committee or board of trustees designated as the appropriate named fiduciary, which holds regularly scheduled meetings at least quarterly, a decision on review shall be made by no later than the date of the meeting of the committee or board which immediately follows the plan's receipt of a request for review, unless the request for review is filed within 30 days preceding the date of such meeting. In such case, a decision may be made by no later than the date of the second meeting following the plan's receipt of the request for review. If special circumstances (such as the need to hold a hearing, if the plan procedure provides for a hearing) require a further extension of time for processing, a decision shall be rendered not later than the third meeting of the committee or board following the plan's receipt of the request for review.

(2) If such an extension of time for review is required because of special circumstances, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension.

(3) The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent plan provisions on which the decision is based.

(4) The decision on review shall be furnished to the claimant within the appropriate time described in paragraph (h) (1) of this section. If the decision on review is not furnished within such time, the claim shall be deemed denied on review.

(i) *Apprenticeship plans.* This section does not apply to employee benefit plans which provide solely apprenticeship training benefits.

Effective date: This section becomes effective for claims filed on or after October 1, 1977.

Signed at Washington, D.C., this 23rd day of May 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-15314 Filed 5-25-77;12:03 pm]

Federal Register

FRIDAY, MAY 27, 1977

PART III

DEPARTMENT OF COMMERCE

Economic Development Administration

■

ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Grants of Assistance

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 317—ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Grants of Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations contain the requirements and procedures governing the grant of assistance under round II of the Local Public Works program. They implement the amendments made to the Local Public Works Capital Development and Investment Act of 1976 by the Public Works Employment Act of 1977, Pub. L. 95–28, and administrative decisions regarding the grant of assistance under that Act.

DATES: Effective date: May 27, 1977. Comments by: June 27, 1977.

ADDRESS: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202–377–5441).

SUPPLEMENTARY INFORMATION:

STATEMENT OF PROGRAM OBJECTIVES

The national economy and the economies of many areas and regions in this country continue to exhibit levels of distress that are excessive and, consequently, incompatible with our goals as a nation. This distress is reflected in a variety of ways, including high unemployment and inadequate public capital stock. The purpose of this program is to address such problems by providing for the expeditious construction of useful public works and development facilities in these areas.

Previous experience has demonstrated that local and State governments in every section of the country possess the capability to undertake public works projects within a very short time span. Experience has further proven that such projects furnish needed public facilities as well as generate employment. In many cases, this stimulus and the employment generated continue beyond the period of project construction and contribute to the area's long-term development.

On the basis of our knowledge about public works expenditures and the needs of economically disadvantaged areas and regions, round II of this program has been developed to authorize the immediate funding of local and State government public works facilities in accordance with the following objectives.

To target projects, to the greatest degree possible, to those areas of greatest unemployment.

To reduce previous funding inequities among different areas and governmental units.

To place maximum emphasis on local decision-making in establishing priorities and the selection of projects.

To increase the program's efficiency decision-making in establishing priorities and the selection of projects.

To increase the programs' efficiency while reducing the administrative workload.

To make the program more predictable so that participants and the general public can assess it more readily.

Because these regulations relate to an EDA grant program, they are exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the Assistant Secretary for Economic Development at the above address.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A–107 and the interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend beyond the statute, and therefore there is no inflationary impact of these regulations beyond the statute.

Accordingly, 13 CFR Chapter III is amended by adding a new Part 317 to read as follows:

Subpart A—Introduction

Sec.
317.1 Purpose.
317.2 Definitions.

Subpart B—Eligibility Criteria

317.10 Eligible applicants.
317.11 Eligible areas.
317.12 Eligible applications for round II funding.
317.13 Types of grants.
317.14 Eligible projects.
317.15 Ineligible projects.
317.16 Projects ineligible unless accompanied by unusual circumstances.
317.17 Project costs.
317.18 Ineligible project costs.
317.19 Construction requirements.
317.20 Maximum project cost.

Subpart C—Application Procedure

317.30 Revival of applications currently on file.
317.31 New applications.
317.32 Acceptance of revived and new applications.
317.33 Project areas.
317.34 Determination of unemployment data.
317.35 Certifications.
317.36 False or inaccurate statements.
317.37 Applicant's priority rating of projects.
317.38 Amendment of existing applications.

Subpart D—Allocation of Program Funds

317.40 Allocation of funds to the States.
317.41 Statutory minimum and maximum State allocations.
317.42 Indian tribe set-aside.
317.43 Procedural errors set-aside.

Subpart E—Planning Targets

317.50 General considerations.
317.51 State planning target.
317.52 Sub-State area planning targets.
317.53 Sub-State applicant planning targets.

Subpart F—Project Selection Procedure

317.60 Conserving energy.
317.61 Projects selected from national set-asides.
317.62 Projects selected from State-wide planning targets.
317.63 Projects selected from sub-State planning targets.
317.64 Undue concentration.
317.65 Similar applications.

Subpart G—General Requirements

317.70 Environmental considerations.
317.71 Compliance with other Federal requirements.
317.72 Transfer of grant awards to drought-related projects.
317.73 Lease of project facilities.
317.74 Final determination.
317.75 Suspension and termination.

Subpart H—Eligibility of Non-Profit Entities

317.80 Grants for non-profit entities.

AUTHORITY: Section 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 94–369, 90 Stat. 999 (42 U.S.C. 6701); Pub. L. 95–28, 91 Stat. 116; Department of Commerce Organization Order 10–4 (September 30, 1975), as amended (40 FR 56702 as amended at 40 FR 58878 and 41 FR 36548).

Subpart A—Introduction

§ 317.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants under the "Local Public Works Capital Development and Investment Act of 1976," as amended by the "Public Works Employment Act of 1977," Pub. L. 95–28.

§ 317.2 Definitions.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Endorsement" means the process by which an applicant can select a project, which was originally submitted by another applicant, for consideration for funding from its planning target.

"General purpose unit of local government" means any city, county, town, parish, Indian tribe, or any other "unit of general local government" as included within the definition of that term by section 104 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201 et seq.).

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority, or other tribal organization, or entity, or Alaskan native village.

"Initiation of construction" means that notice to proceed or its equivalent has been issued or on-site labor has begun, except where on-site labor has commenced on the project but the project was abandoned due to lack of funds or where the project is to expand or modify a completed facility which has integrity in and of itself.

"Local Public Works Act" means the "Local Public Works Capital Development and Investment Act of 1976," as

amended by the "Public Works Employment Act of 1977," Pub. L. 95-28.

"Local government" means any city, county, town, parish, or other political subdivision of a State (including local school districts), and any Indian tribe.

"Maintenance costs" means costs that are incurred for any necessary repairs or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but rather keep it in an efficient operating condition.

"Minority business enterprise" means a business at least fifty percent of which is owned by minority group members or, in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by minority group members.

"Minority group member" means a citizen of the United States who is Negro-Spanish-speaking, Oriental, Indian, Eskimo, or Aleut.

"Non-primary city" means any city, township, or village with a population less than 50,000 persons.

"Pocket of poverty" means a project area with a population of 4,000 or more persons and an unemployment rate of at least 8.5 percent which becomes qualified for assistance using the procedures contained in section 108(e) of the Local Public Works Act. A pocket of poverty must be located within a primary city which did not receive a planning target.

"Political subdivision of a State" means the agencies, instrumentalities and authorities established or authorized by State law including, but not limited to, special districts and regional authorities formed by local governments.

"Project area" means a primary city; the balance of a county in which a primary city is located; a county without a primary city; a pocket of poverty; or an Indian reservation or tribal land (trust and/or restricted land), as appropriate under the provisions of § 317.33.

"Primary city" means any city or township (which performs the same services as a city) with a population of 50,000 or more persons, as determined by the Bureau of the Census 1973 estimates.

"Renovation, repair, or other improvements" means only those activities which either substantially or appreciably increase the value or prolong the life of a public facility and excludes those activities which keep the public facility in ordinary efficient operating condition during its probable useful life.

"Round I" of funding under the local Public Works program refers to the funding of projects with money appropriated by Pub. L. 94-447.

"Round II" of funding under the Local Public Works program refers to the funding of projects with money appropriated by Pub. L. 95-29.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Subpart B—Eligibility Criteria

§ 317.10 Eligible applicants.

A State or a local government, as defined in § 317.2, is eligible for assistance under this part if it is located in an area described in § 317.11.

§ 317.11 Eligible areas.

(a) Subject to the provisions of subsection (b) of this section, assistance under this part may only be extended to eligible applicants located in project areas, as defined in § 317.2, for which planning targets have been established. Planning targets have been established in the following manner, subject to the provisions of § 317.42 and Subpart E of this part.

(1) Where the State average unemployment rate is 6.5 percent or higher, planning targets have been established for project areas with unemployment rates of at least 6.5 percent.

(2) Where the State average unemployment rate is less than 6.5 percent, planning targets have been established for project areas with unemployment rates of at least the State average unemployment rate.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, planning targets have been established for pocket of poverty project areas only where such areas have unemployment rates of at least 8.5 percent.

(b) In States which are receiving the statutory minimum allocation of Local Public Works funds and for which the Assistant Secretary has waived the priority ranking of applicants required by section 108(c) of the Local Public Works Act, assistance under this part may be extended to eligible applicants in project areas as necessary to expend the statutory minimum allocation.

§ 317.12 Eligible applications for round II funding.

The following applications shall be eligible for consideration for funding under round II of the Local Public Works program:

(a) Applications for Local Public Works projects submitted by eligible applicants located in eligible areas, as defined in § 317.11, which were received by EDA before December 24, 1976, including applications originally filed before that date which were returned for deficiencies; and

(b) New applications from eligible applicants located in eligible areas subject to the requirements of § 317.31.

§ 317.13 Types of grants.

(a) *Direct grants.* (1) The Assistant Secretary may make direct grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the Local Public Works Act. Such grants may include funds for the completion of plans, specifications and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

(2) Applications under this section will be approved only if the applicant submits with its application, if applicable and required by EDA, a written certification from the other Federal agency/agencies primarily concerned with projects of the type involved in the application that the project meets all applicable Federal statutory and regulatory requirements to the extent necessary to assure the utilization of the project for the services intended.

(3) The Federal share of any project for which a grant is made under this subsection shall be 100 percent of the cost of the project exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant.

(b) *Supplemental grants.* (1) The Assistant Secretary may make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the project cost for any Federally assisted public works project authorized by any Federal law other than the Local Public Works Act.

(i) Ordinarily, the Assistant Secretary will award supplemental grants increasing the Federal contribution to 100 percent of the project cost exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant.

(A) For the funding of revived applications during round II, the Assistant Secretary may waive the requirement of paragraph (b) (i) of this section where:

(*1*) The applicant had provided the assurance that no funds were budgeted and available or otherwise specifically committed for the project in round I; and

(2) The applicant demonstrates that local funds apparently available were diverted from some other use solely to meet the additional requirements of other Federal programs caused by the delay in funding between rounds I and II.

(ii) The applicant shall submit with its application a written certification that actual construction of the project has not yet been initiated because of lack of funding for the non-Federal share.

(A) The Assistant Secretary may waive this requirement where he finds that construction was initiated after filing of the application under round I due to the requirements of the other Federal program.

(iii) The applicant shall submit written certification obtained from the other Federal agencies involved in the project that:

(A) Federal financial assistance for the project has been approved and the funds are immediately available for the project; and

(B) the project meets all applicable Federal statutory and relevant related requirements.

(2) The Assistant Secretary also may make grants in an amount necessary to provide all or part of the required State or local share (but not both shares) of

the cost of any public works project for which financial assistance is authorized by State or local law requiring such contribution if the applicant submits with its application a written certification from the appropriate authority that:

(i) The share of financial assistance not applied for has been properly approved and is immediately available for the project;

(ii) The project meets all applicable statutory and other relevant requirements of the law; and

(iii) Construction of the project has not yet been initiated.

(3) Grants under this subsection may include funds for the completion of plans, specifications, and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

§ 317.14 Eligible projects.

Eligible projects include projects for the construction of public works facilities, including but not limited to municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, other public facilities, and the transportation of and providing of water to drought-stricken areas as designated by the Federal Disaster Assistance Administration or other Federal agency or department authorized to designate drought-stricken areas.

§ 317.15 Ineligible projects.

The following projects shall be ineligible for funding under this part:

(a) Canals and watercourses. Unless the requirements of § 317.72 are met, no grant shall be made under this part for any project having as its principal purpose and permanent effect:

(1) The channelization, damming, diversion, or dredging of any natural watercourse, or

(2) The construction or enlargement of any canal except a canal or raceway designated for maintenance as a historic site.

(b) Projects on which construction has been initiated. (1) For projects seeking a supplemental grant under § 317.13 (b) (1), the project will be eligible where construction has been initiated if the Assistant Secretary determines that construction was initiated after filing the application under round I due to the requirements of the other Federal program.

(c) Projects on which on-site labor cannot begin within 90 days after receipt of notification of project approval.

(d) Projects with extremely high ratios of labor costs to total project costs (greater than 80 percent) and projects with extremely low ratios of labor costs to total project costs (less than 10 percent).

(e) Projects whose costs exceed the planning targets established by subpart E.

§ 317.16 Projects ineligible unless accompanied by unusual circumstances.

Projects will not normally be approved where any of the following conditions exist.

(a) The applicant has not obtained rights to the project site, including easements and rights-of-way, in one of the following ways:

(1) The eligible applicant owns the project facility and/or site clear of any encumbrances;

(2) The eligible applicant holds a noncancellable long-term lease on the project facility and/or site which is defined as 20 years or the useful life of the facility, whichever is longer; or

(3) The eligible applicant holds a clearly enforceable option through time of grant approval to purchase the project facility and/or site and demonstrates that it has sufficient funds available to complete the purchase.

(b) The project request is for a grant supplemental to another Federal, State or local grant which has not been approved by the applicable grant agency.

(c) The project's construction will involve the use of raw materials not mined or produced in the United States, or United States manufactured articles not substantially made from raw materials mined or produced in the United States, or manufactures not manufactured in the United States.

(1) The restriction contained in paragraph (c) of this section will not apply to any project for which the Assistant Secretary makes one of the following determinations:

(i) The restriction is not in the public interest; or

(ii) The restriction would cause unreasonable project costs; or

(iii) Materials or articles, either raw or manufactured, needed in the construction of the project are not available in the United States in reasonable and sufficient commercial quantity and satisfactory quality.

§ 317.17 Eligible project costs.

(a) The following types of project costs are eligible for funding under this part.

(1) Construction and facility improvement costs;

(2) Eligible expenses and payments under Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646);

(3) Costs for capital equipment not included in the construction contract;

(4) Costs for completing and updating plans, specifications, and estimates—where either architectural design/preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project;

(5) Other A/E costs such as inspection fees and test borings;

(6) Administrative costs including legal and audit costs; and

(7) Other costs not inconsistent with the Local Public Works Act and allowed by Federal Management Circular No. 74–4.

§ 317.18 Ineligible project costs.

(a) *Real property.* No part of any grant made under this part may be used for the acquisition of any interest in real property.

(b) *Maintenance.* No part of any grant made under this part may be used for the payment of maintenance costs in connection with a project constructed (in whole or in part) with Federal financial assistance under the Local Public Works Act.

(c) *Cost overruns.* No part of any grant made under this Act may be used for cost overruns for public works projects previously funded under this Act.

(d) *Prior expenses.* No part of any grant made under this part may be used for project costs for administration, plans, specifications, estimates or other A/E costs, which have been incurred prior to the date of original application.

(e) *Construction by State or local governments or Indian tribes.* No part of any grant made under this part may be used for the payment of construction activities directly performed by any department, agency or instrumentality of any State or local government or any Indian tribe.

(f) *Interest.* No part of any grant made under this part may be used for interest on interim construction financing except for supplemental grants where authorized by other program legislation.

§ 317.19 Construction requirements.

(a) *Competitive bidding.* (1) Construction of each project funded under this part shall be performed by contract awarded by competitive bidding, unless

(i) The Assistant Secretary makes a determination that, under circumstances relating to that project, a method of contract award other than competitive bidding is in the public interest.

(2) If the Assistant Secretary does not waive the competitive bidding requirement, the following procedures apply.

(i) Contracts for the construction of such projects shall be awarded on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

(ii) The award of a contract for the construction of a project funded under this part may be subject to review by the Assistant Secretary. The Assistant Secretary may withhold his concurrence from the award of a contract for good cause.

(iii) No requirements or obligations shall be imposed as conditions precedent to the award of a contract or to the Assistant Secretary's concurrence in the award unless such requirements or obligations are lawful and set forth in the advertised specifications.

(b) *Minority business enterprise.* (1) No grant shall be made under this part for any project unless at least ten percent of the amount of such grant will be expended for contracts with and/or supplies from minority business enterprises.

(2) The restriction contained in paragraph (1) of this subsection will not apply to any grant for which the Assistant Secretary makes a determination that the ten percent set-aside cannot be filled by minority businesses located within a reasonable trade area determined in relation to the nature of the services or suppplies intended to be procured.

§ 317.20 Maximum project cost.

The maximum amount of financial assistance made available under this part should not exceed $5 million for each project; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

Subpart C—Application Procedure

§ 317.30 Revival of applications currently on file.

(a) Unfunded applications meeting the criteria described at § 317.12(a), with the exception of applications described in subsection (b) of this section, will be revived if the project area in which such applicants are located receives a planning target or set-aside. EDA will revive these applications for consideration under the second round of funding of the Local Public Works program in the following manner.

(1) EDA will revise and update these applications to bring them into conformance with the new program requirements and procedures as described in these regulations.

(2) The applicant will provide EDA with such additional information and certifications, including revised project cost estimates, as required to bring the application into conformance with the legislative and administrative changes to the Local Public Works program.

(i) The information and certifications described in paragraph (2) of this subsection will be provided to EDA on such forms and in such manner as the Assistant Secretary directs.

(b) Pocket of poverty applications currently on file and non-pocket of poverty applications currently on file for which applicants request consideration as pocket of poverty applications will be revived for consideration under round II of the Local Public Works program in the following manner.

(1) Where an applicant requests use of the pocket of poverty criteria in determining its project area, that request will be granted only if the applicant meets the requirements of § 317.51(a)(1).

(2) All projects using the pocket of poverty criteria must be located in the community or neighborhood proposed as the project area. Where necessary, applicants will revise their applications to locate the projects within the community or neighborhood proposed as the pocket of poverty area.

(3) Pocket of poverty applicants will provide EDA with the following information:

(i) An exact description of the community or neighborhood proposed as the project area;

(ii) The appropriate unemployment data for the project area obtained from the State Employment Security Agency; and

(iii) Such additional information and certifications, including revised project cost estimates, as required to bring the application into conformance with the legislative and administrative changes to the Local Public Works program.

(c) Applications currently on file will be deemed revived by EDA when all relevant and necessary materials for the re-evaluation of the application are received in the proper form and manner from the applicant.

§ 317.31 New applications.

(a) Subject to the provisions of § 317.53(c)(2), new applications shall be received where necessary to use a State's allocation or an applicant's planning target or an Indian tribe set-aside.

(b) Any new application under this part must be properly prepared on appropriate forms, as prescribed by the Assistant Secretary, and must contain all the information and certifications required by this part.

(c) New applications shall only be submitted to the appropriate EDA Regional Office as provided in 13 CFR 301.31.

(d) New applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office.

§ 317.32 Acceptance of revived and new applications.

EDA shall endeavor, within five working days from the date a new or revived application is actually received by the appropriate Regional Office, to determine if the application has been completely and properly prepared. An application may be rejected (denied) unless it contains full and accurate information as required by this part. The Regional Director should notify the applicant if the application contains deficiencies and state what is needed to properly complete the application. EDA reserves the right during the 60 day period after receipt of an application to reject an application for substantially being incomplete, improperly prepared, or otherwise failing to meet the requirements of this part.

§ 317.33 Project areas.

The project area of eligible applicants shall conform to the following requirements:

(a) *Counties with no primary cities.* The project area shall be the county for all applicants.

(b) *Counties with one or more primary cities.*

(1) Projects located in the primary city: the project area shall be the city.

(2) Projects located outside primary cities: the project area shall be the balance of the county excluding the primary cities.

(c) *Pocket of poverty applicants.* The project area shall be the community or neighborhood of the primary city, as described in § 317.51(a)(1), in which the project is located.

(d) *Indian tribe applicants.* The project area shall be the reservation or tribal land on which the project will be located.

§ 317.34 Determination of unemployment data.

(a) In considering applications during the round II of funding, EDA shall utilize the following data:

(1) The average number of unemployed persons in the applicant's project area during the twelve most recent consecutive months available; and

(2) The average unemployment rate of the applicant's project area for the twelve most recent consecutive months available.

(b) Unemployment data for project areas of applications currently on file and new applications will be determined as follows:

(1) *Primary city applicants.* EDA shall utilize the appropriate data for the city from the Bureau of Labor Statistics of the Department of Labor.

(2) *Balance of county and county without primary city applicants.* EDA shall utilize the appropriate data from the Bureau of Labor Statistics of the Department of Labor.

(3) *Pocket of poverty applicants.* The applicant shall define the exact location of the community or neighborhood in which the project will be located. Unemployment data will be obtained from the State Employment Security Agency for that commonity or neighborhood.

(4) *Indian tribe applications.* The Assistant Secretary may use population data as a proxy for unemployment data. EDA shall utilize the appropriate data from the Bureau of Indian Affairs.

§ 317.35 Certifications.

An application shall be rejected unless it includes all the following materials:

(a) It contains adequate certification by the applicant and by any "other parties" as defined in 15 CFR Subtitle A, Part 8, that no person shall, on the grounds of race, color, sex (as required by section 110 of Pub. L. 94-369), or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under the proposed project.

(1) The application shall also contain an assurance that the applicant is not involved in any civil rights litigation; or, if it is involved in a lawsuit or Federal administrative action alleging discrimination, the applicant shall provide a brief narrative description of the action alleging discrimination and its outcome.

(2) The application shall also contain assurances of compliance with: Title VI of the Civil Rights Act of 1964; 28 CFR Part 42, Subpart F to the extent set forth in EDA's policies and guidelines; and Executive Order 11246 "Equal Employment Opportunities."

(b) It contains a certification by the applicant that construction on the project has not yet been initiated unless the provisions of § 317.15(b)(1) or §317.43(b)(3) are met.

(c) It contains a certification, satisfactory to the Assistant Secretary, that on-site labor can begin within ninety days of project approval.

(d) Where applicable, it contains a certification that the applicant has related the proposed project to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions.

(e) Where appropriate, it contains certification and evidence that the proposed project will promote or advance longer range plans and programs.

(f) It contains certification, by the properly authorized official of the Federal agency or State or local government, that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished, or replaced by funds requested under this part.

(1) With respect to supplemental grants under § 317.13(b)(1), this certification is not necessary if the applicant has obtained a waiver from the Assistant Secretary under § 317.13(b)(1)(i)(A).

(g) It contains adequate assurances that all laborers and mechanics employed on the proposed project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5).

(h) It contains a certification by the applicant that no contract for the project will be awarded to a bidder who will employ illegal aliens.

(i) It contains adequate assurances that the project will be constructed from raw materials mined or produced in the United States and from United States manufacturers substantially made from materials mined, produced or manufactured in the United States, unless the Assistant Secretary has made a determination under § 317.16(c)(1) that this requirement is not applicable to the applicant's project.

(j) Unless the Assistant Secretary has made a determination of inapplicability under § 317.19(b)(2), it contains certification satisfactory to the Assistant Secretary that at least ten percent of the amount of the grant will be expended for contracts with and/or supplies from minority business enterprises.

(k) It contains certification satisfactory to the Assistant Secretary that the project will be designed and constructed in accordance with the requirements for providing access to the physically handicapped and elderly as contained at 42 U.S.C. 4151 et seq.

(l) The Architectural and Transportation Barriers Compliance Board, established by the Rehabilitation Act of 1973, is authorized to insure that any construction and renovation done pursuant to any grant made under the Local Public Works Act complies with the accessibility standards for public buildings and facilities issued under the Act of August 12, 1968.

(l) Where an application uses the pocket of poverty project area, it contains certification satisfactory to the Assistant Secretary that employment engendered by the project will be offered preferentially to the residents of the neighborhood or community which defines the project area.

(m) Where an application involves a project normally funded by another Federal agency, it contains certification as required in § 317.13 (a)(2) and (b).

(n) It contains certification that special consideration shall be given to the employment on the project of qualified veterans who:

(1) Have a disability rating of 30 percent or more, or

(2) Served on active service for more than 180 days in Vietnam and were discharged or released from service—other than dishonorably—within 48 months.

§ 317.36 False or inaccurate statements.

(a) An application shall be rejected unless it is, in the opinion of the Assistant Secretary, accurate and complete.

(b) Applicants should be advised that false representations and/or certifications in connection with applications for assistance under this part may be the basis for criminal liability under title 18 of the United States Code.

§ 317.37 Applicant's priority rating of projects.

(a) An applicant who has more than one application eligible for funding under the second round of the Local Public Works program shall submit as part of each such application its priority rating for each project for which it has applied.

(b) State governments, county governments, primary city governments, and any general purpose unit of local government may endorse a project of another applicant. If such a project is funded, it will apply against the planning target of the endorsing applicant but not the planning target of the receiving applicant.

§ 317.38 Amendment of existing applications.

Applications on file from round I may be amended to modify or change the project when, in the opinion of the Assistant Secretary, a compelling reason for such modification or change exists.

Subpart D—Allocation of Program Funds

§ 317.40 Allocation of funds to the States.

(a) Subject to program administrative costs, statutory minimum and maximum allocation requirements and statutory set-asides, 65 percent of the amounts appropriated for round II of the Local Public Works program will be allocated to each State based on its share of the total number of unemployed persons in all the States; the remaining 35 percent of the amounts appropriated for round II of the Local Public Works program will be allocated to those States with an average unemployment rate for the preceding twelve month period in excess of six and one-half percent (6½ percent) on the basis of the relative severity of unemployment in such States.

(b) Amounts allocated to the States according to this formula constitute State planning targets.

§ 317.41 Statutory minimum and maximum State allocations.

(a) The minimum allocation to each State of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 to carry out this part shall be determined as follows:

(1) Subject to the provisions of paragraph (2) of this subsection, each State will receive at least three-quarters of one percent of such amounts appropriated to carry out this part.

(2) Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, in the aggregate, shall receive not less than one-half of one percent of such amounts appropriated to carry out this part.

(i) Population and other factors, as may be determined by the Assistant Secretary, will be used to establish planning targets for these territories.

(b) States whose unemployment data was converted for the first time under a new methodology to the benchmark data of the current population survey annual average compiled by the Bureau of Labor Statistics shall receive a percentage of funds under round II at least as great as the percentage of funds allocated to that State under round I prior to January 1, 1977.

(c) The maximum allocation for any State of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 to carry out this part shall be twelve and one-half percent of such appropriation.

§ 317.42 Indian tribe set aside.

(a) The maximum allocation of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 for projects sponsored by Indian tribes shall be two and one-half percent of such appropriation.

(b) All projects applied for by Indian tribes will be funded from this allocation, with the exception of those projects which qualify for funding under § 317.43.

(c) Each Indian tribe will receive a planning target determined in the following manner.

(1) Subject to the provisions of paragraph (c)(2) of this section, each Indian tribe's planning target will be based on population data, as determined by the Assistant Secretary.

(2) No Indian tribe will receive a planning target exceeding twelve and one-half percent (12½ percent) of the amount determined by subsection (a) of this section plus the amount of round I funds expended on Indian applications.

(d) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning targets may be administratively reapportioned by the Assistant Secretary.

§ 317.43 Procedural errors set aside.

(a) An applicant who made an application before December 24, 1976 and whose application was not received, was not considered, or was rejected solely because of an error by an officer or employee of the United States may petition the Assistant Secretary to reconsider his application, subject to the provisions of § 317.61(b).

(b) In order to be funded from this set-aside, a project must meet all of the following requirements:

(1) The project would have been selected for funding under round I of the Local Public Works program but for the error described in subsection (a) of this section;

(2) The project has been identified by EDA as eligible for funding from the procedural error set-aside; and

(3) The project met all the requirements of the Local Public Works Act as in effect at the time of the error.

(c) Not to exceed seventy (70) million dollars may be used to fund projects under the authority of this section.

Subpart E—Planning Targets

§ 317.50 General considerations.

In order to insure an equitable geographic distribution of funds, EDA has established planning targets for States, sub-State areas and sub-State applicants.

(a) Sub-State area planning targets are computed for project areas which have unemployment rates equalling or exceeding the lower of 6.5 percent or the State average unemployment rate.

(1) Within each State, these planning targets will be ranked and projects will be selected from high ranking areas until the amount of planning target is expended.

(2) Sub-State area planning targets and sub-State applicant planning targets will reflect the total six (6) billion dollar Local Public Works program authorization, constructively following the sub-State 65/35 formula, as set forth in §317.52(a), for round I funds. Projects which were selected for funding during the round I of the program will be deducted from the sub-State area planning targets and sub-State applicant planning target.

(3) Certain eligible sub-State areas and sub-State applicants will not receive planning targets due to the procedure described in paragraphs (a) (1) and (2) of this section which will result in insufficient funds.

(4) A minimum planning target level of 75,000 dollars will be set in order to carry out the public works aspect of this program. In the case of areas which would receive a planning target below this minimum, no planning target would be established.

(i) Planning target funds below the 75,000 dollar minimum will be administratively reapportioned to the county government.

(b) Funds requested for projects may not exceed the appropriate planning targets.

(c) EDA will use sub-State area and applicant planning targets as aids in the distribution of funds under this part. These planning targets do not, however, constitute entitlements. The Assistant Secretary reserves the right to adjust these planning targets as necessary to assure that each eligible area and applicant receives a planning target commensurate with its distress. If an eligible area or applicant does not receive a planning target which reflects its level of distress due to miscalculation, the Assistant Secretary may re-adjust other sub-State planning targets to rectify the miscalculation.

§ 317.51 State planning target.

Each State's overall planning target was established pursuant to the allocation formulae described in §§ 317.40 and 317.41, as appropriate. From each State's planning target, the following Statewide planning targets will be deducted.

(a) *Pocket of poverty planning target.* An amount, determined by multiplying the number of primary cities as described in paragraph (1) of this subsection by one (1) million dollars, will be deducted to fund applications from pocket of poverty areas. However, not more than twenty million dollars shall be available in any one State to fund these projects.

(1) Projects to be funded from this deduction must be located in a city which did not receive a planning target.

(2) Each pocket of poverty area must have a population of 4,000 or more persons and an unemployment rate of at least 8.5 percent for the most recent twelve months. A pocket of poverty must be a contiguous area and separate and distinct from other pocket of poverty areas. A pocket of poverty area may not be subdivided.

(3) Applicants with planning targets may fund projects in pocket of poverty areas from their planning targets.

(b) *State government planning target.* Except as the Assistant Secretary determines for the Commonwealth of Puerto Rico, State governments will be given a planning target which will be eight (8) percent of the total State allocation. The amount of this planning target is based on the approximate proportion of the dollar value of State government applications on file to the dollar value of the total number of applications from all States on file from round I.

(c) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning targets will be administratively reapportioned within the State by the Assistant Secretary.

§ 317.52 Sub-State area planning targets.

The amount of each State's allocation available for sub-State area planning targets will consist of the State's statutory allocation less the amount of the planning targets described in § 317.51.

(a) EDA has established planning targets for eligible sub-State areas, subject to the provisions of § 317.50(a), based on the sub-State 65/35 formula, which is the relative need of an area as determined by its number of unemployed persons compared to the number of unemployed persons in all eligible areas of the State and its unemployment rate compared to the lower of 6.5 percent or the State unemployment rate. Planning targets have been stablished in this manner for the following types of areas:

(i) Primary city;

(ii) Balance of county;

(iii) County with no primary cities.

(b) The sub-State areas described in subsection (a) of this section will be ranked according to their respective planning targets which will reflect the relative distress in each of the areas.

§ 317.53 Sub-State applicant planning targets.

EDA has divided the sub-State area planning targets into sub-State applicant planning targets. Subject to the provisions of § 317.50, EDA has established these applicant planning targets for the following types of applicants.

(a) *County government.* This planning target will be determined for each State, based on the relative activity of county governments as determined by the dollar value of county government applications filed with EDA during round I compared to the total dollar value of applications filed by all applicants, with the exception of Indian tribes, in that State during round I. Subject to the joint priority agreement with the school district set forth in paragraph (d) of this section, this planning target shall be available for funding projects of the county government.

(b) *Primary city government.* Subject to the joint priority agreement with the school district set forth in paragraph (d) of this section and subject to any incorporated area in the city which will share in the planning target, this planning target shall be available for funding projects of the city government.

(c) *Non-primary cities/townships located in balance of county and county without primary city areas.* The funds allocated to the balance of county and county without primary city have been further distributed to non-primary cities and townships within these areas as applicant planning targets.

(1) These applicant planning targets are based on the unemployment data of the non-primary city or township, calculated by EDA according to the census share method and according to the sub-State 65/35 formula.

(2) Normally, EDA has established these planning targets only for non-primary city/township applicants which had submitted applications in round I. Provided, however, when an area's planning target funds exceed existing applications on file by 25 percent or $200,000, whichever is greater, the excess funds in the planning target will be made available for new applications to be filed by applicants in the area. Provided further, however, that in accepting applications from these applicants,

EDA will allow only that applicant(s) with the highest distress factors to file such application.

(3) Subject to the joint priority agreement set forth in paragraph (d) of this section, these applicant planning targets shall be available for projects of the non-primary city or township.

(d) *School districts.* School districts will share in the applicant planning targets established for primary cities and non-primary cities and townships. School districts will also share in the county government planning target if the school district serves the whole county or a major region. By joint agreement between the school district and the above applicants, these applicants will submit the priority ratings of their projects as required by § 317.37.

(1) In order to share in the planning target of these applicants, the school district must have authority under local law to file an application.

(2) In order to share in the applicant planning target of a primary city or non-primary city/township, the school district project must serve the residents of the primary city or non-primary city/township.

(3) In order to share in the county government planning target the school district project must serve the population of the whole county or major region.

(4) Should the school district and the applicant whose planning target it shares fail to come to an agreement with respect to prioritizing their projects, EDA will select their projects according to factors which include but are not limited to:

(i) Job creating potentials;

(ii) Time necessary to complete the project;

(iii) Energy conservation;

(iv) Long-term economic benefits;.

(v) Critical local needs.

(e) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning target funds will be administratively reapportioned by the Assistant Secretary.

Subpart F—Project Selection Procedure

§ 317.60 Conserving energy.

(a) In making grants for projects for construction, renovation, repair or other improvement of buildings, EDA shall also give consideration as between such building projects to those projects which will result in conserving energy. Such projects include, but are not limited to, projects to redesign existing public facilities for energy conservation purposes and projects using alternative energy systems.

(b) In giving such consideration EDA will permit increased funding for projects which meet the provisions of this section subject to the requirements of § 317.50(b).

§ 317.61 Projects selected from national set-asides.

(a) *Indian set-aside.* Each Indian reservation or tribal land has a planning target.

(1) In approving projects under this set-aside, EDA will take into consideration the number and dollar amount of projects approved under round I.

(b) *Procedural error set-aside.* (1) In order to be funded from this set-aside, a project must meet all the following conditions.

(i) The project must be eligible under § 317.43.

(ii) The project is located in an area which does not have a planning target.

(iii) The project met the requirements of the Local Public Works Capital Development and Investment Act of 1976, as enacted on July 22, 1976.

(2) Error projects located in eligible areas which receive planning targets will be funded from State and sub-State planning targets, but only if chosen by their applicants as priority projects.

(i) In the event the applicant's planning target is insufficient to fund the error project completely, the applicant may request the Assistant Secretary to fund the remainder from the error set-aside.

(ii) Projects funded in this manner will be counted against the appropriate area and applicant planning targets or set-asides as calculated on the basis of the total Local Public Works Act authorization.

(3) In exercising its privilege of prioritizing projects, an applicant shall be under no obligation to request priority for any project which may have been previously denied in error, but such choice of another or other projects shall be deemed a waiver of any claim of entitlement or priority for funding of any such project which may have been previously denied as a result of error.

(4) Projects eligible for funding under this subsection must have met all the requirements of the Local Public Works Act as in effect at the time of the error.

§ 317.62 Projects selected from State-wide planning targets.

(a) *Pocket of poverty planning target.* Each primary city eligible for funding under § 317.51(a) will submit to EDA a description of its pocket of poverty area, setting forth the numbers and rates of unemployment and total population for that area. Such figures must be certified by the State Employment Security Agency. EDA will then assign a planning target to each pocket of poverty based on its relative needs as measured by its number and rate of unemployment.

(b) *State government planning target.* The Governor shall submit a priority ranking of State government projects up to the amount of the State government planning target, provided such projects are located in areas with unemployment rates equally or exceeding the State's average unemployment rate or 6.5 percent, whichever is lower unless the State receives the statutory minimum allocation.

(1) EDA will select projects in accordance with the Governor's priorities up to an amount as close as is administratively feasible to the amount of the State government planning target.

§ 317.63 Projects selected from sub-State applicant planning targets.

(a) *County government, primary city government, and primary city school district projects.* County governments, primary city governments, and primary school district applicants which submitted one or more applications shall submit priority rankings of their projects in accordance with §§ 317.37 and 317.53 (a), (b) and (d). EDA will select projects in accordance with § 317.50 and local priorities up to the amount of county government's/school district's planning target and primary city government's/primary city school district's planning target.

(b) *City/township projects in balance of county or counties without primary cities.* (1) Non-primary city/township and school district applicants which have planning targets and which submitted one or more applications shall submit a priority ranking of their projects in accordance with §§ 317.37 and 317.53 (c) and (d). EDA will select projects in accordance with § 317.50 and local priorities up to the amount of their planning targets.

(2) If a town has already exceeded its planning target in round I, it would receive no further projects. Similarly, once a town has reached its planning target with a round II project, no further projects would be selected.

(3) If all local (general purpose and school) projects have been funded or there are no projects available for funding after following the procedures of § 317.53(c)(2), any surplus funds will be administratively reapportioned by the Assistant Secretary.

§ 317.64 Undue concentration.

The Assistant Secretary reserves the right to vary the selection procedure as necessary to avoid undue concentration of funds in any geographic region of a State receiving the minimum statutory allocation and as necessary to comply with the objectives of the Act.

§ 317.65 Similar applications.

Any application for a project which serves similar needs, in the same general area, as an existing project or application under the Local Public Works program or any other program administered by the Economic Development Administration may be denied by the Assistant Secretary for that reason.

Subpart G—General Requirements

§ 317.70 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) The Local Public Works Act requires applications to be processed within 60 days of their acceptance. EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decisions.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application:

(i) A description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected, and data on the expected environmental impact;

(ii) Alternatives to the proposed project;

(iii) Any environmental analysis previously conducted by local, State, Federal agencies; and

(iv) Evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

If the materials required by paragraphs (a)(2) (iii) and (iv) of this section are not available, the applicant must so certify in the application.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA, within the 60 day limit, may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may, within the 60 day limit, request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and request for comments prior to the application's submission to EDA. Such description shall include:

(i) A narrative of the elements of the project and its location;

(ii) A map of the project site and surrounding area indicating the specific location of the project site in relation to adjacent streets and other identifiable objects;

(iii) Line drawings or sketches of the project; and,

(iv) If the building demolition or renovation is involved, photographs of the affected properties.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

§ 317.71 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant under this part, comply with the following relevant Federal requirements.

(a) All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment as provided 13 CFR 309.6.

(b) Those requirements concerning relocation and related payments to all persons displaced as a result of the development of a public works project with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 13 CFR Part 310.

(c) If a project involves the construction of a detention facility, the applicant must certify that the project complies with those sections of Part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, found at 42 U.S.C. 3750(b) (1) and (4)–(9).

(d) The provisions of OMB Circular A-95, with the following modification.

(1) Applicants must submit their full applications or notifications of intent to apply to the appropriate clearinghouse as early as possible.

(2) Upon submission of an application to EDA, the application must certify that he has submitted the full application to the appropriate clearinghouse.

(3) EDA may begin processing the application upon its receipt but will make no final approval of an application until 30 days after its receipt unless clearinghouse response is received before 30 days have elapsed.

(4) Applications received by EDA need not have State application identifier numbers.

(5) Clearinghouse comments will be submitted directly to EDA; EDA will consider such comments until it has finished processing the application.

(e) All environmental requirements, to the maximum extent possible, as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environmental Policy Act of 1969; as amended (42 U.S.C. 4321 et seq.) and EDA's requirements found in § 317.70;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and EDA's requirements found in § 317.-70;

(5) The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287);

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 et seq.); and

(8) The Safe Drinking Water Act (42 U.S.C. 300f–j9).

(f) 13 CFR 309.9, entitled "Records and audit."

(g) 13 CFR 309.27, entitled "Land use near Federal airfields."

(h) 13 CFR 309.26, entitled "Project modification."

(i) 13 CFR Part 314, entitled "Property management standards" except 13 CFR 314.6(a), 13 CFR 314.6(b), and 13 CFR 314.50.

(j) The National Flood Insurance Program and EDA's requirements regarding flood hazards found at 13 CFR 309.15.

(k) Other laws affecting this program.

§ 317.72 Transfer of grant awards to drought-related projects.

(a) Subject to the Assistant Secretary's approval, applicants who have been awarded a grant, or who have so prioritized a project as to be tantamount to a grant award by EDA, may request EDA to transfer the funds from the project listed on their application to one or more other projects intended to alleviate drought or other emergency or disaster related conditions or damage.

(b) The Assistant Secretary may approve such a transfer after making the following determinations:

(1) The Federal cost in the aggregate of such project or projects will not be increased beyond the cost of the original award;

(2) Construction on the project or projects proposed for substitution can begin within ninety days; and

(3) The project or projects proposed for substitution will in fact aid in alleviating drought or other emergency or disaster related conditions or damage.

(c) Section 106(a) of the Local Public Works Act and § 317.15(a) will not apply to projects substituted under the authority of this section.

§ 317.73 Lease of project facilities.

Normally, public works projects constructed with funds under this part must retain their public character. The project facility may be leased under the following conditions.

(a) The project facility may be leased by the grantee to a non-profit operator providing the applicant maintains a continuing significant economic interest in the project and is not acting simply in a passive role for a prospective lessee, and such facility is used for the purpose of the grant.

(b) The project facility may be leased by the grantee to a profit making operator provided all of the following conditions are met:

(1) The lease is incidental to the project and not its principal purpose;

(2) The lease does not change the public nature or character or the purpose of the project as a whole; and

(3) The applicant maintains a continuing significant economic interest in the project and is not acting simply in a passive role as applicant for a prospective lessee.

§ 317.74 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director shall notify the applicant, in writing, when its application has been rejected and state the reasons therefor.

(c) The Regional Director shall forward to the Assistant Secretary in Washington, D.C., all applications which he deems are properly completed and eligible for assistance under this part.

(d) The Assistant Secretary shall review all applications received from the Regional Directors and make the final determination.

(e) If no determination has been made by the end of the sixtieth day after the application was received, the application will be deemed to be approved.

§ 317.75 Suspension and termination.

(a) *Suspension or termination for cause.* EDA may initiate a suspension or termination of a project approved under this part for failure by the grantee to adhere to the requirements of the grant. EDA shall promptly notify the grantee in writing of the suspension or termination, specifying the reasons for the action and its effective date. Payments made to the grantee or recoveries by EDA under grants suspended or terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(b) *Suspension or termination for convenience.* EDA or the grantee may initiate a suspension or termination of a project approved under this part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the conditions of the action, including the effective date, and in the case of partial suspension or termination, the portion to be suspended or terminated. The grantee shall not incur new obligations for the suspended or terminated portion, after the effective date, and shall cancel as many outstanding obligations as possible. EDA shall allow full credit to the grantee for the Federal share of the non-cancellable obligations which were properly incurred by the grantee prior to suspension or termination.

Subpart H—Eligibility of Non-Profit Entities

§ 317.80 Grants for non-profit entities.

After September 30, 1977, grants may be made from appropriations under the Local Public Works Act to States or local governments for projects for the construction, renovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private non-profit entities.

(a) In the even that EDA has obligated all funds appropriated under this Act prior to or on September 30, 1977, this section will not take effect.

(Section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 94-369, 90 Stat. 999 (42 U.S.C. 6701); Pub. L. 95-28, 91 Stat. 116; Department of Commerce Organization Order 10-4 (September 30, 1975), as amended (40 FR 56702 as amended at 40 FR 59870 and 41 FR 35548).)

Dated: May 24, 1977.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc.77-15266 Filed 5-26-77;8:45 am]

Federal Register

FRIDAY, MAY 27, 1977
PART IV

ENVIRONMENTAL PROTECTION AGENCY

LOW NOISE EMISSION PRODUCTS

Proposed Criteria and Data Requirements

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 203, 204, 205]

[FRL 718-6]

LOW NOISE EMISSION PRODUCTS

Proposed Criteria and Data Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules.

SUMMARY: This notice proposes the establishment of noise emission criteria and requirements for submission of data for use by the EPA in determining whether a manufactured product can be certified as a low-noise-emission product and qualified as a suitable substitute for products purchased by the Federal government. Products so certified and qualified will receive preferential treatment in purchasing by Federal agencies. The notice also proposes specific low-noise-emission criteria for portable air compressors and for new medium and heavy trucks. This action is being taken pursuant to Section 15 of the Noise Control Act of 1972 (86 Stat. 1245).

DATES: Interested persons are invited to submit their written data, views, and arguments. To assure that all comments receive adequate consideration, they should reach the EPA no later than July 11, 1977.

ADDRESSES: Send comments, in five (5) copies where practicable, to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Attention: Docket No. ONAC 77-7, U.S. Environmental Protection Agency, Washington, D.C. 20460. All written comments received which are not identified as company proprietary in nature will be open for public inspection and copying between the hours of 8 a.m. and 4:30 p.m. weekdays at the Public Information Center, Room 2104D, Waterside Mall, 4th and M Streets SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ellen Robinson, Public Information Specialist, U.S. Environmental Protection Agency, Office of Public Affairs (A-107), 401 M Street SW., Washington, D.C. 20460 (202-755-0704).

SUPPLEMENTARY INFORMATION: Section 15 of the Noise Control Act of 1972 (42 U.S.C. 4914) established a process by which the Federal Government will give preference in its purchasing to products whose noise emissions are significantly below those required by the Federal noise emission standards promulgated pursuant to Section 6 of that Act (42 U.S.C. 4905).

Under Section 6 of the Act, the Environmental Protection Agency (EPA) to date has published noise emission standards for Portable Air Compressors (40 CFR Part 204) and Medium and Heavy Trucks (40 CFR Part 205). Under Section 15 of the Act, EPA has published regulations prescribing procedures for the certification of Low-Noise-Emission Products (LNEP) (40 CFR Part 203). The LNEP certification procedures refer to a "low-noise-emission criterion" (See 40 CFR 203.1(a)(5), 203.2(b), 203.4(c)), and to a "suitable substitute decision" (See 40 CFR 203.1(a)(6), 203.5). However, EPA stated in promulgating those procedures that they "* * * do not contain the low-noise-emission criterion nor do they contain the specific data requirements necessary for deciding whether the product is a 'suitable substitute.' These will be published at a later date." (39 FR 6670, February 21, 1974).

The Environmental Protection Agency now proposes to amend 40 CFR Parts 203, 204, and 205 to include the suitable substitute data requirements for all LNEP applications and the low-noise-emission criteria for Portable Air Compressors and Medium and Heavy Trucks.

The LNEP criterion is the noise level which a product must meet for the Administrator to find that its noise emissions are "significantly below" the applicable standards in effect under Section 6 of the Act, as requirred by Section 15(a)(3) and 15(b)(2) of the Act. The LNEP criteria proposed for Portable Air Compressors and Medium and Heavy Trucks are 5 dBA below what the applicable noise emission standards will be in the year following procurement.

The Section 6 standards for Portable Air Compressors and Medium and Heavy Trucks were both promulgated at a level 2 dBA above manufacturers' presumed design levels. To achieve a noise reduction that is "significant" in a technological sense, it is required that an additional 3 dBA reduction be obtained below presumed design levels. Thus, for Portable Air Compressors and Medium and Heavy Trucks, the LNEP criteria as proposed are 5 dBA below the Section 6 standards. It will be EPA's policy with respect to LNEP criteria for products regulated in the future to generally require at least a 5 dBA reduction below the applicable Section 6 standard. However, the criteria may vary in some cases.

The noise data utilized by the EPA in the development of the Portable Air Compressor Standard indicate that approximately two percent of the machines tested would meet the proposed LNEP level. These machines, all rated less than 250 cfm, are considered to represent abnormally large deviations from the mean noise level of quieted production machines. The EPA believes that manufacturers would more likely apply new technology rather than resort to the exhaustive testing required to selectively choose those few qualified products from their normal production line. In order to promote the early application of new technology the proposed LNEP criteria for Portable Air Compressors are to take effect one year preceding the effective dates of the Section 6 noise emission standard.

In the case of Medium and Heavy Trucks, the standards under Section 6 of the Act are step standards, requiring trucks manufactured in 1982 to meet a level 3 dBA below the standards applicable before that date. A further tightening is contemplated for 1985. (See 40 CFR 205.52(a).) The stepwise reduction of the standard over a period of time presents a problem for purposes of the LNEP criteria. Manufacturers will be producing trucks in early 1981 at design levels of 78 dBA in order to meet the production verification and other requirements for the 1982 trucks. Because a considerable number of trucks can be expected to come off the assembly line at 78 dBA during 1981, a LNEP criterion 5 dBA below the standard in effect during that year would allow those 78 dBA trucks to be certified as Low-Noise-Emission Products, even though they will not at that point represent a significant technological advance over trucks manufactured to EPA standards. In order to alleviate this eventuality, the LNEP criterion proposed is 5 dBA below the noise emission standard that will be in effect the year following the year in which the product is procured by the Federal Government.

Applicants should ensure that their application is consistent with the LNEP criterion in effect at the time the product will actually be procured by the Federal Government.

In order to be considered for certification, manufacturers must also submit a data package consistent with the information specified in the LNEP Certification Procedures (40 CFR Part 203). EPA intends to amend these data requirements, as proposed in this notice. The amendments clarify what data will be relevant to the suitable substitute decision required by Section 15(b)(2)(C) of the Noise Control Act, deleting the provisions which stated that separate data requirements would be published with each Section 6 standard. These and certain minor amendments are proposed to present § 203.2(a).

(Sec. 15 and Sec. 6, Noise Control Act of 1972, 86 Stat. 1245 and 86 Stat. 1237 (42 U.S.C. 4914 and U.S.C. 4905).)

Dated: May 17, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend 40 CFR Parts 203, 204, and 205 as set forth below:

1. 40 CFR Part 203 is amended by revising § 203.1 as follows:

§ 203.1 [Amended]

(a) 40 CFR 203.1(a)(5) is deleted.
(b) 40 CFR 203.1(a)(6) is deleted.

2. 40 CFR Part 203 is amended by revising § 203.2 as follows:

(a) In § 203.2 paragraph (a) is revised as follows, paragraph (b) is deleted, and paragraph (c) is redesignated (b).

§ 203.2 Application for certification.

(a) Any person desiring certification of a class or model of product under Section 15 of the act shall file with the Administrator an application for certification. The application shall be completed upon such forms as the Administrator may deem appropriate and shall contain the following data to allow the Administrator to determine whether a product is a low-noise-emission product; and, if so, whether the product is a suitable substitute for a product presently being purchased.

(1) Data required by the Administrator for low-noise-emission determination:

(i) A statement citing the Section 6 standard under which the product is regulated;

(ii) A statement signed by an authorized representative of the manufacturer certifying that the product does meet the low-noise-emission level appropriate for that product;

(iii) Noise emission data from the manufacturer's test(s) of the product validating its noise emission levels.

(2) To allow the Administrator to determine that the low-noise-emission product is a suitable substitute:

(i) The applicant shall include a statement specifying the product(s) for which suitable substitution is claimed and, if applicable, identification of the Federal procurement specification(s) for the product(s).

(ii) Any additional information which would substantiate the claim of suitable substitutability of the low-noise-emission product should be submitted in the applicant's proposal including such factors as:

(A) Safety (compliance with applicable regulatory standards or specifications);

(B) Performance characteristics;

(C) Reliability of product and reliability of low-noise-emission features (Mean Time Between Failures, ratios of up-time to down-time);

(D) Maintenance (nature of requirements, special skills, additional time or materials beyond those required for a non-low-noise-emission product);

(E) Operating costs (detailed estimate of annual operating costs, with separate identification of items that would incur costs beyond those incurred with a non-low-noise emission product);

(F) Conformance with Federal Agency Purchase Specifications.

(iii) The Federal government agency responsible for procuring the product(s) for which suitable substitution is claimed may further request such information as is deemed necessary to determine the suitability of substitution.

(iv) The Administrator, in reconciling potential differences between the procuring Federal agency and the applicant, may request amplifying information from the agency, the applicant, or both.

* * * * *

3. 40 CFR Part 203 is amended by revising paragraphs (a) and (b) of § 203.3 to read as follows:

§ 203.3 Test procedures.

(a) Unless otherwise specified by the Administrator, the applicant shall test or cause his product to be tested in accordance with the procedures applicable to the product for verification of its conformance to noise emission standards issued under section 6 of the Act.

(b) The Administrator may conduct whatever investigation is necessary, including testing or actual inspection of the product at a place designated by him.

4. 40 CFR Part 203 is amended in § 203.5 as follows:

§ 203.5 [Amended]

(a) In § 203.5 paragraphs (a) and (c) are amended by inserting the words "pursuant to § 203.4" after the words "low-noise-emission product."

5. 40 CFR Part 203 is amended by adding a a new § 203.9 to read as follows:

§ 203.9 General low-noise-emission criterion.

In order that a product be determined to be a low-noise-emission product, the noise emission level will be approximately 5 dBA below the noise level required by the section 6 standard for that product; however, the general LNEP criterion is to be a guideline only. The low-noise-emission level will be set individually for each product at the time of the appropriate section 6 regulation promulgation.

6. 40 CFR Part 204 is amended by revising § 204.52(c) to read as follows:

§ 204.52 Portable air compressor noise emission standard.

* * * * *

(c) *Low noise emission product.* For purposes of Low-Noise-Emission Product Certification according to Part 203, portable air compressors subject to this subpart shall emit no more than the levels indicated, when tested, as prescribed in § 204.54–1,2:

Capacity	Procurement date	Level (dBA)
Less than or equal to 250 ft³/min.	Jan. 1, 1977, and after.	71
Greater than 250 ft³/min..	July 1, 1977, and after.	71

7. 40 CFR Part 205 is amended by revising § 205.52(e) to read as follows:

§ 205.52 Vehicle noise emission standards.

* * * * *

(e) *Low-noise-emission product.* For purposes of Low-Noise-Emission Product Certification according to Part 203, vehicles subject to this subpart which are procured during the following time periods shall emit no more than the levels indicated, when tested as prescribed in § 205.54–1, 2:

Procurement date	*Level*
(i) Jan. 1, 1977–Dec. 31, 1980	78 dBA.
(ii) Jan. 1, 1981–Dec. 31, 1983	75 dBA.
(iii) Jan. 1, 1984, and after	Reserved.

[FR Doc.77–15220 Filed 5–26–77;8:45 am]

Federal Register

FRIDAY, MAY 27, 1977

PART V

DEPARTMENT OF COMMERCE

Economic Development Administration

■

COMMUNITY EMERGENCY DROUGHT RELIEF PROGRAM

Requirements and Procedures

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 318—COMMUNITY EMERGENCY DROUGHT RELIEF PROGRAM

Requirements and Procedures

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations contain the requirements and procedures governing the grant of assistance under the Community Emergency Drought Relief Act of 1977, Pub. L. 95–31. Assistance extended under this program will facilitate emergency actions in drought impacted areas to mitigate the effects of the 1976–1977 drought and to promote water conservation.

DATES: Effective date: May 27, 1977. Comments by: June 27, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202–377–5441.

SUPPLEMENTARY INFORMATION: During the past two years, many areas of the country have experienced severe shortages of rainfall and snowpack. As a result of these conditions, many communities are suffering from shortages in their water supplies. This program is designed to provide emergency assistance through grants and loans for temporary relief from drought conditions to those areas with populations of 10,000 or more persons which are most severely distressed.

Because these regulations relate to an EDA grant program, they are exempted from the procedures described in s553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the Assistant Secretary for Economic Development at the above address.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A–107 and the interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend beyond the statute, and therefore there is no inflationary impact of these regulations beyond the statute.

Accordingly, 13 CFR Chapter III is amended by adding a new Part 318 to read as follows:

Sec.

318.1 Purpose.
318.2 Definitions.
318.3 Designation of eligible areas.
318.4 Eligible applicants.
318.5 Eligible projects.
318.6 Grants.
318.7 Loans.
318.8 Security.
318.9 Previously acquired assets as part of total project cost.
318.10 Amount of grant assistance.
318.11 Financial assistance from other sources.
318.12 Considerations in evaluating applications.
318.13 Priority among applications.
318.14 Ineligible projects.
318.15 Powers of the Assistant Secretary.
318.16 Use of other facilities.
318.17 Compliance with other Federal requirements.
318.18 Acceptance of applications.
318.19 Environmental considerations.
318.20 Final determination.
318.21 Suspension and termination.
318.22 Records and audit.
318.23 Project implementation.
318.24 Loan monitoring, closing and disbursement.
318.25 Grant servicing.

AUTHORITY: Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 95–31.

§ 318.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants and loans under Title I of the Community Emergency Drought Relief Act of 1977.

§ 318.2 Definitions.

"Act" as used in this part means the Community Emergency Drought Relief Act of 1977, Pub. L. 95–31.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Designated drought impacted area" means any area which has been determined eligible for assistance under this part pursuant to the criteria contained in § 318.3.

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan native village.

"Political subdivision of a State" means the authorities established or authorized by State law including, but not limited to, special districts whose areas of jurisdiction include populations of 10,000 or more persons.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 318.3 Designation of eligible areas.

(a) The Assistant Secretary may designate any area a drought impacted area if he finds that a major and continuing adverse drought condition exists and is expected to continue and cause significant hardships in the affected area.

(b) The Interagency Drought Emergency Coordination Committee of 1977, of which EDA is a member with delegated authority to designate, may designate any area a drought impacted area according to the criteria and procedures it has established.

(c) If an area which has requested designation from the Interagency Drought Emergency Coordinating Committee of 1977 does not receive designation, it may apply to EDA for designation. Such designations will be made on the basis of the criteria contained in paragraph (a) of this section.

§ 318.4 Eligible applicants.

The following entities located in areas designated under § 318.3 are eligible to apply for assistance under this part:

(a) States and political subdivision of States with populations of 10,000 or more persons;

(b) Indian tribes;

(c) public or private non-profit corporations; and

(d) water districts which are political subdivisions of States or public or private non-profit corporations.

§ 318.5 Eligible projects.

(a) Projects eligible for assistance under this part are projects which, in the opinion of the Assistant Secretary, will make substantial contributions to the relief of existing or threatened drought conditions in designated areas.

(1) Such assistance shall be for projects that conserve water or implement short-term actions to augment an applicant's water supplies where there are severe problems due to water shortages resulting from the 1976–77 drought.

(2) Assistance may be provided to those applicants that demonstrate a threat to the health and safety of their inhabitants or other severe problems, such as major adverse economic impact, as a result of the 1976–77 drought. Such threats must be fully supported by factual information.

(3) Projects eligible for assistance may include:

(i) Projects for the improvement, expansion or construction of water supplies;

(ii) Projects for the purchase and transportation of water; and

(iii) Projects which will promote water conservation.

(b) Assistance shall also be available under this part to reimburse eligible applicants for projects conducted during fiscal year 1977 but before the passage of this Act, if the Assistant Secretary determines such projects are compatible with the broad purposes of this Act.

§ 318.6 Grants.

(a) The Assistant Secretary may make direct grants to any eligible applicant for the purpose of carrying out eligible projects under this part.

(b) The grant share of a project made under this part shall not exceed fifty (50) percent of the allowable project costs.

(1) An eligible applicant may use in-kind services as its local contribution, pursuant to the provisions of § 318.9.

§ 318.7 Loans.

(a) The Assistant Secretary may make loans to any eligible applicant for the purpose of carrying out eligible projects under this part.

(b) No loans under the authority of this part may be made for periods exceeding forty (40) years from the date of the signing by the borrower of the evidence of indebtedness, except as provided for by § 318.15.

(c) Loans under the authority of this part shall bear interest at a rate of five (5) percent per annum.

§ 318.8 Security.

(a) A loan may be secured if the Assistant Secretary determines such security is necessary.

(b) In order to encourage financial participation in a loan project by other lenders and investors and to the extent necessary, the loan may be repayable only after other loans made in connection with the project have been repaid in full. The lien position of EDA security on the loan, if any, may be subordinated and made inferior to lien or liens securing other loans and may provide for future subordination pursuant to conditions in the loan.

§ 318.9 Previously acquired assets as part of total project cost.

(a) The fair market value of land and facilities (including buildings, machinery, and equipment) acquired by the recipient before receipt of the assistance under this part may be allowed as part of the total project cost if the following conditions are met:

(1) The land and/or facilities are so physically related to the project as to be required for the successful functioning of the project; and

(2) The project cost does not include more land and/or facilities than EDA determines to be reasonably necessary for the successful completion of the project to be constructed.

(b) EDA will not grant or lend more than the difference between the total project cost and the value of such previously acquired land and/or facilities.

(c) The fair market value of such previously acquired land and/or facilities will be set at a conservative figure determined by EDA appraisal or by an independent appraiser satisfactory to EDA.

(d) Previously acquired easements and rights-of-way may be included in project costs if they meet the requirements of paragraph (a) of this section. However such previously acquired easements and rights-of-way will not be included in project costs at a sum in excess of their fair market value. In addition, the successful construction of the project must require inclusion of the easements and rights-of-way.

§ 318.10 Amount of grant assistance.

(a) The amount of grant assistance for a project shall not exceed fifty (50) percent of the total allowable project cost.

(b) The amount of grant assistance available for projects receiving priority under section 318.13 shall be determined as follows: *Provided, however;* That normally no such project will receive less than twenty (20) percent of the total allowable project cost in the form of grant assistance.

(1) Calculate one (1) percent of the median family income of those individuals located within the service area covered by the project multiplied by the number of families or users seryed; this amount is the applicant's annual available debt service.

(2) Calculate the amount needed annually to service existing indebtedness. Where there are overlapping jurisdictions providing utilities for the applicant's area, EDA will also include in this calculation the debt service requirements for the existing debt of all jurisdictions involved.

(3) Subtract from the applicant's annual available debt service calculated under paragraph (1) of this subsection the amount needed to service indebtedness calculated under paragraph (2) of this subsection. This is the net annual available debt service.

(4) Calculate the amount of debt that could be amortized during the estimated useful life of the project with the net annual available debt service calculated under paragraph (3) of this subsection.

(5) Subtract from the total allowable project cost the amount determined in paragraph (4) of this subsection. The remainder will be the maximum amount of grant assistance for the project.

(c) All other eligible projects shall receive only loan assistance under this part. However, the Assistant Secretary may provide grant assistance to these projects up to an amount not to exceed fifty (50) percent of total allowable project cost and not to exceed the amount permitted pursuant to the calculation set forth in paragraph (b) of this section. In determining the amount of grant assistance under this subsection, the Assistant Secretary may give consideration to one or more of the following factors:

(1) The relative distress of the area based on the rate of unemployment, the median family income, and the nature of the project to be assisted;

(2) The type of user being benefited from the project; and

(3) The amount of revenues that can be reasonably anticipated as a direct result of the project.

§ 318.11 Financial assistance from other sources.

Subject to the fifty (50) percent maximum limitation on grants and further subject to the limitation that no projects shall be funded over one hundred (100) percent of the project cost, grant assistance under this Act will not be reduced by virtue of the applicant receiving financial assistance from Federal, State or local governments or from any other source.

§ 318.12 Considerations in evaluating application.

In making grants and loans under this part, the Assistant Secretary shall take into consideration the following factors:

(a) The relative needs of the designated areas from which applications are received; and

(b) The appropriateness of the project for relieving drought conditions.

§ 318.13 Priority among applications.

In making grants and loans under this part, the Assistant Secretary shall give priority and preferential treatment to applications for projects primarily designed to meet existing or immediately forseeable threats to health and public safety.

§ 318.14 Ineligible projects.

(a) Projects for which the applicant cannot certify to the satisfaction of the Assistant Secretary that construction work can be completed by April 30, 1978 are ineligible for assistance under this part, except that the Assistant Secretary may, in exceptional circumstances, extend the time in which the work on the project must be completed.

(b) Projects which are primarily intended to provide a water supply capacity beyond the immediate needs of the applicant's users resulting from the 1976–77 drought are ineligible for assistance under this part.

§ 318.15 Powers of the Assistant Secretary.

In performing his duties under this act, the Assistant Secretary is authorized to use all powers granted by section 701 of the Public Works and Economic Development Act of 1965, as amended.

§ 318.16 Use of other facilities.

The Assistant Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Assistant Secretary's functions, powers, and duties under this Act, as he may deem appropriate, in conformity with section 708 of the Public Works and Economic Development Act of 1965, as amended.

§ 318.17 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant or loan under this part, comply with the following relevant Federal requirements:

(a) Those requirements concerning relocation and related payments to all persons displaced as a result of the development of a project in a drought impacted area with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 13 CFR Part 310.

(b) The provisions of OMB Circular A-95, with the following modifications. Copies of the application will be sent to the State and area-wide clearinghouses at the same time they are submitted to the funding agency. The applicant will also notify the clearinghouses that because of the time constraints any comments will have to be made almost immediately and addressed to the funding agency. If comments or objections from clearinghouses are not received prior to completion of application processing, they will not be considered.

(c) All environmental requirements, to the maximum extent possible as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) and requirements found in § 318.19;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and requirements found in § 318.19;

(5) The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287);

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) The Safe Drinking Water Act (42 U.S.C. 300f–j9); and

(8) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 et seq.).

(d) 13 CFR 309.27, entitled "Land use near Federal airfields."

(e) 13 CFR 309.14, entitled "Design, construction, and alteration of buildings to accommodate the physically handicapped."

(f) 13 CFR Part 314, entitled "Property management standards." except 13 CFR 314.6(a), 13 CFR 314.6(b), and 13 CFR 314.50.

(g) The National Flood Insurance Program and EDA's requirements regarding flood hazards found at 13 CFR 309.15.

(h) 15 CFR Subtitle A, Part 8 "Civil Rights"; Title VI of the Civil Rights Act of 1964; 28 CFR Part 42, Subpart F to the extent set forth in EDA's policies and guidelines; and Executive Order 11246 "Equal Employment Opportunities."

(i) Other laws affecting this program.

§ 318.18 Acceptance of applications.

(a) Applications for assistance under this part shall only be submitted to the appropriate EDA Regional Office or other designated offices.

(b) Applications shall be on forms approved by the Assistant Secretary and accompanied by such exhibits as may be required.

(c) Applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office or other designated offices.

§ 318.19 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) Section 105 of the Act requires the National Environmental Policy Act to be implemented to the fullest extent consistent with, but subject to, the time constraints imposed by the Act. Accordingly, the Assistant Secretary or his designee when making the final determination regarding an application for assistance shall give consideration to environmental consequences determined within that period. EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decisions.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their applications:

(i) A description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected, and data on the expected environmental impact;

(ii) Alternatives to the proposed project;

(iii) Any environmental analysis previously conducted by local, State, and Federal agencies; and

(iv) Evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

If the materials required by paragraphs (iii) and (iv) are not available, applicants must include a certification as to why such materials are not available.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved;

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may request the views of concerned residents thrpugh a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and a request for comments prior to the submission of the application to EDA. Such description shall include a narrative of the elements of the project and its location; a map of the project site and surrounding area indicating the specific location of the project site in relation to adjacent streets and other identifiable objects; line drawings or sketches of the project; and, if the building demolition or renovation is involved, photographs of the affected properties.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

§ 318.20 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director or his designee shall notify the applicant, in writing, when its application has been rejected and state the reasons therefore.

(c) The Assistant Secretary or his designee shall review all applications and make the final determination.

(d) The offer of a grant or a loan shall be made in writing and on such terms and conditions as the Assistant Secretary or his designee may determine.

§ 318.21 Suspension and termination.

(a) *Suspension or termination for cause.* EDA may initiate a suspension or termination of a project approved under this part for failure by the recipient of assistance to adhere to the requirements of the grant or loan. EDA shall promptly notify the recipient in writing of the suspension or termination, specifying the reasons for the action and its effective date. Payments made to the recipient or recoveries by EDA under grants or loans suspended or terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(b) *Suspension or termination for convenience.* EDA or the recipient of assistance under this part may initiate a suspension or termination of a project approved under this part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the conditions of the action, including the effective date, and in the case of partial suspension or termination, the portion to be suspended or terminated. The recipient shall not incur new obligations for the suspended or terminated portion, after the effective date, and shall cancel as many outstanding obligations as possible. EDA shall allow full credit to the Federal share of the non-cancellable obligations, properly incurred by the grantee prior to suspension or termination.

§ 318.22 Records and audit.

(a) Each recipient of assistance under the Act shall keep such records as EDA shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. Records shall be kept for a period of three (3) years after the date of the final expenditure report, except that:

(1) If audit findings have not been resolved, these records are to be retained beyond the three (3) year period;

(2) Records for nonexpendable property shall be retained for three (3) years after its final disposition;

(3) When grant records are transferred to or maintained by EDA, the three (3) year retention requirements is not applicable.

(b) The Assistant Secretary, the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance under the Act.

§ 318.23 Project implementation.

(a) *Timing.* Applicants may begin project implementation action at their own risk without prejudice to their applications. Projects must be completed by April 30, 1978, unless the Secretary approves a time extension due to exceptional circumstances.

(b) *Project manager.* Where appropriate, a project manager or director may be employed. The costs of that person's services are eligible project costs.

(c) *Disbursement.* Disbursements will be by Treasury check or letter of credit pursuant to established policies and procedures of EDA. Loans will not be disbursed until the loan has been closed.

(d) *Construction project implementation.*—(1) Bid procedures. Construction on projects normally will be contracted for through competitive bidding. Negotiated contracts will be allowed if the Assistant Secretary determines it necessary in accordance with Attachment O of FMC 74–7. EDA will allow simultaneous design and construction of projects if the Assistant Secretary determines it necessary. Force account construction is also acceptable.

(2) Proposed construction contract documents. Where the Grantee intends to use its own contract documents, the contract documents must conform to the requirements of Attachment O, of FMC 74–7, and to local and State law.

(3) Project construction monitoring. Grantees will be expected to constantly monitor the performance of grant-supported projects to assure that time schedules are being met and other performance goals are being achieved.

(4) EDA inspections. EDA will perform random construction project inspections as circumstances dictate and may perform special audits in addition to the final audit.

(5) Final inspection. A final inspection will be scheduled by the Grantee when all construction has been completed, the Architect/Engineer has accomplished his final inspection, and all deficiencies have been corrected. The project must be complete and functional before the final inspection is performed.

§ 318.24 Loan monitoring, closing and disbursement.

Loans will be monitored, closed and disbursed in accordance with the policies and procedures set forth in EDA's guidelines and procedural papers for the Community Emergency Drought Relief Program.

§ 318.25 Grant servicing.

Grants will be serviced in accordance with the policies and procedures set forth in EDA's guidelines and procedural papers for the Community Emergency Drought Relief Program.

Dated: May 25, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-15316 Filed 5-26-77;8:45 am]

FRIDAY, MAY 27, 1977

PART VI

Federal Register

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO BENZENE

Emergency Temporary Standards; Hearing

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-059]

OCCUPATIONAL EXPOSURE TO BENZENE

Proposed Standards and Notice of Hearing

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Proposed rule and notice of hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA); in the FEDERAL REGISTER issue of May 3, 1977 (42 FR 22516), published an Emergency Temporary Standard (ETS) regulating worker exposure to benzene. The basis for that ETS was clinical and epidemiological data, some of which was only recently received, that conclusively established that benzene causes leukemia in humans. By this notice, OSHA proposes a permanent standard for the regulation of benzene. The proposed standard provides, as does the ETS, for a permissible employee exposure limit of one part benzene per million parts of air (1 ppm) averaged over an eight-hour period, with a 5 ppm ceiling limit, and proposes to limit eye and skin exposure. The proposal also requires, among other things, measurements of employee exposure, certain methods of compliance, personal protective equipment, employee training, work practices, medical surveillance, signs, labels, and recordkeeping. The permanent standard will supersede the existing ETS at the conclusion of the rulemaking.

DATES: Comments and Notices of Appearance concerning the proposed rule must be postmarked on or before June 27, 1977; all materials which will be introduced into the hearing record must be received by July 11, 1977; an informal hearing is scheduled to begin July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Ave, NW, Room N3641, Washington, D.C. 20210, 202-523-8151.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In the May 3, 1977 issue of the FEDERAL REGISTER, OSHA published an Emergency Temporary Standard (ETS) regulating benzene exposure in the workplace (29 CFR 1910.1028). That ETS, and the preamble explaining the reasons therefor, are incorporated herein in their entirety and annexed hereto for the convenience of all interested parties.[1] A correction document was published on May 10, 1977 (42 FR 23601). In the FEDERAL REGISTER for May 24, 1977, at 42 FR 26429, an amendment to the ETS is published. Pursuant to sections 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, it is now proposed to amend Part 1910 of 29 CFR by revising 29 CFR 1910.1028 (42 FR 22516).

This proposal applies to all employments in all industries covered by the Act that include "general industry," construction and maritime. One of the major issues involved in this proceeding is whether the final standard should exempt certain specified operations from its coverage. For the purpose of raising this issue, the proposal, as drafted, does not cover storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from a bulk terminal, and operations in which the only exposure to benzene is from liquid mixtures which contain no more than 0.1% benzene (1% benzene during the first year after the effective date of the standard). The question of whether these types of operations should be exempted is raised herein, and some of the reasons for the suggested exclusion of these operations are set out below. If these operations are excluded from the final standard issued as a result of this rulemaking, they would still be covered by the existing benzene standard in § 1910.1000. OSHA seeks public comment and evidence on these issues.

Other major issues raised in the proposal on which comment from the public is requested include the following:

1. Whether the proposed permissible exposure limit of 1 ppm is the minimum feasible exposure limit for all industries of whether a lower level should be required in the final standard.

2. Whether OSHA should consider different levels of exposure for industries which can feasibly reduce these levels below those that could be achieved by other industries.

3. Whether the ceiling level of 5 ppm and the prohibition against eye contact and repeated skin contact are sufficiently protective.

4. Whether the provisions for methods of compliance, regulated areas, medical surveillance, personal protective equipment and clothing, and recordkeeping are appropriate.

5. Whether the provisions for warning signs and labels and training-education program are appropriate and fully apprise employer of the leukemia hazard.

6. What, if any hygiene facilities, such as housekeeping, waste disposal, clothing laundering, should be required.

7. Whether the exclusion of activities related to storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to the discharge of such gasoline from bulk terminals is appropriate. If not, what requirements should be instituted.

8. Whether benzene can feasibly be removed from solvents and other products, and what exposures are associated with benezene contents below 1%.

9. What requirements, if any, should be established where, as a result of the medical surveillance program, it is determined that an employee is at an increased risk. What circumstances would arise if a rate retention requirement is subsequently adopted by OSHA for general application in health standards.

10. What are the environmental and economic impacts of this proposal.

11. Whether compliance with the proposal would be technologically and economically feasible for all affected industries, and particularly for employers with small numbers of employees.

12. How protection should be provided to employees where there are potentially conflicting standards. For example, coke oven workers are exposed to both coke oven emissions and benzene; however, certain provisions of the standard to control exposure to coke oven emissions, such as the respirator requirements may not be effective in controlling benzene exposure and vice versa.

In the development of this proposal, OSHA has considered recommendations and data received from the National Institute for Occupational Safety and Health (NIOSH), Department of Health, Education, and Welfare, as well as numerous reference works, studies, case histories, and journal articles, some of which are included in the reference section of the ETS. The discussions in the ETS concluding that benzene is a leukemogen to humans will not be repeated here. However OSHA has placed into the record the updated NIOSH report of the data from the Goodyear Tire and Rubber Company (dated April 28, 1977), an earlier version of which was referenced by the ETS as reference 51. The updated report again confirmed the findings that the workers, exposed to benzene during Pliofilm operations, had at least a seven times increase in the risk of contracting the malignant disease leukemia.

II. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards.

Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5))

[1] See Appendix D.

Sections 2(b) (5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose-response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91–1291, 91st Cong., 2d Sessions, p. 18 (1970). This Congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court or Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient. *Society of the Plastics Industry Inc.* v. *Occuptional Safety and Health Administration,* 509 F. 2d 1301 (C.A.2 1975), cert den sub nom, *Firestone Plastic Co.* v. *United States Department of Labor,* 95 S. Ct. 1998, 4 L.Ed. 2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL–CIO v. *Hodgson,* 499 F. 2d 467, 474 (C. A. D. C.1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastic Industry, Inc.* v. *Occupational Safety and Health Administration,* supra at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

III. Summary and Explanation of Additions to or Modifications of the ETS

The requirements imposed by OSHA in the ETS were those requirements that OSHA considered essential and feasible for employers to meet immediately, pending the development of a permanent standard. The preamble to the ETS explains the purpose and rationale for the provisions of the ETS. The following sections discuss any changes or additions that have been made in this proposal, changes or additions that OSHA believes are more appropriate for a final, permanent standard regulating employee exposure to benzene.

A. *Scope and application.* In the ETS and its subsequent amendments, OSHA exempted storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to the discharge of such gasoline from bulk terminals, and exposure to liquids containing benzene in amounts of 1 percent or less by volume.

OSHA recognizes the need for development of appropriate equipment control devices to reduce the loss of gasoline vapors containing benzene. OSHA also recognizes that, while the scope of its statutory obligations may be different than those of the Environmental Protection Agency (EPA), that Agency has a rich background of knowledge in the area of engineering control of hydrocarbon vapors. OSHA announces that it is in the process of establishing with EPA and NIOSH a joint federal agency taskforce to coordinate efforts in reducing worker exposure to benzene in retail automotive gasoline stations, and certain other aspects of transportation, storage, distribution and sale of gasoline and other motor fuels, if the facts warrant. OSHA will decide as a part of this rulemaking whether to include these employers in the final, permanent standard on benzene, to commence an independent rulemaking proceeding concerning worker exposure to benzene at these workplaces or to take other appropriate regulatory action in conjunction with EPA. OSHA is seeking the widest possible public input regarding the appropriate regulatory mechanism for protecting employees exposed to benzene at retail automotive gasoline stations, and during activities related to storage, transportation, and distribution of gasoline. Since other hazardous substances, such as asbestos, are present in gasoline stations, one regulatory option would be a "vertical" standard on all occupational hazards in retail gasoline stations. Moreover, OSHA desires comment on whether certain protective requirements should be included in any standard applying to gasoline stations and related activities, for example limiting use of gasoline as a solvent in such workplaces, and requiring information and training of employees.

As to liquids containing a certain percentage of benzene, the ETS did not apply where the only benzene exposure was from liquids containing benzene in amounts of 1 percent or less by volume. Benzene is a contaminant as well as an additive in a multitude of industrial substances; for example, benzene is found in toluene, gasoline, xylene, petroleum naphthas, and other hydrocarbon derivatives. The degree of benzene contamination in these and other materials is variable depending upon the practices of individual refineries and the material specifications established by many large volume solvent purchasers.

The ETS excluded mixtures containing 1 percent or less benzene by volume based upon OSHA's concern for the feasibility of requiring employers to implement such regulatory activities in so large a number of establishments in a short period of time. Moreover, there is some evidence that employee exposures to these substances are generally less than 1 part per million. However, in this proposal for a permanent standard, OSHA believes that a more careful consideration of this issue is necessary. There is only limited evidence which serves to correlate the potential exposure levels with the amount of benzene contaminant in solvent mixtures. As pointed out in the ETS, there is some indication that exposures resulting from the use of mixtures containing less than 1 percent benzene will generally be less than 1 part per million. However, it is not clear that this would always be the case.

The Arthur D. Little study of technological feasibility and economic impact presents a summary of the data on the benzene content of various solvents and employee exposures that reportedly result from the use of these solvents; for example, within the rubber industry employee exposure to benzene during tire building operations ranges from 1 to 3 parts per million on an 8-hour time weighted average basis. These exposure result from the use of petroleum naptha (white gasoline) which contains benzene in amounts ranging up to 4 percent by volume.

There appears to be no safe level for exposure to a carcinogen, and particularly as to benzene, as pointed out in the ETS. However, benzene is a widespread contaminant in industrial substances and is present in a large number of workplaces. As noted above, there is limited evidence presently available to predict the exposure that would typically result from the use of many of these substances. OSHA recognizes that the lower the benzene content, generally the lower the worker exposure. Consistent with its general policy of limiting exposure to carcinogens to the lowest feasible level, OSHA intends to exempt from the permanent standard only those substances for which the benzene content has been reduced to the greatest extent feasible.

Therefore, OSHA is proposing a step-down procedure exempting those workplaces in which employee exposure to benzene occurs only from liquids containing benzene of 1% or less with a reduction of that percentage to 0.1% benzene after 1 year. OSHA believes that the 0.1% exemption will result in worker exposures below the permissible exposure limit. This period of time is considered necessary to permit reformulation of products containing benzene, substitution, and disposal, perhaps by use, of existing stocks of products already in the channels of trade.

B. *Methods of compliance.* This proposed standard would require the employer to institute engineering and work practice controls to reduce employee exposures to or below the permissible limits. In situations where immediately implemented engineering and work practice controls that can be instituted immediately will not reduce exposures to the permissible exposure limit, these controls must nonetheless be used to reduce exposures to the lowest feasible level and be supplemented by respirators. In addition, a compliance program to reduce exposures to within the permissible exposure limits solely by means of engineering and work practice controls must be developed and implemented. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Secretary, representatives of the Director or affected employees. These plans must be reviewed and updated periodically to reflect the current status of the program.

Engineering controls are the preferred means of compliance because they reduce exposure hazards in the workplace environment by removing the airborne contaminant. Engineering controls may include the installation of local exhaust ventilation, modification of a process to as to reduce emission of the contaminant into the workplace, or substitution of another substance for benzene. Work practices often are necessary for the effective operation of engineering controls, and they therefore are also preferred as means of control.

Respirators are the least satisfactory means of control because of certain difficulties inherent in their use. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, worn by the employee and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. As a consequence, the protection of employees by respirators is not always effective.

C. *Regulated areas.* Where employee exposure is in excess of the permissible exposure level, the employer must establish a regulated area. The purpose of establishing regulated areas is to limit the exposure to as few employees as possible. The burden on the employer is expected to be minimal since the provisions require the employer merely to identify and control access to regulated areas and to notify the applicable OSHA area office of their existence and conditions therein.

D. *Medical surveillance.* The proposal requires more thorough and sensitive laboratory blood tests than did the ETS. The additional tests will permit more comprehensive evaluation of hematopoetic functions and thereby increase the detection of bone marrow toxicity. In particular, the reticulocyte assay, a sensitive means of estimating changes in red cell production, may indicate impairment of the marrow when other indices appear normal, such as in the case of subtle anemias. Likewise, serum bilirubins provide a means of detecting early phases of benzene-induced anemia which may be hemolytic in nature. There is not complete agreement as to which parameter of hematologic function is the first indicator of benzene intoxication resulting from chronic low-level exposure to benzene. Therefore, OSHA believes that these blood tests need to be conducted on a quarterly basis. OSHA has accepted this recommendation based upon the Agency's view that this frequency is adequate to detect changes in the components of the blood which indicate benzene intoxication, while not placing an inappropriate burden upon the employer or the employee. OSHA requests, however, detailed comments on this issue.

E. *Rate retention.* The proposed standard does not include a provision prohibiting the exposure of an employee to benzene if the employee would be placed at increased risk of material impairment of his or her health from such exposure. Nor does the proposal include any provision requiring the transfer of such an employee to another job, or providing that removal for medical reasons should not result in loss of earnings or seniority status to the affected employee. Provisions of this type have been referred to collectively as rate retention and mandatory removal.

The Coke Oven Emissions standard (41 FR 46742 at page 46780, October 22, 1976) addresses the major considerations which must be dealt with in determining how to treat this issue. The conclusion reached by OSHA in that document is that:

> * * * further exploration of this (the rate retention) issue is necessary in order to deal in considerably more depth with the numerous issues raised by such a provision. It is therefore our intention to conduct further study, through an Advisory Committee or other means of the need and implications of rate retention as an aspect of an OSHA health standard. On the basis of this study, the Agency will take further action under the Act, as appropirate, regarding rate retention."

In the meantime, with respect to the benzene proposal, OSHA specifically invites comment on the issues of the propriety, scope and implications of a rate retention requirement in this standard, including: the number of employees who would be at increased risk from exposure to benzene at levels below the permissible exposure limit; the range of rate retention provisions available and their relation to determining when a condition is caused by agents other than benzene and, if so, whether an employer should be responsible for such an employees' retention of pay rate where the condition results in transfer or mandatory removal; the impact of such a provision on the affected industries; and possible alternatives to employee withdrawal.

F. *Labels.* Due to the hazardous nature of benzene, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure to benzene. For this reason, the ETS included a section requiring signs.

For the same reason, this proposal includes a requirement that caution labels be affixed to all containers of benzene and of the products containing benzene, not only because of the hazardous nature of benzene exposure, but because of the related necessity for both the employer and employee to know whether the product contains any benzene. The labeling provision also requires the employer to assure that caution labels are affixed to any product containing benzene when such product leaves the employer's workplace. This proposed requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement would be that the manufacturer or supplier is in the best position to know whether the product does contain benzene.

G. *Recordkeeping.* The proposed standard requires the employer to keep written records of employee exposure measurements and medical examinations. Symptoms of leukemia may not appear for many years after the last exposure to benzene. Thus, records of exposure measurements and medical examinations should be retained for a definite period of years even after the employee ceases to work. For this reason, the recordkeeping provisions of the proposal require the employer to retain these records for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

IV. Conclusions

OSHA recognizes that many of the matters considered in this proposal are controversial and that some gaps may exist in the available scientific evidence. OSHA has concluded that benzene is extremely harmful to workers. The unavailability of certain limited scientific evidence cannot legitimately delay the proposal of a permanent standard for protecting workers exposed to benzene. OSHA hopes that the public participation in this rulemaking will help to fill whatever gaps exist.

Therefore, based on the best available evidence and in view of the statutory requirement that no employee suffer material impairment of health or functional capacity as a result of exposure to toxic substances, OSHA believes that employee exposures to benzene must be reduced to the lowest level feasible and

that the other requirements to regulate exposure to benzene must be imposed, as set forth in the proposal. After the rulemaking record is closed, OSHA will evaluate all the evidence received and issue a final permanent standard based on the entire record.

V. TECHNOLOGICAL FEASIBILITY ASSESSMENT AND ECONOMIC IMPACT STATEMENT

Pursuant to section 6(b) of the Occupational Safety and Health Act and in accordance with Executive Order No. 11949 (42 FR 1017, January 5, 1977), OSHA contracted for and received a technological feasibility assessment and economic impact statement from Arthur D. Little Company. This statement has been reviewed and OSHA concludes that the proposed regulation of benzene is a "major" action. The Assistant Secretary certifies that the economic impact of this proposal has been evaluated.

This statement along with all other references cited and other relevant material, are available for inspection and copying at the OSHA Technical Data Center, Room S6212, Third St. and Constitution Avenue, NW., Washington, D.C. 20210. OSHA invites comments on any of the information contained or conclusions reached, in the statement concerning technological feasibility and economic impact.

VI. ENVIRONMENTAL IMPACT

The preceding description of the proposed standard and its supporting rationale together with that found in the annexed ETS, as well as the following sections on environmental impact, constitute OSHA's draft environmental impact statement on the proposed standard for occupational exposure to benzene.

This statement has been prepared in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et. seq.) as well as the guidelines of the Council on Environmental Quality (40 CFR Part 1500) and OSHA's regulations (29 CFR Part 1999). The purpose of this draft environmental impact statement is to aid in the Agency decision making on proposed actions which may have the potential for significantly affecting the quality of the human environment. Written comments and information on the projected impacts of this proposed standard for exposure to benzene are solicited from any interested persons or groups during the period for written comment submissions listed below in this Notice.

In addition to this general request for comment, copies of this proposal and environmental impact statement will be sent to numerous Federal and State agencies, industry representatives, employee unions, and public interest groups with requests for their comments. A copy of this listing is available in the OSHA Technical Data Center, Room S-6212, Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

Testimony, data, arguments, and related submissions will be received at the public hearing to be held on this proposed standard on July 19, 1977, provided prehearing submission requirements, also outlined below, are complied with.

Additional copies of this proposed standard and draft environmental impact statement are available for review and copying in the OSHA Technical Data Center.

ALTERNATIVES

There are three major areas of regulatory decision making which will affect the impact of the benzene standard on the external environment. These are: (1) the scope and application of the regulation, (2) the airborne permissible exposure limit, and (3) the methods by which compliance is mandated. The purpose of this section is to present the alternatives available. The discussion of the impact of each of these alternatives will be in the following section.

(1) *Scope and application.* The emergency temporary standard (ETS) applied to all establishments in which benzene is present, including "general industry," construction, and maritime. The ETS did not apply, however, to storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals nor to operations utilizing liquid mixtures containing 1 percent or less benzene by volume.

This proposal applies to "general industry," construction and maritime. It has retained the exclusion for the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals. Although the proposal retains the ETS exemption of those operations utilizing liquids containing less than 1.0 percent benzene by volume, this exemption would be in effect only for one year. Thereafter, only operations containing 0.1 percent or less benzene by volume would be exempted.

Other options available to OSHA include elimination of the percentage exclusion or the expansion of coverage to retail automotive service stations and a broader range of gasoline industries. Conversely, OSHA could further restrict the scope of the regulation.

(2) *Permissible exposure limit.* The previous OSHA permanent standard for benzene, in effect prior to the issuance of the ETS, prescribed an 8-hour time weighted average (TWA) of 10 ppm with an acceptable ceiling concentration of 25 ppm. In addition, it allowed excursions above the ceiling to a maximum peak concentration of 50 ppm, provided that this peak occurred for no more than 10 minutes in any 8-hour work period. This standard was based largely on benzene's general toxicity rather than on its leukemia hazard.

The proposal establishes an airborne permissible exposure limit (PEL) of 1 ppm with a ceiling limit of 5 ppm exposure averaged over any 15 minute period. The proposal additionally prohibits eye contact and repeated skin exposure to liquid benzene.

The PEL adopted by this proposal was chosen not as a "safe" or "no effect" level, but on the basis of OSHA's belief that 1 ppm is the lowest level that generally can be achieved. OSHA is mandated by the Act to consider feasibility in setting regulations. However, it is possible that a level lower than 1 ppm could be shown to be feasibly attained either by existing controls or by the development of new controls. In that case, OSHA has the option to regulate to whatever level below 1 ppm is determined to be appropriate.

Another regulatory alternative is to adopt differing standards for different industries, moderating the degree of regulation as deemed necessary for adequate and feasible protection of workers in the various industries where benzene is present.

(3) *Methods of compliance.* OSHA's regulation, 29 CFR 1910.1000, under which benzene was initially regulated, provided that compliance be achieved first through administrative or engineering controls, whenever feasible, and, when such controls were not feasible, through the use of supplementary protective equipment.

This proposal requires the institution of engineering and work practice controls to reduce exposure to or below the PEL. In addition, the proposal requires that a program be established and implemented to reduce exposures to or below the PEL, solely by means of engineering and work practice controls. Protective clothing and equipment are also required where necessary to prevent eye contact or repeated skin contact.

Engineering controls may include the installation of local exhaust ventilation, modification of a process so as to reduce emissions, or substitution of another substance for benzene.

Alternatives involved in the compliance section of the regulation are primarily concerned with establishing a particular priority among the types of controls (engineering, work practice, and respiratory protective equipment). Sole reliance on engineering controls or on use of engineering and work practices equally could be required. Another alternative would allow the employer complete freedom in choosing the method of control without any required priority systems. An alternative approach would be to specify controls, such as reformulation of products to decrease benzene content, or the preferential use of vapor recovery systems over ventilation.

Additionally, there are other areas in which alternative actions might variously have impact upon what is considered the external environment. One of these areas is medical surveillance. The ETS provided for the minimum tests considered necessary to determine the effects of exposure to benzene. This proposal requires a more comprehensive evaluation and more sensitive means of detecting changes which may indicate effects of exposure.

It is clear that there are numerous areas with various regulatory approaches which may have differential effects on some aspects of the external environment. The possible impacts of these ap-

proaches will be discussed in the following chapter.

PROJECTED IMPACTS

The primary effect of this regulation is expected to impact on the workplace by reducing worker exposure to benzene. A second potential impact may occur to the environment external to the workplace.

The impacts on workers and the work environment of OSHA's proposed regulation of benzene has already been treated in the preceding chapters of this preamble and the preamble to the ETS. This section will attempt to delineate the impacts of the proposed rule on the external environment and will also consider the potential impacts of alternative regulatory measures and various compliance methods.

A standard for control of occupational exposure to benzene has the potential for affecting the external air quality, water quality, waste disposal (a function of land use, air quality and water quality), energy consumption, and human resources. Economic costs of implementing an occupational health standard have also been determined to have the potential for impacting the general human environment. A brief discussion of these particular impacts is included in this statement. For further information, the Technological and Economic Impact Assessment on Benzene prepared for OSHA by Arthur D. Little Inc. should be referred to. It is available at the OSHA Technical Data Center.

The specifics of potential impacts expected as a result of OSHA's proposed regulation and of alternatives to that regulation will be addressed in this chapter. But initially an overview will be presented to give a general idea of the types of impacts which may result, and the ways in which they depend on the various alternatives involved in the regulatory decision making and subsequent choice of compliance methods.

The first area of alternatives is in the scope and application of the regulation. One option is the inclusion or exemption of storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals. The areas of the external environment which will be impacted by this choice are air quality and human resources. The impacts on water quality, solid waste, and energy consumption would be insignificant, if any were to result at all, for the ways in which OSHA regulation would effect this segment would be to control vapor release and to provide medical surveillance of employees.

The direcion of the impact would be improvement of the ambient air quality by reduction of contamination of the employees' breathing air. It is reasonable to expect that it would be necessary to control exposure through engineering controls, resulting in containment of benzene at the source.

To the extent that monitoring and medical surveillance of employees is required, there will be an impact on medical resources and the supply of industrial hygienists. The full extent of this impact cannot be readily quantified.

The second area of alternatives is in setting the permissible exposure level (PEL). This area is integrally related to the methods of compliance (the third area of alternatives) used to achieve control of exposure to or below the PEL. The choice of alternative PEL's and of compliance is expected to have impact in some way on almost every category of the external environment.

In a general sense, reduction of benzene exposure will involve engineering controls to prevent emissions at the source, work practices to prevent accidental spills and contacts with benzene, and good housekeeping procedures to cope with spills when they do occur. Respirators may also be used in some cases to prevent worker exposure to benzene vapor. An additional method of compliance is the substitution of some other substance for benzene.

The extent of engineering control required is to some extent relative to the level of exposure which must be met. If exposure is to be controlled by preventing leaks and evaporation, then the controls would have to be tighter and perhaps more extensive to meet the lower PEL. This would result in less workplace contamination and, thereby, lower ambient emissions. On the other hand, if control is achieved by ventilation, the amount of benzene contamination would remain constant but the rate of exhaust outside the plant would increase. This increased flow rate may not affect the ambient air quality, but might result in an insignificant increase in energy consumption.

Likewise, tighter engineering controls to achieve lower PELs would reduce the escape of benzene into the effluent discharge, representing a positive impact on water quality. Conversely, other means of control and their degree of effectiveness may result in increased contamination of water and increased sludge production, representing a potential negative impact on both water quality and the amount of solid waste.

The PEL and compliance methods chosen should have no effect on the amount of monitoring and medical surveillance required. However, the degree of impact on human resources will depend on the contents of monitoring and medical surveillance provisions.

A. AIR POLLUTION IMPACT

The importance of benzene in air pollution is related to the concern for long-term exposure to low levels by large numbers of people. Benzene's participation in the formation of photochemical oxidants is minimal, and as a result, it is generally omitted from control efforts to reduce the formation of photochemical oxidants. However, the evidence regarding the leukemia hazard of exposure to benzene must be taken into account in evaluating the environmental impact of this proposal.

The sampling for air pollutants has been largely concerned with the total hydrocarbon levels in the atmosphere. However, several studies summarized in Table I have been conducted to specifically evaluate benzene levels. These studies were carried out in Los Angeles, Toronto, Zurich and the Netherlands and the data in Table I indicates that the ambient benzene concentrations in the urban atmosphere are normally well below 0.1 ppm and have an average concentration of 0.01 ppm. In the Los Angeles, Toronto and Netherlands studies it was noted that the benzene concentrations found at sampling sites adjacent to major roadways were highly correlated with periods of heavy traffic volume. This suggests that the motor vehicle is a source of benzene in the community air as a result of both incompletely combusted exhaust emissions and direct evaporation from vehicle gas tanks.

TABLE I (4).—*Comparison of measurement results of several sites, concentrations in part per billion*

	Benzene	
	Maximum	Average
Los Angeles	57.0	15
Toronto	98.0	13
Zurich	74.0	35
Netherlands:		
Delft	8.0	1
The Hague	29.0	9
Tunnel [1]	32.2	25

[1] High traffic area.

Source: Modified from: Burghardt, E. and Jeltes, R., "Gas Chromatographic Determination of Aromatic Hydrocarbons in Air Using a Semi-Automatic Preconcentration Method, Atmospheric Environment," vol. 9, pp. 935-940.

1. *Production.* Mitre's estimates of the quantity of benzene currently lost during commercial production, storage and transport is 79 million pounds. These emissions are largely derived from petroleum cracking facilities which currently contribute approximately 95% of the nation's total output for benzene.(7). A report in the process of being published by EPA indicates somewhat smaller estimates.

Emissions from these production sources are related to a variety of operations including equipment repair and maintenance, clean-up of small spills, transfer of materials, and the normal operation of process equipment. Additional emissions result from blow down systems, waste water separators, cooling towers and storage facilities. Fugitive emission sources include leaking pumps and compressor seals, pressure relief valves, pipeline valves and flanges, changing pipeline blinds and purging sample lines. The relative magnitude of benzene emissions can be based in part upon the emission factors summarized in Table IV.(6). These data are representative of total hydrocarbon emissions, but are pertinent to the evaluation of benzene releases where it constitutes a portion of the process stream.

TABLE II (5).—*Benzene emissions to the environment—1971*

[In millions of pounds]

Source	Location	Quantity	Media of entry
Commercial benzene production, storage and transport.	Primarily southwest	73 (assumed 1 pct. of total production).	Air, water.
Commercial benzene usage	Primarily southwest and northeast.	638 (based on reaction yields)	Do.
Oil spills	Oceans and rivers	22-24	Water.
Motor vehicle emissions	Similar to population distribution.	1,000	Air.
Coke ovens	Primarily, North Central States and Alabama.	122 (1974)	Air.

Source: Modified from Walker, P., "Air Pollution Assessment of Benzene; Mitre Technical Report," MTR-7188 Mitre Corp.; McLean, Va., 1976.

TABLE III (6).—*Emission factors for petroleum refineries*

Type of process:	Hydrocarbons
Fluid catalytic cracking units (FCC):	
Pounds per thousand barrels fresh feed	220
Kilograms per thousand liters fresh feed	.630
Moving-bed catalytic cracking units (TCC):	
Pounds per thousand barrel fresh feed	87
Kilgrams per thousand liters fresh feed	.250
Blowdown systems:	
Pounds per thousand barrels refinery capacity—	
With control	5
Without control	300
Kilograms per thousand liters refinery capacity—	
With control	.014
Without control	.860
Process drains:	
Pounds per thousand barrels waste water—	
With control	8
Without control	210
Kilograms per thousand liters waste water—	
With control	.023
Without control	.600
Vacuum jets:	
Pounds per thousand barrels vacuum distillation—	
With control	(1)
Without control	130
Kilograms per thousand liters vacuum distillation—	
With control	(1)
Without control	.370
Cooling tower:	
Pounds per thousand gallons cooling water	6
Kilograms per thousand liters cooling water	.72
Miscellaneous losses, pounds per thousand barrels refinery capacity: [1]	
Pipeline valves and flanges	28 (0.080)
Vessel relief values	11 (.031)
Pump seals	17 (.049)
Compressor seals	5 (.014)
Other (air blowing, sampling, et cetera)	10 (.029)

[1] Kilograms per thousand liters shown in parentheses.

TABLE IV (6).—*Hydrocarbon emission factors for evaporation losses from the storage of petroleum products*

Type of tank [1]	Units	Type of material stored: Gasoline or finished petroleum product	Type of material stored: Crude oil
Fixed roof breathing loss	Pounds per day—1,000 gal storage capacity	0.4	0.3
	Kilograms per day—1,000 l storage capacity	.05	.04
Working loss [2]	Pounds per 1,000 gal throughput	11	8
	Kilograms per 1,000 l throughput	1.32	.96
Floating roof breathing loss	Pounds per day—tank	(3)	(4)
	Kilograms per day—tank	63.5	45.4
Working loss	Pounds per 1,000 gal throughput	(3)	(4)
	Kilograms per 1,000 l throughput	(3)	(4)

[1] For tanks equipped with vapor-recovery systems, emissions are negligible.
[2] An average turnover rate for petroleum storage in approximately 6. Thus, the throughput is equal to 6 times the capacity.
[3] 140 (40 to 210). 140 (63.5) based on average conditions and tank diameter of 100 ft (30.5 m); use 40 (18.1 kg) for smaller tanks, 50 ft (15.3 m) diameter; use 210 (95 kg) for larger tanks, 150 ft (45.8 m) diameter.
[4] 100 (30 to 160). Use 30 (13.6 kg) for smaller tanks, 50 ft (15.3 m) diameter; use 160 (72.5 kg) for larger tanks, 150 ft (45.8 m) diameter.
[5] Negative.

The Compilation of Air Pollution Emission Factors published by the Environmental Protection Agency states, "There are essentially no emissions from reforming operations" in the petroleum refining industry. However, due to benzene's volatility there is a possibility that some environmental contamination occurs during these operations.

Promulgation of a 1 ppm level for benzene will have the effect of reducing overall emissions for benzene. This results because greater controls will be maintained over leaking process equipment and fugitive emissions. In this case there is an anticipated positive impact on the external environment of reduced benzene emissions from production sites.

2. *Storage and Transportation.* Since gasoline contains a certain amount of benzene, an alternative to the proposal would also affect gasoline storage and marketing facilities as well as firms distributing gasoline. Expected means of compliance would suggest that engineering controls possibly include internal floating roofs on storage tanks, bottom loading assemblies and vapor condensing and/or return equipment. Tables IV and V illustrate the expected hydrocarbon emission rates (a portion of these amounts are benzene) resulting from storage and transfer operations (6). The application of vapor return or recovery equipment, as well as internal floating roofs and bottom loading assemblies, will largely eliminate ambient emissions.

3. *Commercial Usage: Chemical Processing.* The chemical process industries utilizing benzene feedstock material were evaluated during the development of the Economic Impact Analysis (EIA) prepared for OSHA by Arthur D. Little. It was determined that these operations were largely in compliance with the previous OSHA standard due to the constraints of closed system operations and the economics of preventing possible losses of feedstock and products. Possible, though infrequent, over-exposures would be due to non-routine situations such as process upsets or equipment failure.

As with the benzene production facilities, engineering controls may be necessary to comply with a 1 ppm benzene standard. Controls would be very similar in type and extent to those used in the production facilities to reduce emissions during process operations and from fugitive sources. The reduction in process and fugitive losses may result in a significant, (though as yet unquantified) reduction in benezene emmissions and those of its process intermediates.

4. *Commercial Usage: Solvent Usage.* Another use of benzene is as an industrial solvent. Benzene has been largely removed from solvent applications, often being replaced by toluene, which, however, does contain a small percentage of benzene. Benzene is still found in a limited number of specialized low volume applications such as proprietary adhesives within the rubber industry, and in paint remover formulations.

The purpose of solvent materials is simply to provide a vehicle for solid materials to facilitate the application of solid materials. As such, much of the benzene used as solvent is lost by evaporation upon application. Only a limited number of processes within the adhesives and printing industries utilize vapor recovery equipment as a method of solvent recovery and recycling.

Exposure control of this compound in solvent application involves a variety of alternatives (7). Primary among the control alternatives would be general dilution and local exhaust ventilation systems and product reformulation to either reduce or remove the benzene component. These alternatives will be discussed separately for their possible environmental impacts.

A common method for protecting workers from solvent vapors is to provide adequate ventilation to both dilute the vapors with fresh air and to carry them out of the worker breathing zone. This approach to exposure reduction finds widespread application within industries having adhesive and coating solvent exposures. The necessary equipment and design knowledge for spray booth and ventilation-hood installations is readily available for these applications. In many cases, existing equipment can be adapted to achieve lower exposures by increasing

the velocity of the fans or reducing the area of the ventilation ducts or booth areas.

Since the purpose of ventilation equipment is to remove vapors from the work environment, once this task is accomplished, the exhausted air, including the vapors, is often emitted directly into the external environment. The vapor concentration in the exhaust is often so low that further treatment is considerably more difficult. When the exhaust air contains large amounts of particulate matter, as from a paint spray operation, or particularly malodorous vapors, air treatment becomes more necessary.

Increased ventilation will alter the rate at which benzene vapors are shunted to the atmosphere and could change the final impact on ambient levels of benzene. Where reformulation is practiced to reduce solvent usage, however, the atmosphere will realize a reduction in total hydrocarbon load. Therefore, if the OSHA regulation were to specify the control technology, there would be a basis for evaluating the possible changes in the benzene levels in the atmosphere.

The second general method to reduce benzene exposures is reformulation. In this approach other solvents may be substituted for either part or all of the benzene or the benzene contamination of other solvents reduced; equipment may be developed to utilize a higher solid content solution (i.e., less solvent per volume of material applied); solvent systems may be completely replaced with a water based and hot melt applications; or in extreme cases the process involving the solvent may be discontinued entirely. Analysis in the EIA demonstrates examples of each of these reformulation possibilities. The coatings industry is exploring possibilities of high solds and water based coating applications systems (*9*). Manufacturers of paint removers are substituting other solvents for benzene. Adhesives manufacturers are beginning to utilize other systems including substitution of solvents such as methyl ethyl ketone, water based systems and new solventless systems that are liquidified by heat and form the adhesive bond when they cool and solidify ("hot melt" adhesives) (*6*).

5. *Motor Vehicle Emissions.* While this is perhaps one of the most important sources of benzene emissions, it is excluded from this particular rule. The only segment of these emissions that may possibly be controlled by OSHA would be those affecting employee exposure resulting primarily from the filling of vehicle gas tanks.

B. WATER POLLUTION IMPACTS

The relatively moderate water solubility (compared to other hydrocarbons) (1780 mg/l at 25°C) and vapor pressure (95.2 mmHg at 25°C) of benzene are important parameters in the determination of its potential for contamination of water. Because of its moderate solubility in water, benzene may be washed out of the atmosphere with rain. In combination with the evaporation process, this would result in a continuous cycling between air and water.

The three major industrial sectors having emissions which emit benzene to the aquatic environment appear to be: (1) chemical production and processing; (2) coating operations, and (3) storage-transportation.

While engineering controls would act to reduce leakage and spillage of compounds, work practice controls would tend to emphasize a prompt response to spills with flushing to waste chemical drains. From chemical drains in these plants the materials would proceed to oil separators where the organic materials are recycled to the production system.

Some amount of material, however, including benzene, might escape into the water effluent. (*15*) In comparison to the reduction of leaks and spills expected to result from the regulation, the potential increase in effluent emissions due to more efficient work practices is not expected to be significant. An overall reduction in emissions should result from the implementation of the regulation.

C. SOLID WASTE

As discussed previously, methods to comply with the proposed benzene regulation are largely aimed at preventing releases to the air and to a lesser extent to the water. Since the control measures largely involve work practices and durable equipment to either prevent or redirect vapor emissions, impacts upon solid waste loads are expected to be minimal if not completely negligible.

D. HUMAN RESOURCES IMPACTS

As stated earlier in this document, the intent of the OSHA standard for occupational exposure to benzene is to protect employees from the health hazards associated with such exposures. Health benefits resulting from control of benzene include prevention of blood and bone marrow poisoning as well as lowering the risk of leukemia. Reduced rates of industrial accidents and short term illnesses are also viewed as the proposed standard's beneficial impacts.

A possible further impact of the proposed standard is to increase the demand for limited medical resources. This will not be a major impact for those companies affected by the regulation which are large corporate concerns which already maintain a medical staff. However, smaller facilities may have to acquire the services of medical personnel, which could create an additional burden on the limited supply of industrial hygienists, nurses and doctors. This impact on human resources will be directly dependent on the scope of the final rule and could become significant if retail automotive service stations and to the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals are ultimately included. A factor to be considered, however, is that reducing worker exposure to benzene is expected to result in improved health.

E. ENERGY

Within the scope of the proposed OSHA benzene standard the only activities requiring an increased energy demand would be increased ventilation and the resulting need to condition greater volumes of make-up air. The Arthur D. Little study (EIA) evaluates industry's compliance costs for engineering control to primarily result from tightening up production processes, and installing new hardware (i.e., rupture disks, floating roofs, vapor control systems and mechanical seals). Since engineering control requirements were based upon slight modification to existing inplant systems, the EIA judged increased energy consumption to be "negligible."

F. LAND USE

As enumerated in the EIA analysis, compliance activities for this regulation are expected to consist of modifications to existing control equipment and work practice controls where necessary. These modifications should be easily completed in existing areas and no additional land usage will result. The EIA demonstrates that changes in costs and productivity as a result of the OSHA regulation should be minimal (in most cases less than 0.5%). With these small changes it is not felt that the construction of new facilities because of productivity constraints can be justifiably attributed to the proposed OSHA standard.

G. ECONOMIC IMPACT

The EIA on benzene has estimated the costs and benefits of compliance with the proposed regulation (as well as other control scenarios).

In addition to cost of compliance estimated, the EIA also addresses the issue of expected price changes in products involving these materials.

RELATIONSHIP WITH OTHER FEDERAL ACTIONS

Workers exposed to benzene during industrial operations constitute that portion of the general population most exposed to its health hazards. Any OSHA standard to limit occupational exposure to benzene is written for their protection. However, since benzene is released to the ambient environment and has impacts on the environment external to the workplace, it is also a matter of concern to the Environmental Protection Agency (EPA) which is responsible for safeguarding air quality under the provisions of the Clean Air Act (as amended, 42 U.S.C. 1857 et seq.) and water quality under the provisions of the Water Pollution Control Act of 1972.

EPA was petitioned by the Environmental Defense Fund on April 14, 1977 to list benzene as an agent of concern under section 112 of the Clean Air Act no later than May 30, 1977. They are currently responding to this petition. If benzene is determined to be a hazardous air pollutant, the EPA would then be responsible for proposing a regulation within 180 days from the date of listing.

In its ongoing process of developing water pollution criteria, EPA is currently evaluating aquatic benzene toxicity. At the present time, benzene effluents are controlled as contributors to the total BOD load of industrial effluents. As such, OSHA regulations resulting in slightly more benzene effluent would not conflict with EPA water effluent standards as long as the total BOD (biological oxygen demand) level is controlled. While this relationship in regard to water emissions may change with future standard setting on the part of EPA, it is not expected to alter industry's approach to compliance with OSHA benzene regulations. Since benzene is normally only a portion of the effluent produced by a given industry and it does not offer any unusual problems during water treatment (3) compliance with EPA regulations can be expected to be within industry's capabilities.

The Consumer Product Safety Commission (CPSC) was petitioned on May 8, 1977 by the Health Research Group to ban and recall benzene-containing products by its authority under the Hazardous Substances Act. At this time the agency is reviewing the petition and does intend to respond.

Whatever possible action the CPSC might take should create no interference with OSHA's regulation of occupational exposure to benzene.

REFERENCES

(1) Seminar on Air Pollution from Motor Vehicles; Technical Coordination, Office of Air Programs, Environmental Protection Agency; 1972.1.

(2) Air Quality Criteria for Photochemical Oxidants; U.S. Department of Health, Eduation and Welfare, National Air Pollution Control-Administration, No. AP-63, 1970.

(3) Air Quality Criteria for Hydrocarbons; U.S. Department of Health, Education and Welfare, National Air Pollution Control Administration, No. AP-64, 1970.

(4) Burghardt, E. and Jeltes, R.; Gas Chromatographic Determination of Aromatic Hydrocarbons in Air Using a Semi-Automatic Preconcentration Method; Atmospheric Environ., 9, 355-940; 1975.

(5) Walker, P.; Air Pollution Assessment of Benzene; Mitre Technical Report, MTR-7188; Mitre Corporation, McLean, Va.; 1976.

(6) Adapted from: Compilation of Air Pollution Emission Factors (Revised), U.S. Environmental Protection Agency, AP-42; 1972.

(7) Technology Assessment and Economic Impact Study of an OSHA Regulation for Benzene—Draft Report; for U.S. Department of Labor, Occupational Safety and Administration; Arthur D. Little, Inc., Cambridge, Mass., October 1976.

(8) Air Pollution Engineering Manual; Danielson, John A., ed.; Environmental Protection Agency, Research Triangle Park, N.C., 1973.

(9) Ellerhorst, H.; Energy Crisis; Catalyst for Change; Modern Paint and Coatings, p. 31-33; October 1975.

(10) Policy Statement on Use of the Concept of Photochemical Reactivity or Organic Compounds in State Implementation Plant for Oxidant Control, EPA Quality Office, January 29, 1976.

(11) Communication with Plant Manager of Durant Paints, Inc., Revere, Massachusetts.

(12) Communication with Plant Manager of Touraine Paints, Inc., Everett, Massachusetts.

(13) Howard, P. H. and Sustin, R. R.; Benzene: Environmental Sources of Contamination, Ambient Levels and Fate; Office of Toxic Substances, U.S. Environmental Protection Agency; EPA 560/5-75-005; December 1974.

(14) Blamer, M., Saunders, H. L., Grassle, J. F. and Hamson, G. R.; A Small Oil Spill; Environment, 13, 2-12; March 1971.

(15) Communication with Mr. J. L. Goodier, Bio-Enviro Section, Arthur D. Little, Inc., Cambridge, Massachusetts; December 1976.

(16) Communication with Mr. G. Hama; Industrial Hygienist, Wayne State University, Detroit, Michigan; December 1976.

VII. PUBLIC PARTICIPATION; NOTICE OF HEARING

Interested persons are invited to submit written data, views and arguments with respect to the ETS and this subsequent proposal. These comments must be postmarked on or before June 27, 1977, and submitted in quadruplicate to the Docket Officer, Docket H-059, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. Written submissions must clearly identify the provisions of either the ETS, the proposal, or both which are addressed and the position taken with respect to each issue therein. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record for this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on July 19, 1977, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C., 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate, a notice of intention to appear, postmarked on or before June 27, 1977 with the OSHA Division of Consumer Affairs, Docket No. H-059, Room N-3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210 (telephone: (202) 523-8024). The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center-Docket Office (Room S6212), telephone (202) 523-7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by July 11, 1977, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on July 19, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the ETS and its emergency nature, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and rights of the parties.

The hearings will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, the Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

VIII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b), 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 1599, 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations by amending section 1910.1028 as set forth below. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), OSHA is of the view that the proposed standard is more effective than the corresponding

standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards would also be superseded by the new proposed standard.

NOTE.—It is hereby certified that the economic and inflationary impact of this proposed regulation has been carefully evaluated in accordance with Executive Orders 11821 and 11949.

Signed at Washington, D.C., this 20th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore proposed to be amended by revising § 1910.1028 to read as follows:

§1910.1028 Benzene.

(a) *Scope and application.* (1) This section applies to production, reaction, release, packaging, repackaging, storage, transportation, handling, or use of benzene.

(2) This section does not apply:

(i) To the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals; or

(ii To work operations where the only exposure to benzene is from liquid mixtures containing 1% (0.1% after one year from the effective date of this standard) or less of benzene by volume, or the vapors released from these liquids.

(b) *Definitions.* For the purpose of this section:

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area for the purpose of exercising the opportunity to observe monitoring and measuring procedures under paragraph (m) of this section.

"Benzene" (C6H6) (CAS Registry No. 000071432), means benzene, or a mixture of liquids containing benzene, or the benzene vapor released by these liquids, or the benzene vapor released by any other materials.

"Bulk terminal" means a facility which is primarily used for the marketing of gasoline which receives its petroleum products by tanker, barge, or pipeline.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, or designee.

"OSHA Area Office" means that office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the employer's establishment is located.

(c) *Exposure Limits.*—(1) *Permissible exposure limits.* (i) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm) as an 8-hour time-weighted average.

(ii) the employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(2) *Eye and dermal exposure limit.* The employer shall assure that no employee is exposed to eye contact or repeated skin contact with benzene.

(d) *Regulated areas.*—(1) The employer shall establish within the place of employment regulated areas where:

(i) Benzene is produced, reacted, released, packaged, repackaged, handled, stored, or used; and

(ii) Benzene concentrations are in excess of the permissible exposure limit.

(2) The employer shall limit access to regulated areas to authorized persons.

(3) *Notification of Use.* Within 30 days following the establishment of a regulated area, the employer shall report the following information to the OSHA area office:

(i) The address of each establishment which has one or more regulated areas;

(ii) The location of each regulated area;

(iii) A brief description of each process or operation which may result in employee exposure to benzene in each regulated area; and

(iv) The number of employes engaged in each process or operation in each regulated area which may result in exposure to benzene, and an estimate of the frequency and degree of exposure that results.

(e) *Exposure monitoring and measurement*—(1) *Employee exposure.* For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Monitoring.* Each employer who has a place of employment where benzene is present shall monitor each such workplace and work operation to determine the airborne concentrations of benzene to which employees may be exposed. This determination shall be made by monitoring and measurements which are representative of each employee's exposure to benzene.

(3) *Frequency of monitoring.* The monitoring required under paragraph (e) (2) of this section shall be conducted, and the results obtained, with 30 days of the effective date of this section and thereafter repeated quarterly for employees whose exposure is found not to be in excess of the permissible exposure limit, and monthly for those employees whose exposure is found to be in excess of the permissible exposure limit. Where exposures in excess of the permissible exposure limit, the employer shall continue monthly monitoring until at least two consecutive measurements taken at least (7) days apart are not in excess of the permissible exposure limit, and thereafter the employer shall monitor quarterly.

(4) *Redetermination.* Whenever there has been a production, process, or control change which may result in new or additional exposure to benzene, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, the employer shall repeat the monitoring which is required by paragraph (e) (2) of this section.

(5) *Employee notification.* (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results reveal the employee's exposure to be in excess of the permissible exposure limit, such notification shall also include the corrective action to be taken to reduce exposure to or below the permissible exposure limit.

(6) *Accuracy of measurement.* The employer shall use a method of measurement which has an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of benzene to or below the permissible exposure limit by engineering controls, work practices and respiratory protection as follows:

(1) *Priority of compliance methods.* The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to benzene at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Whenever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (g) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit solely by means of engineering and work practice controls required by paragraph (f) (1) of this section.

(ii) Written plans for these compliance programs shall include a schedule for development and implementation of the engineering and work practice controls. These plans shall be revised and updated at least every six months to reflect the current status of the programs.

(iii) Written plans for these compliance programs shall be submitted, upon requests, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and the employees or their authorized representatives.

(iv) the employer shall institute and maintain the controls described in his most recent written compliance program.

(g) *Respiratory protection*—(1) *General.* Where respiratory protection is required under this section, the employer shall select, provide and assure the use of respirators. Compliance with the permissible exposure limit may not be

achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table I below and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE I.—RESPIRATORY PROTECTION FOR BENZENE

Concentration of benzene or condition of use	*Respirator type*
(a) Less than or equal to 10 p/m	(1) Any chemical cartridge respirator with organic vapor cartridge and; or (2) Any supplied air respirator.
(b) Less than or equal to 50 p/m	(1) Any chemical cartridge respirator with organic vapor cartridge and full facepiece; or (2) Any supplied air respirator with full facepiece; or (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 p/m.	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 p/m.	(1) Supplied air respirator with full facepiece, helmet, or hood, in positive pressure mode.
(e) Less than or equal to 10,000 p/m.	(1) Supplied air respirator and auxiliary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(4) *Respirator use.* (i) Where air-purifying respirators are used (cartridge, canister, or gas mask), the employer shall replace the air-purifying canisters or cartridges prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first.

(ii) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is properly fitted.

(iii) The employer shall allow each employee who wears a respirator to wash his or her face and respirator facepiece to prevent skin irritation associated with respirator use.

(h) *Protective clothing and equipment.* Where eye or repeated skin contact with liquid benzene may occur, the employer shall provide and assure that employees wear appropriate protective clothing and equipment to protect the area of the body likely to come in contact with liquid benzene.

(i) *Medical surveillance.*

(1) The employer shall make available a medical surveillance program for all employees who are or will be exposed to benzene. The medical surveillance program shall include:

(i) A history which includes past work exposures to benzene or any other hematologic toxins; a family history of blood dyscrasias including hematological neoplasms; a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements; a history of renal or liver dysfunction; a history of drugs routinely taken, alcoholic intake and systemic infections;

(ii) A complete blood count including red cell count, white cell count, platelet count, hematocrit, hemoglobin, mean corpuscular volume, a differential white blood cell count;

(iii) A reticulocyte count;

(iv) A serum bilirubin; and

(v) Additional tests where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(2) The employer shall assure that all medical procedures are performed by or under the supervision of a licensed physician and provided without cost to the employee.

(3) Medical surveillance and testing of each employee shall be conducted within thirty days of the effective date of this section or within thirty days following placement in a job involving exposure to benzene, and quarterly thereafter.

(4) *Interim examinations.* If the employee is accidentally exposed by ingestion, inhalation or by skin or eye contact under conditions known or suspected to be immediately hazardous, or for any reason develops signs and symptoms commonly associated with toxic exposure to benzene, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of medical testing;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to benzene;

(c) Any recommended limitations upon the employee's exposure to benzene or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(j) *Employee information and training.*—(1) *Training program.* The employer shall provide a training program for employees assigned to workplaces where benzene is present and shall assure that each affected employee is informed of the following:

(i) The information contained in the substance data sheet for benzene which is contained in Appendix A to this part;

(ii) The quantity, location, manner of use, release or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limit, as well as necessary protective steps;

(iii) The purpose, proper use, and limitations of respiratory devices as specified in paragraph (g) of this section and in § 1910.134 (b), (d), (e), and (f) of this Part;

(iv) The purpose and a description of the medical surveillance program required by paragraph (i) of this section and the information contained in Appendix C of this section; and

(v) The contents of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(k) *Signs and labels.* (1) The employer shall post signs in the regulated area bearing the legend:

DANGER
BENZENE
CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATOR REQUIRED

(2) The employer shall assure that caution labels are affixed to all containers of benzene and of products containing benzene, and that labels remain affixed when the benzene or products containing benzene are sold, distributed or otherwise leave the employer's workplace.

(3) The caution labels required by paragraph (k)(2) of this section shall be readily visible and legible. The labels shall bear the legend:

CAUTION
CONTAINS BENZENE
CANCER HAZARD

(4) The employer shall assure that no statement which contradicts or detracts from the required information appears on or near any required sign or label.

(l) *Recordkeeping* — (1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements required by paragraph (e) of this section.

(i) This record shall include:

(*a*) The dates, number, duration and results of each of the samples taken, including a decription of the sampling procedure used to determine representative employee exposures;

(*b*) A description of the sampling and analytical methods used;

(*c*) Type of respiratory protective devices worn, if any; and,

(*d*) Name, social security number, and job classification of the employee monitored and all of other employees whose exposure the measurement is intended to represent.

(ii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (i) of this section.

(i) This record shall include:

(*a*) A copy of the physician's written opinion; and

(*b*) Any employee medical complaints related to exposure to benzene;

(*c*) A copy of the information provided to the physician as required by paragraph (i)(5) of this section; and

(*d*) A copy of the employee's work history.

(ii) The employer shall maintain medical records required under paragraph (l)(2) of this section for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records as required by this section be made available for examination and copying to affected employees or their designated representatives.

(iii) The employer shall assure that former employees and the employees' designated representatives have access to such records as will indicate the employees' own exposures to benzene.

(iv) The employer shall assure that employee medical records required to be maintained by this section be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (l) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by registered mail to the Director.

(iii) At the expiration of the retention period for the records required to be maintained under paragraph (l)(1) and (l)(2) of this section, the employer shall transmit these records by registered mail to the Director.

(m) *Observation of monitoring*—(1) *Employee observation.* The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into an area where the use of protective clothing and equipment, including respirators, is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing or equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(*a*) Receive an explanation of the measurement procedures;

(*b*) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(*c*) Record the results obtained.

(n) *Effective date.* This section shall become effective 30 days following publication.

(o) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A.—SUBSTANCE SAFETY DATA SHEET; BENZENE

I. SUBSTANCE IDENTIFICATION

A. *Substance:* Benzene (C_6H_6).

B. *Permissible Exposure Limit.* 1. *Airborne.* 1 part of benzene vapor per million parts of air (1 ppm) as a time-weighted average (TWA) for an 8-hour workday with a ceiling concentration of 5 ppm, as averaged over any 15 minute period.

2. *Dermal.* Eye contact and repeated skin contact with liquid benzene is prohibited.

C. *Appearance and odor.* Benzene is a clear, colorless liquid with a pleasant, sweet odor. The odor of benzene does not provide adequate warning of its hazard.

II. HEALTH HAZARD DATA

A. *Ways in which the benzene affects your health.* Benzene can affect your health if you inhale it, or if it comes in contact with your skin or eyes. Benzene may also be harmful if you swallow it.

B. *Effects of overexposure.* 1. Short-term (acute) overexposure: If you are overexposed to high concentrations of benzene, you may feel breathless, irritable, euphoric, or giddy; you may experience irritation in eyes, nose, and respiratory tract. You may develop a headache, feel dizzy, nauseous, or experience unsteadiness in walking. Severe exposures may lead to convulsions.

2. Long-term (chronic) exposure: Repeated and prolonged exposure of benzene may cause headache, fatigue, exhaustion, tendency to bleed, nervousness, sleeplessness, shortness of breath, and serious blood disorders, including leukemia.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. Respirators: Respirators are required for those operations in which engineering controls or work practice controls are not available to reduce exposure to the permissible exposure limit. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Protective Clothing: You must wear appropriate protective clothing (such as boots, gloves, sleeves, aprons, etc.) over any parts of your body that could be repeatedly exposed to liquid benzene.

C. Eye and Face Protection: You should wear splash proof safety goggles if it is possible that benzene may get into your eyes. In addition, you should wear a face shield if your face could be splashed with benzene liquid.

IV. EMERGENCY AND FIRST AID PROCEDURES

A. Eye and face exposure: If benzene is splashed in your eyes, wash it out immediately with large amounts of water. Call a doctor as soon as possible.

B. Skin exposure: If benzene is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of water and soap immediately.

C. Breathing: If you or any other person breathes in large amounts of benzene, get yourself or the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call a doctor as soon as possible.

D. Swallowing: If benzene has been swallowed do not induce vomiting because it will cause further harm. Call a doctor immediately.

V. MEDICAL REQUIREMENTS

If you are exposed to benzene, your employer is required to provide within thirty days of the effective date of this standard, or within 30 days following placement in a job involving benzene exposure, medical surveillance consisting of a medical history and laboratory tests. These tests shall be provided without cost to you.

VII. OBSERVATION OF MONITORING

Your employer is required to perform measurements that are representative of your exposure to benzene and you are entitled to observe the monitoring procedure. You or your representative are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with, and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to see the records of measurements of your exposure to benzene upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer. A copy of the physician's written opinion following medical surveillance shall be supplied to you by your employer.

IX. PRECAUTIONS FOR SAFE USE, HANDLING AND STORAGE

Benzene liquid is highly flammable. It should be stored in tightly closed containers in a cool, well ventilated area. Benzene vapor may form explosive mixtures in air. All sources of ignition must be controlled. You should use non-sparking tools when opening or closing benzene containers. You must ground or bond metal benzene containers. Fire extinguishers, where provided, must be readily available and you should know where they are located and how to operate them. Smoking is prohibited in areas where benzene is used or stored. Ask your supervisor where benzene is used in your work area and for additional plant safety rules.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES BENZENE

I. PHYSICAL AND CHEMICAL DATA

A. *Substance Identification.* 1. Synonyms: Benzol, benzole, coal naptha, cyclohexatriene, phen, phenyl hydride, pyrobenzol. (Benzin, petroleum benzin, and benzine, do not contain benzene).

2. Formula: C_6H_6 (CAS Registry Number: 000071432).

B. *Physical Data.* 1. Boiling Point (760 mm Hg): 80.1 C (176F).

2. Specific Gravity (water=1): 0.879.

3. Vapor Density (air=1): 2.7.

4. Melting Point: 5.5 C (42F).

5. Vapor Pressure at 20 C (68F): 75 mm Hg.

6. Solubility in Water: .06%.

7. Evaporation Rate (ether=1): 2.8.

8. Appearance and Odor: Clear, colorless liquid with a distinctive sweet ordor.

II. FIRE, EXPLOSION AND REACTIVITY HAZARD DATA

A. *Fire.* 1. Flash Point (closed cup): —11 C (12F).

2. Autoignition Temperature: 580 C (1076F).

3. Flammable Limits in Air, % by Volume: Lower: 1.3%. Upper: 7.1%.

4. Extinguishing Media: Carbon dioxide, dry chemical, or foam.

5. Special Fire-Fighting Procedures: Do not use solid stream of water, since stream will scatter and spread fire. Water spray can be used to keep fire exposed containers cool.

6. Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hazardous locations. Benzene vapors are heavier than air; thus the vapors may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

7. Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of 29 CFR 1910.106. A concentration exceeding 3250 ppm is considered a potential fire or explosion hazard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class 1 Group D for the purposes of conforming to the requirement of 29 CFR 1910.309.

B. *Reactivity.* 1. Conditions contributing to instability: Heat.

2. Incompatibility: Heat and oxidizing materials.

3. Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

III. SPILL AND LEAK PROCEDURES

A. *Steps to be taken if the material is released or spilled.* Large amounts of water should be used to flush the spills. Do not flush benzene into a confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

B. *Waste Disposal Method.* Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of: (a) by absorbing it in dry sand or earth and disposing in a sanitary land fill; (b) if small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it: (c) if large quantities, by atomizing it in a suitable combustion chamber.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Normal Monitoring Program: Measurements taken for the purpose of determining employee exposure are best taken so that the representative average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five (5) measurements are taken in a random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of the employee's average level of exposure for that work shift. NIOSH recommends that samples be collected at a sampling rate of one liter per minute for a minimum of two hours. Air samples should be taken in the employee's breathing zone (air that would nearly represent that inhaled by the employee). Sampling and analysis should be performed by gas absorption tubes with subsequent chemical analysis, by gas chromatography of those areas most likely to represent the highest airborne concentration of benzene where employees are exposed. Methods meeting the prescribed accuracy and precision requirements are available in the "NIOSH Manual of Analytical Methods."

V. MISCELLANEOUS PRECAUTIONS

A. High Exposures to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices should be established to avoid spills.

B. Non-sparking tools should be used to open benzene containers which should be effectively grounded and bonded prior to opening and pouring.

C. Employers should advise employees of all plant areas and operations where exposure to benzene could occur. A few of the common operations in which high exposures to benzene may be encountered are: manufacture of styrene, phenol, cyclohexane, pesticides, and detergents.

APPENDIX C.—MEDICAL SURVEILLANCE GUIDELINES FOR BENZENE

I. ROUTES OF ENTRY

Inhalation; skin absorption, ingestion.

II. TOXICOLOGY

Benzene is primarily an inhalation hazard. Systemic absorption causes depression of the hematopoietic system. Inhalation of high concentrations can effect the central nervous system function. Aspiration of small amounts of liquid benzene immediately causes pulmonary edema and hemorrhage of pulmonary tissue. Skin absorption through intact skin is possible. Absorption may be accelerated in the case of injured skin, and benzene may be more readily absorbed if it is present in a mixture or as a contaminate in solvents which are readily absorbed. Defatting action of benzene may produce irritation upon repeated or prolonged contact with the skin. High concentrations are irritating to the mucuous membranes of the eyes, nose, and respiratory tract.

III. SIGNS AND SYMPTOMS

Benzene is poorly absorbed through the skin; however, direct contact may cause erythema or blistering. Repeated or prolonged contact may result in drying, scaling, dermatitis, or precipitate development of secondary skin infections. Effects of benzene vapor or liquid on the eye are slight. Only at very high concentrations is there any smarting sensation in the eye. Droplet contamination of the eye by benzene causes a moderate burning sensation, but only a slight transient injury of the epithelial cell, with the eye recovering rapidly. Inhalation of high concentrations of benzene may have an initial stimulatory effect on the central nervous system characterized by exhilaration, nervous excitation, and/or giddiness, followed by a period of depression, drowsiness, fatigue, or vertigo. There may be a sensation of tightness in the chest accompanied by breathlessness and ultimately the victim may lose consciousness. Convulsions and tremors occur frequently, and death may follow from respiratory paralysis or circulatory collapse in a few minutes to several hours following severe exposures. The insidious and often irreversible effect on the blood-forming system of prolonged exposure to small quantities of benzene vapor is of extreme importance. These effects have been noted to occur at concentrations of benzene which may not cause irritation of mucous membranes or any unpleasant sensory effects. Early signs and symptoms of benzene morbidity are varied and vague, and not specific for benzene exposure. Subjective complaints of headache, dizziness, and loss of appetite may precede or follow clinical symptomology. Bleeding from the nose, gums, or mucous membranes and the development of purpuric spots may occur as the condition progresses. Rapid pulse and low blood pressure in addition to a physical appearance of anemia may accompany a subjective complaint of shortness of breath. Clincial evidence of leucopenia and anemia are the most common abnormalities reported, however, macrocytosis and thrombocytopenia are also frequently present. Bone marrow may appear normal, aplastic, hypoplastic or hyperplastic and may not in all situations correlate with peripheral blood findings in-

dicating hypo-hyper-activity of blood forming tissues. There are great variations in the susceptibility to benzene morbidity which prohibits the identification of "typical" blood pictures. The effects of prolonged benzene exposure may appear after several weeks or years after the actual exposure has ceased. Development of leukemia also may result from exposure to benzene.

IV. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Flush eyes and wash contaminated skin. Symptoms of non-specific nervous disturbances may persist following severe exposures.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. Other considerations: Benzene can cause both acute and chronic effects. It is important that the physician become familiar with how exposure to benzene occurs. Those with skin disease may not tolerate the wearing of protective clothing and those with chronic respiratory disease may not tolerate the wearing of negative pressure respirators.

B. Surveillance and Screening: Medical histories and laboratory examinations are required for each employee subject to exposure to benzene. The employer must screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. Liver disease: The primary site of biotransformation and detoxification of benzene is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of benzene. These precautions should be considered before exposing persons with impaired liver function to benzene vapors.

2. Renal disease: Although benzene is not known as a kidney toxin, the importance of the kidney in the elimination of toxic substances and metabolites justifies special consideration in those with possible impairment of renal function.

3. Skin disease: Benzene is a defatting agent and can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of benzene.

4. Blood dyscrasias: Benzene is a hematopoietic depressant. Persons with existing blood disorders may be more susceptible to the effects of benzene.

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(Secs. 4, 6, 8, (84 Stat. 1592, 1593, 1599) (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911.)

APPENDIX D

EDITORIAL NOTE.—This appendix consists of a republication of the amendments to 29 CFR Part 1910 that appeared at pages 22516–22529 in the FEDERAL REGISTER of May 3, 1977.

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Benzene; Notice of Hearing

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Emergency Temporary Standard; Notice of Hearing.

SUMMARY: This emergency temporary standard (ETS) is based on the determination that clinical and epidemiological data conclusively establish that employee exposure to benzene presents a leukemia hazard. Therefore, a grave danger currently exists for workers exposed to this cancer hazard and it is necessary to issue an emergency temporary standard to protect them. By this ETS the Occupational Safety and Health Administration (OSHA) limits employee exposure to benzene to 1 part benzene per million parts of air (1 ppm), as an 8 hour time-weighted average concentration, with a ceiling level of 5 ppm for any 15 minute period during the 8 hour day. In addition, the ETS requires the measurement of employee exposure, engineering controls, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard within six months. A public hearing on the permanent standard will commence July 12, 1977.

EFFECTIVE DATE: May 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue, N.W., Room N-3641, Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION:

APPLICABILITY OF EMERGENCY TEMPORARY STANDARD

The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. The new standard, section 1910.1028, applies to all employments in all industries covered by the Act, including "general industry", construction and maritime. For reasons set out below, this standard does not apply to retail automotive service stations or to operations which use liquid mixtures containing 1 percent or less of benzene; however, these exempted operations are still subject to the requirements contained in the benzene standard at 29 CFR 1910.1000.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this emergency temporary standard is more effective than corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new standard in § 1910.1028.

Pursuant to section 6(c)(3) of the Act, OSHA will shortly commence a rulemaking proceeding under section 6(b) of the Act. The emergency temporary standard will serve as a proposed final rule, along with other proposed requirements which will be published in the FEDERAL REGISTER pursuant to 29 CFR 1911.12. OSHA will publish an additional proposal in the very near future, encompassing those areas of occupational safety and health considered appropriate for the agency's permanent regulation of benzene. This document sets a public hearing on the permanent benzene standard to begin July 12, 1977.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(d) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

EVENTS LEADING TO THE EMERGENCY TEMPORARY STANDARD

Benzene has long been recognized as a toxin affecting the hematopoietic (blood forming) system, and a cause and effect relationship between benzene exposure and observed blood abnormalities has been established for man and animals during the last 75 years. The evidence indicating a relationship between benzene exposure and leukemia has been expanding and the international scientific community has increasingly acknowledged that worker exposure to benzene is associated with an increased risk of leukemia. Data made available by the National Institute for Occupational Safety and Health (NIOSH) in the last few weeks on workers exposed to benzene provide conclusive evidence that benzene is a leukemia causing agent and therefore immediate action to protect workers is imperative. (7)

The present OSHA standard for benzene, found in 29 CFR 1910.1000, Table Z-2, was adopted in 1971 under the authority of section 6(a) of the Act from the American National Standards Institute's (ANSI) Z 37.4-1969 standard. That OSHA standard prescribes an 8-hour time-weighted average of 10 ppm with an acceptable ceiling concentration of 25 ppm. In addition, the present standard allows excursions above the ceiling to a maximum peak concentration not to exceed 50 ppm: *Provided*, That such exposure occurs for no more than 10 minutes in any 8-hour work period. Neither the ANSI standard nor the resultant OSHA standard were based on the possible leukemia hazard from exposure to benzene.

In 1974, Aksoy et al. reported that, when contrasted with the general population, shoe workers having prior exposure to benzene had a significant increased incidence of leukemia.

Also in 1974, pursuant to section 22(d) of the Act, the Director of NIOSH submitted to the Secretary of Labor a criteria document concerning occupational exposure to benzene which stated that "the possibility that benzene can induce leukemia cannot be dismissed."(3) However, NIOSH recommended retention of the present permissible exposure limit of 10 ppm and ceiling concentration of 25 ppm as measured over a 10 minute period which recommendation was not based on benzene's potential leukemia hazard.

In a letter to the Secretary of Labor, dated April 23, 1976, the United Rubber, Cork, Linoleum, and Plastic Workers of America urged that an emergency temporary standard regulating occupational exposure to benzene be issued (42). The request was denied on May 18, 1976 by then Secretary of Labor William J. Usery (43).

Less than 1 year ago, the National Academy of Sciences, under contract with the United States Environmental Protection Agency, reviewed the literature concerning health effects of benzene exposure. (4) The Academy concluded that benzene must be considered as a suspect leukemogen.

In August 1976, NIOSH submitted to OSHA an updated criteria document which revised its earlier assessment of 1974. (5) On the basis of a review of old studies and new data, NIOSH concluded that benzene was leukemogenic. This report further pointed out that "it is apparent from the literature that benzene leukemia continues to be reported." NIOSH, therefore, recommended that, since no safe level for benzene exposure could be established "no worker be exposed to benzene in excess of 1 ppm in air". Following publication of the updated criteria document, the Director of NIOSH recommended to the Assistant Secretary of Labor, by letter dated October 27, 1976, that OSHA publish an emergency temporary standard for benzene establishing the exposure level at 1 ppm. (6) Based on the information supplied by NIOSH, OSHA issued on January 4, 1977 voluntary "Guidelines for Control of Occupational Exposure to Benzene," recommending that exposure to benzene in air not exceed an 8-hour time-weighted average of 1 ppm in any 8-hour shift of a 40 hour week. (44)

In January 1977, NIOSH informed OSHA that workplace environments had been found in St. Mary's and Akron, Ohio where a sufficient number of employees had been exposed to benzene for a number of years to facilitate an epidemiological study of health risks. (45) The worksite was a Pliofilm manufacturing plant owned by Goodyear Tire and Rubber Company. The preliminary conclusions of the epidemiological study NIOSH conducted of the pliofilm workers were transmitted to OSHA on April 15, 1977. (7) The NIOSH data demonstrated an incidence of leukemia in workers exposed to benzene that was at least five times the expected incidence. NIOSH concluded that:

This report shows a statistically significant increase in the risk for developing myelogenous leukemia among workers exposed to benzene. We hope this new information will be of assistance to you in reaching a decision on the most appropriate regulatory action.

In his letter of April 15, 1977, transmitting the report on the Goodyear Pliofilm plant, the Director of NIOSH again urged that an emergency standard be issued.

REASONS FOR ISSUANCE OF AN EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to benzene poses a grave danger to humans. Specifically, human exposure to benzene can induce chromosomal aberrations, bone marrow damage and destruction, and other blood dyscrasias. Moreover, the accumulated studies strongly support the conclusion that benzene causes leukemia in humans. The data collected by NIOSH and made available during the past few weeks show that workers exposed to benzene in an Ohio Pliofilm plant have contracted leukemia at a rate at least five times the rate expected in the general population. Because of the conservative statistical approach to evaluating these preliminary data, final results of this study will certainly show that the increased risk of developing leukemia from exposure to benzene is even greater than five times the normal incidence of this disease. This new evidence has been interpreted by NIOSH, and is found by OSHA, to conclusively establish that benzene causes leukemia in humans. This conclusion is supported by the substantial body of clinical and epidemiological evidence previously available which suggested the same casual relationship between benzene exposure and leukemia. In view of the new evidence the relationship can no longer be subject to serious question.

The Assistant Secretary concludes, based on a review of the latest NIOSH study and recommendations together with the epidemiological and clinical studies and other scientific data, that benzene exposure subjects workers to the risk of contracting leukemia, a malignant and irreversible disease. The best available scientific evidence indicates that no safe level for exposure to a carcinogen, including benzene, can be established or assumed to exist. OSHA has considered this question of a safe level in previous rulemaking proceedings (see preambles to carcinogen standards (39 FR 3758), vinyl chloride standard (39 FR 35892), and coke oven emissions standard (41 FR 46742)) and has relied on that considerable body of scientific opinion holding that, when dealing with a carcinogen, no safe level exists for any given population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) states:

> No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1)

And NIOSH has taken the position that in regulating cancer-causing substances "* * * it is not possible at present to determine a safe exposure level for carcinogens." (Rev. Arsenic Crit. Doc. 1975.)

Since leukemia is a form of cancer and exposures generally below 25 ppm have already induced leukemia, it is not currently possible to determine whether a safe level of exposure exists for worker populations exposed to benzene. Therefore, the Assistant Secretary has determined that exposure must be reduced to the lowest feasible level.

Furthermore, during the period of time for normal rulemaking, workers would continue to be exposed to levels higher than those that may be achieved by this ETS.

In conclusion, the Assistant Secretary determines that exposure of employees to a cancer-causing substance in the workplace environment is a "grave danger" within the meaning of section 6(c)(1)(A) of the Act. The proposition that cancer, and substances that cause cancer, pose a grave danger to man does not need lengthy discussion. The nature of a cancer hazard differs from other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and, in most cases, fatal consequences. These consequences may be irreversibly set in time. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

The existing 10 ppm standard, adopted from the ANSI national consensus standard, was based largely on benzene's general toxicity rather than on the leukemia hazard and, therefore, does not, within the meaning of section 6(b)(8) of the Act, provide the protection now shown to be necessary. The Assistant Secretary finds that this emergency temporary standard better effectuates the purposes of the Act than the National consensus standard.

BACKGROUND AND DISCUSSION OF EARLIER DATA

Benzene (C_6H_6) is a clear, colorless, non-corrosive, highly flammable liquid with a strong, rather pleasant odor. Benzene's low boiling point and high vapor pressure cause it to evaporate rapidly under ordinary atmospheric conditions, giving off vapors nearly three times heavier than air.

Benzene is produced primarily by the petrochemical and petroleum refining industries by the process called catalytic reformation, which converts certain lower octane hydrocarbons into higher octane aromatics. The two industries are responsible for 94 percent of the total U.S. production of benzene. Recovery through catalytic reformation, including the benzene formed from the hydrodealkylation of toluene, accounts for almost 80 percent of the total quantity produced. Recovery of coal-derived benzene, primarily as a by-product of the coking process in steel mills, was once the major source of benzene. Today, however, it accounts for only 6 percent of the total U.S. production.

The production of benzene is rapidly expanding with approximately 11 billion pounds produced in 1976. Only eleven other chemicals and only one other hydrocarbon (ethylene) are produced in greater tonnage in the U.S. Approximately 86 percent of this benzene is used chiefly as an intermediate in the production of other organic chemicals, including styrene, phenol, and cyclohexane. The remaining amount is used primarily in the manufacture of detergents, pesticides, solvents and paint removers. Benzene is also present as a component of motor fuels, averaging less than 2 percent in gasoline.

The first major industrial use of benzene, however, was as a solvent in the rubber industry just preceding World War I. During World War I, benzene production was stimulated greatly by the demand for and resulting production of toluene in the manufacture of explosives. The large quantities of benzene which were produced resulted in its more widespread use as a starting point for the manufacture of various organic compounds. This situation led to greatly increased uses of benzene as a solvent in the artificial leather, rubber goods, and rotogravure industries, and as a starting material in organic synthesis.

Industries and processes currently using benzene include the chemical, printing, lithograph, rubber cements, rubber fabricating, paint, varnish, stain removers, adhesives, and petroleum industries. Benzene is also used extensively in chemical laboratories as a solvent and as a reactant in numerous chemical applications. Where benzene is produced and used in large amounts, it is generally used in enclosed systems, although exposures can occur during liquid transfer operations, from equipment leakage and carryover losses, and in maintenance operations.

A. *Toxic effects.* Benzene has been recognized as a toxic substance capable of causing acute or chronic effects since 1900. Inhalation is the primary route of entry of benzene in the worker. Benzene diffuses rapidly through the lungs and is quickly absorbed into the blood. The rate of absorption is greatest during the first five minutes and thereafter declines significantly. Benzene saturation of the circulating blood may reach as high as 70-80 percent of the air content of benzene within the first 30 minutes. Relatively complete saturation of the blood may not be attained for two to three days.

Though the available literature suggests that benzene is not readily absorbed through the human skin, appreciable

quantities of benzene could be absorbed in the case of injured skin. Moreover, absorption of benzene by the skin may be significantly accelerated when benzene is present in a mixture or as a contaminant in solvents known to be readily absorbed, such as toluene and xylene. (48)

The benzene absorbed by the circulating blood is distributed throughout the body where, because of its liposolubility, it tends to accumulate in various body organs in proportion to their fat content.

Upon removal from benzene exposure, the concentration of benzene in the expired breath follows an exponential decay curve, reflecting removal of benzene from various body compartments. Elimination via this route has been estimated to range from 12 to 50 percent of the total amount of benzene absorbed in humans.

A fraction of the absorbed benzene is eliminated in an unchanged form, primarily in the expired air and, to a minimal extent, in the urine. The remainder of the absorbed benzene is metabolized by enzymes contained in the liver and ultimately to derivatives which are more water soluble thereby facilitating their removal by the kidneys. A first intermediate in the biotransformation of benzene is believed to be benzene epoxide, a highly reactive intermediate and one of several candidates suggested as the active agent responsible for benzene's myelotoxic effects. Phenol, and to a lesser extent, hydroquinone, pyrcatechol, and phenyl-mercapturic acid are the primary metabolites of benzene found in urine.

B. *Acute effects.* Exposures to high concentrations of benzene produce an almost immediate effect upon the central nervous system. Benzene concentrations of about 20,000 ppm are fatal within minutes, with death occurring from acute circulatory failure or coma, with or without convulsions. Milder exposures produce a period of nervous excitation, euphoria, headache and nausea, followed by a period of depression which can result in cardiovascular collapse and/or unconsciousness. The occurrence of nonspecific nervous disturbance as an aftereffect of acute exposures is dependent on duration of unconsciousness and/or severity of circulatory failure. Breathlessness, nervous irritability, and unsteadiness in walking have been observed to persist for a period of several weeks. Inhalation of still lower concentrations (250–500 ppm) yields signs and symptoms of mild poisoning, characterized by vertigo, drowsiness, headache, and nausea. Rapid recovery from these symptoms usually occurs following cessation of exposure.

Direct contact with the liquid may cause erythema and blistering. Prolonged or repeated skin contact, even with small quantities of benzene, has been associated with the development of a dry, scaly dermatitis or with secondary infections.

C. *Chronic effects.* Benzene exerts a primary toxic effect in the bone marrow, the major blood forming organ. Long-term exposures to low concentrations of benzene have been observed to have an initial stimulatory effect on the blood-forming tissues (bone marrow) followed by aplasia (no cell production) and fatty degeneration. Clinically an initial increase, then decrease, in the red blood cells, white blood cells, or platelets, is seen, with progression if exposures are continued, to aplastic anemia (lack of functioning of bone marrow), leucopenia (decrease in leucocytes which are white blood cells), thrombocytopenia (decrease in platelets), or pancytopenia (decrease in all cells in the peripheral blood). Secondary effects of thrombocytopenia include coagulation disturbances, characterized by increased bleeding time, poor clot retraction, and increased susceptibility to hemorrhaging. This clinical picture of chronic benzene poisoning may exist with or without the physical signs or symptoms of fatigue, vertigo, headache or excessive bleeding.

The following studies are representative, although by no means all inclusive, of the published literature on the chronic effects in humans of benzene exposure. These studies do however illustrate the diversity and variability of effects which dominate the literature on chronic benzene exposure.

1. *Blood dyscrasias.* Greenburg and coworkers' investigation in 1939 of 332 pressmen in three rotogravure printing plants was one of the earliest, comprehensive studies of benzene poisoning. (8) In addition to physical examinations, including medical and occupational histories and laboratory tests, workplace air samples and chemical analysis of ink solvents and thinners were performed in an attempt to provide a correlation with medical findings. Air samples (48) revealed benzene concentrations ranging from 11 ppm to 1060 ppm for 3 plants.

Five workers with the most severe benzene poisoning expressed no subjective complaints and physical examination revealed negative findings. The signs of "poisoning" included a reduction in the number of erythrocytes, leucocytes and platelets.

Greenburg stated that: "These findings illustrate the well-known fact that the effects of benzene may be persistent and also suggest that even before blood changes are apparent, processes may have been initiated that will continue to develop even after exposure to benzene has ceased." The authors also reported that individuals varied greatly in susceptibility, although data on personal monitoring were not available.

In the same year, Mallory et al. reported post-mortem findings in 19 case studies of workers with a history of chronic exposure to benzene. (9) Exposures varied from 6 months to 12 years, but no exposure levels were available. The authors indicated that significant changes were found regularly throughout the entire hematopoietic system including bone marrow, liver, spleen and lymph nodes. Of the 19 case studies, six exhibited hypoplasia of the bone marrow (decreased bone marrow function), whereas nine cases showed hyperplasia (overactivity of the bone marrow), and two were diagnosed as leukemia. The authors concluded that exposure to benzene under varying conditions produced diverse reactions and that individual variation was of great importance.

In 1948, Hardy and Elkins investigated an artificial leather plant in Massachusetts in which a man who had been employed as a coating machine operator for 12 years died of what was diagnosed as benzene poisoning. (10) The subject had worked as a coating machine operator in other locations for 18 years. Fifty-two workers were still employed in the leather plant. Benzene concentrations ranged from 40 to 80 ppm with an average concentration of 60 ppm. Blood studies, performed upon all 52 employees, showed abnormalities in more than one blood component in sixteen of the employees. Abnormalities were observed in hemoglobin, RBC, and WBC counts. There was a wide variation among subjects as to the particular component affected. Six of the 16 employees with blood abnormalities worked in the same coating room as the deceased man. Despite this evidence of blood abnormalities from the laboratory tests, none of the physical examinations revealed any clinical signs or symptoms of overexposure to benzene.

In an epidemiological investigation, Aksoy et al compared the hematological findings of 100 healthy male subjects (controls) with those of 217 apparently healthy males, 95 percent of whom worked with solvents containing benzene in small shoe shops. (11) The shops were considered unhygienic and poorly ventilated. The concentration of benzene in the working environment ranged from 15 to 30 ppm during non-working hours to 210 ppm when adhesives containing benzene were being used. The duration of employee exposures ranged from 3 months to 17 years. In 51 (23.5 percent) of the 217 employees, hematological abnormalities were found consisting of leucopenia (9.7 percent), thrombocytopenia (1.84 percent), leucopenia associated with thromobocytopenia (4.6 percent) and pancytopenia (2.7 percent). In addition, relative to controls, benzene-exposed workers demonstrated a significant reduction in mean white cell counts and mean platelet counts. The proportion of benzene-exposed workers diagnosed with anemia was increased when compared to controls; however the presence of iron-deficiency anemia could not be ruled out.

In French survey of 45 fatal cases of benzene induced diseases of the blood, covering the years 1947 to 1962, 23 were diagnosed as leukemia and 22 were attributed to aplastic anemia. Of the latter cases, one patient was afflicted after only 2 years exposure to benzene with the remainder having an average exposure of 16 years. (13) The authors also reported that in the cases of aplastic anemia, the evolution of the illness was lengthy. A similar observation was also reported by Vigliani and Forni (1969). (14) Of 32 fatal cases of chronic benzene poisoning seen in the provinces of Milan and Pavia, 18 were due to leukemia and 14 due to aplastic anemia. These authors noted that

aplastic anemia usually occurs in patients while they are still being exposed to high concentrations of benzene. In a later study, Vigliani reported that among 59 surviving workers with benzene-related aplastic anemia, 11 later died from acute leukemia. The author also reported that he had knowledge of at least 150 cases of leukemia attributed to benzene in Italy alone. (49)

Pancytopenia has been equated with aplastic anemia, although strictly defined aplastic anemia is characterized by pancytopenia and accompanied by a fatty displacement of the bone marrow. In 1976, Vigliani and Forni stated:

In the past two decades, the case records of patients with acute or subacute leukemia, usualy with leukopenia at some state of the illness, have become so numerous that they exceed those of acute pancytopenia. This finding led us to suspect that many cases that were considered as acute pancytopenia in the past, prior to the introduction of bone marrow biopsy, may in fact have been examples of acute hemocytoblastic leukemia leucopenic and aleukemic, or with few microhemocytoblasts in the circulating blood, possibly mistaken for lymphocytes. (15)

Unsuccessful at inducing chronic poisoning through inhalation of vapors, Sellings in 1916 produced leukopenia in rabbits through subcutaneous injections of commercially pure benzol with olive oil. (12) Selling's findings demonstrated a constant, well defined aplasia of the bone marrow, characterized by the complete disappearance of leukocytes in the peripheral blood. He noted that although both the myeloid and lymphoid tissues are vulnerable, that myeloid tissue is injured to a greater extent.

Deichman et al (1963) published results of animal studies which also indicated the great toxicity of benzene vapors for hematopoietic tissue. (16) Eight groups of rats, consisting of 40 animals per group, were exposed to benzene vapors at average concentrations of 831, 65, 61, 47, 44, 31, 29, and 15 ppm respectively. The duration of exposure was for 5 hours per day, 4 days per week, for periods ranging from 5 weeks to 7 months. Exposures to the three highest concentrations resulted in a significant leukopenia after 14 weeks. A moderate, but definite, leukopenia occurred in the rats exposed to 47 and 44 ppm after 5 to 8 weeks of exposure. Exposures to three lowest benzene concentrations for periods of 4, 3, and 7 months, respectively, induced no demonstrable changes in the numbers of leucoytes.

2. *Chromosomal aberrations.* The development of various chromosomal aberrations in peripheral leukocytes and bone marrow cells has also been attributed to benzene exposures. Several investigators characterized these aberrations as both unstable chromosome changes (i.e. including fragments, dicentric, tricentric and ring chromosomes) or stable chromosomal changes (i.e. deletions, translocations, inversions, and trisomies). These types of chromosomal aberrations also occur as the result of exposure to ionizing radiation, which is known to induce leukemia.

Increases in chromosomal aberrations in subjects suffering from benzene hemopathy were investigated by Pollini and Colombi and by Forni and Moreo. (17), (18), (19)

Forni et. al. examined chromosomal changes and their evolution in 25 individuals who had suffered bone marrow impairment of varying severity, 1–18 years previously, as a result of exposure to benzene. (20) Hematologic examinations performed at the time of the cytogenetic study, but subsequent to cessation of exposure and recovery from benzene hemopathy, indicated normal blood values. However, both stable and unstable chromosomal changes were still present. The authors noted that "This finding (persistence of chromosomal aberrations) is similar to that reported in individuals with past exposure to ionizing radiations, both therapeutic and accidental, and suggests that long-lived lymphocytes might maintain chromosome damage even for years".

Chromosomal changes in individuals either no longer exposed to benzene, or exposed intermittently to low levels, and who show no hemotological disorders, have also been investigated. After examination of three groups of factory employees who displayed no toxic symptoms, Tough et al reported that two of these groups exposed on the average of 8 and 15 years, respectively, to similar working environments containing between 25 to 150 ppm benzene, showed a significant increase of structural chromosomal aberrations in lymphocytes over the general population. (21) The third group of workers from a different kind of factory and exposed to approximately 12 ppm for an average of 13 years showed a frequency of chromosome aberrations not significantly different from those found in the general population. Tough et al suggested that their findings may indicate that an interplay between the age of workers and exposure to benzene is responsible for the observed effects.

Induction of chromosomal damage in rabbit lymphocytes by subcutaneous injection of benzene has been reported by Kissling and Speck. (22) During the phase of peripheral pancytopenia the frequency of mitotic figures showing aberrations (mostly gaps and breaks) increased from an initial value of 6 percent to 58 percent after an average of 18 weeks. Two months later, after the discontinuance of benzene treatment, visible chromosomal damage was still observed in 36 percent of the mitotic cells. Also Philip and Jensen in a preliminary report demonstrated that a single subcutaneous injection of benzene (dose: 2.0 ml benzene/kg body weight) administered to rats is capable of increasing the fraction of marrow cells which exhibit chromosomal abnormalities. (23)

3. *Leukemia.* As pointed out, benzene presents a considerable range of health risks to the working population. These include the threat of developing a form of cancer known as leukemia, a fatal and irreversible disease. Robbins defines leukemia by stating:

Leukemia may best be considered as a neoplasm (cancer) of the white blood cells and is so classified in the "International Lists of Causes of Death." It is characterized chiefly by: the appearance of abnormal, immature white cells in the circulating blood; diffuse and almost total replacement of the bone marrow with the leukemic cells; and widespread infiltrates of the liver, spleen and other tissues, analogous to metastatic dissemination of solid tissue cancer. (24)

The recent epidemiological study of Infante et al., (51) demonstrating a five-fold increased risk of total leukemia and a ten-fold increased risk of mylomonocytic leukemia among Pliofilm workers exposed to benzene, is supported by numerous case reports in the scientific and medical literature over the past several years concerning benzene related leukemia, predominantly of the mylogenous type.

At the outset it should be noted that, prior to the development of the Infante et al. data conclusively showing the linkage between benzene exposure and the development of fatal leukemia in workers, many had argued that any substance capable of inducing bone marrow depression or other blood abnormalities should be treated as a potential leukemogen. For example, Cronkite stated over twenty years ago that:

The heart of the problem in the induction of leukemia by industrial hazards rests upon quantitation of the agent and the yield of leukemia. Two agents used in industry have been correlated with an increased incidence of leukemia in human beings. The first, ionizing radiation, is unquestionably able to increase the incidence of leukemia. The second agent, benzol, probably can produce an increased incidence of leukemia, but the data are not as good as for the former. First, the finger of suspicion must be pointed at any agent which is able to produce an aplasia of the bone marrow, assuming it will probably be able to produce leukemia also. Second, there is no reason to doubt that any agent which will produce a cancer elsewhere in the body will not be able to produce leukemia if the offending agent is transported to the hemopoietic tissues. (25)

And, as the National Academy of Sciences pointed out in its report of June 1976:

Benzene fits in the former category because it is well documented that it produces aplasia of the bone marrow.(4)

And as Williams et al. notes:

Any chemical capable of producing myelotoxicity must be regarded as a potential leukemogen, if the findings in radiation—induced leukemia apply which indicate that cell damage with depression of marrow function may produce alterations leading to the transformation of damaged cells into neoplastic ones. The only chemical which has been clearly identified as one which increases the incidence of myeloid leukemias in man is benzene in rather heavy occupational exposure.(26)

The relationship between benzene exposure and leukemia in humans in the past has resulted in large part from clinical observation and to a lesser degree from epidemiological studies. The clinical evidence of leukemia has been obtained either from a survey of medical records primarily in various European

clinics, or from a canvass of the published literature reporting case histories of individuals diagnosed with leukemia. In lieu of quantitative, individual exposure data, subjective evaluations of intensity of exposure have been utilized. The epidemiological evidence has been derived from either the determination of the frequency of chronic benzene exposure among cases of leukemia or from the determination of frequency of, or mortality from, leukemia among employees of work shops that utilize benzene. In other words, in the first method the leukemia is the constant factor of all case studies and the benzene exposure is the variable; while the second method is the reverse, that is, the benzene exposure is the constant factor while leukemia is the variable.

Vigliani and Saita, in their review of 47 individuals suffering from benzene hemopathy between the period of 1942 and 1963, presented clinical and laboratory accounts of six cases, all of whom were diagnosed as having haemocytoblastic leukemia. (27) The period of exposures of these individuals to either resins, inks, varnishes, or glues containing varying concentrations of benzene ranged up to 19 years. Data on the concentrations of benzene in the workplace environment, with one exception (190–660 ppm) were not available. Although information on previous occupational histories or medical status prior to the final diagnoses were also not available, the authors stated that "attribution of the cases (of leukemia cited) to the exposure cannot be doubted." During the years 1962–1963, when there was sharp rise in the incidence of leukemia among workers exposed to benzene which coincided with an increase in number of benzene poisoning cases for this period. the risk of acute leukemia was estimated to be about 20 times greater than the risk for the general adult population.

Twelve years following the Vigliani and Saita study. Vigliani and Forni observed that in the rotogravure industry, no new cases of aplastic anemia nor of leukemia were found among workers exposed solely to toluene after this solvent was substituted for benzene in 1964. (15) However, these authors noted in 1974 that cases of benzene-induced leukemia with long latency periods may still be occasionally observed. (50) These investigators also observed that workers exposed to toluene did not exhibit chromosomal aberrations, a finding seen in employees who work with benzene.

Sixteen (16) cases of various forms of leukemia developing from long term exposure to benzene were reported by Tareef et al. (28) The duration of exposure ranged between 4 and 27 years. However, no exposure concentrations were reported. In contrast to data previously reported in Italy and Turkey, the authors found evidence of chronic leukemia. Acute leukemia accounted for only 6 of the 16 cases. Three of the six acute leukemias were diagnosed at 2, 4 and 5 years following cessation of benzene exposure. Four of the acute cases underwent a definite period of hematologic shifts ranging from anemia or leucopenia to aplastic anemia and spanning a period of 2 to 10 years. Of the 10 chronic cases reported, none of the patients had hemocytopenic changes prior to the onset of leukemia.

Aksoy et al. reported the deaths, due to leukemia, of four Turkish shoemakers resulting from their exposure to benzene for periods ranging from 6 to 14 years. (29) At the time of the study, air concentrations were found to be between 150–210 ppm of benzene. Previous occupational exposure data was not provided. Two of the four patients developed acute leukemia approximately two and three years after the occurrence of aplastic anemia although the other two did not.

Adding 8 new cases of leukemia associated with exposure to benzene to 26 previously found, between the years 1967 and 1973, Aksoy et al. observed that with the exception of one case of chronic myeloid leukemia, all had various forms of acute leukemia. (30) A preceding period of pancytopenia was reported present in almost 25 percent of the cases, and the interval between the pancytopenic period and the onset of leukemia varied from 6 months to 6 years. Often the clinical findings and blood picture improved considerably before leukemia was diagnosed. During an 8 year period of observation, the incidence of leukemia among shoe-workers chronically exposed to benzene was calculated to be more than twice that experienced by the general population (13.5/100,000 vs. 6/100,000).

Browning tabulated from published studies 61 cases of leukemia among workers exposed to benzene at various concentrations. (31) The majority of cases were of the myeloid series. Browning noted that "benezene leukemia is frequently superimposed on a condition of aplastic anemia, but can develop without a preceding peripheral blood picture characteristic of bone marrow aplasia." She also noted that the transition from aplastic anemia to leukemia was not unknown in the idiopathic forms of leukemias.

DeGowin (32) and others (Vigliani & Saita, Tareff, Aksoy etc.) observed that the development of acute leukemia in some individual cases was preceded by a latency period of up to 15 years following cessation of exposure to benzene. Some of the cases underwent what was considered to be a preleukemic period, which was characterized by leucopenia, anemia, thrombocytopenia, aplastic anemia, pancytopenia or a combination thereof. Other cases developed leukemia without any evidence of anemia. According to Vigliani and Saita, the time delay "does not permit us to attribute the disease to the persistence of benzene in the bone marrow". (27) They suggested, however, that "on the basis of the initiation-promotion theory of the induction of neoplasms, we might regard benzene as an initiator of the leukemia process, but we have no suggestion of a possible promoter."

Based on the hypothesis that the risk of leukemia was higher among workers who were exposed to benzene and medical x-rays, Ishimaru et al. conducted a retrospective epidemiological investigation examining the relationship between occupations and environmental factors, other than A-bomb exposure, and the incidence of leukemia in Nagasaki and Hiroshima between 1945 and 1967. (33) This case control study compared all cases diagnosed as definite or probable leukemias between 1945 and 1967 and residing, at the time of the onset of the disease, in Hiroshima or Nagasaki. Controls were matched for city, sex, date of birth (±30 months), distance from the atomic bomb explosion, and alive and residing in either city at the time of the onset of the disease in the patient. Four hundred ninety-two leukemia cases were identified, but matched controls could only be obtained for 413. Fifteen occupations were selected in which there had been exposure to either medical x-rays or solvents especially benzene and its derivatives. Three hundred and three adult cases with the onset of leukemia at age 15 years or over and their controls were compared. Eleven of the 15 occupations were selected based on whether there had been a history of such occupations by either the leukemia cases or the controls. Considered as a group, the risk of leukemia was found to be significantly higher (about 2.5 times greater) among those with a history of such occupations in which various volatile solvents were used as compared with those without. The relative risk was 1.8 times higher for chronic leukemia and 2.9 times higher for acute. Eighteen of the leukemia cases associated with solvents were located in distant and non-exposed radiation areas and were considered too far from the A-bomb explosion for radiation to have enhanced the increased risk. Accepting the source of error inherent in the method which was used to collect the data, the results of this study nonetheless reinforce the observation that an increase in leukemia existed in that portion of the population exposed to radiation and employed in an occupation where solvents were used, especially benzene or where exposure to medical x-ray occurred.

Thorpe, then Associate Medical Director for the Exxon Corporation, on the other hand, reported that the incidence of leukemia among a population of 38,000 workers exposed to low levels of benzene over a ten year period (1962–1972) was not significantly different when compared with the general population. (34)

This study has been severely criticized by Brown for its relaxed case-finding techniques and the methods of analyses. (35) Thus, the conclusions derived from this study must be viewed in the light of serious methodological problems which were encountered in the collection and treatment of the data. These problems, which were also acknowledged by Thorpe, included: (1) the low incidence of leukemia in the general population; (2) the validity of the diagnoses of leukemia, (3) the quantitative determina-

tions of the extent of exposures, (4) an inadequate follow-up of annuitants and (5) incomplete occupational histories on individuals diagnosed as having leukemia.

Infante et al. recently reported the results of an ongoing epidemiologic study among workers exposed to benzene during the manufacture of Pliofilm, a process unconfounded with mixed solvent exposures. (51) Although follow-up is less than 75% completed, the results already demonstrate a statistically significant excess of leukemia in benzene exposed workers as compared with the expectations based on the U.S. white male population or on a second population employed at an industry in the same state over the same period of time. Among benzene exposed workers, a five-fold excess of total leukemia and a 10-fold excess of myelomonocytic leukemias were demonstrated even under conditions leading to an underestimate of the true leukemia risk. Those conditions were the treatment and the analyses of individuals whose vital status was unknown—they were assumed to be alive until the last day of the study period. Note was made of the consistency of the types of leukemia in this study population (myelogenous and monocytic) with earlier case reports by Vigliani of workers who had died from benzene related leukemia in Italy.

The wide variety of clinical manifestations and hematological disorders observed in humans exposed to benzene, which range from simple anemia and leukopenia to aplastic anemia have been experimentally induced in animals. However, attempts to demonstrate the development of leukemia in animals exposed to benzene has met with less success. To date, a study by Lignac in 1932 is the only animal study known to OSHA in which leukemia has been observed in animals exposed to benzene. (38) Fifty-four mice (28 females, 26 males) were given subcutaneous injections of benzene (0.001 ml in 0.1 ml of olive oil) for 17 to 21 weeks. Nine mice were initially excluded following bacteriological examination and an additional 12 were lost through atrophy of various organs, especially the spleen. Lignac attributed these deaths to the size of the dose of benzene based upon the findings of a preceding experiment. Eight of the remaining 44 mice developed leukemia or Kundrat's lymphosarcoma and died 4 to 11 months after receiving the first injection. The absence of concurrent controls makes interpretation of the results difficult, and uncertainties as to the strain of the mice studied has frustrated efforts to independently confirm the findings.

More recent studies have failed to produce Lignac's results. Amiel in 1960 utilized four inbred strains of mice and subjected them to the same experimental program outlined in Lignac's study. (39) No leukemic or aplastic hemopathies were observed. More recently, Ward et al. administered benzene subcutaneously to a species and strain of mice which is responsive to leukemogenic agents. (40) Although they observed a slight increase in the percentage of granulocytic leukemias in the benzene-treated mice as compared with the controls, the authors viewed the increase as not statistically significant.

SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from benzene exposure until a permanent standard can be promulgated in accordance with sections 6 (b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for benzene and the necessity for including these provisions in the ETS.

A. *Scope and application.* The emergency temporary standard applies to all employers and all establishments in which benzene is present, except for two general groups. The ETS does not apply to retail automotive service stations. It's estimated that there are presently more than 200,000 such service stations in the country. Further, the limited evidence presently available suggests that employee exposures during gas dispensing operations are generally below 1 ppm. In light of these facts, and the relatively short duration of the ETS, it has been determined that exclusion of such service stations from the ETS would be appropriate.

Similarly, the ETS does not cover exposure to liquids containing benzene in amounts of 1 percent or less by volume, or benzene vapor released by these liquids. Benzene is a contaminant as well as an additive in a multitude of industrial substances. OSHA estimates that some 60,000 facilities with over 400,000 employees are engaged in industrial operations utilizing liquid mixtures containing 1 percent or less benzene by volume.

Also based on the presently available evidence in the Arthur D. Little study the exposure of employee working with these mixture is generally less than 1 ppm on an 8 hour average. In view of the foregoing, the ETS excludes users of these mixtures from its coverage.

However, during the proceedings on the proposed permanent standard, it is OSHA's intention to consider the appropriate scope and application of its permanent standards to protect workers from the leukemia hazard of benzene exposure.

Meanwhile, the existing standard in § 1910.1000 which governs benzene exposure will continue to apply to retail automotive service stations and to operations which use liquids containing one percent or less benzene.

Thus, these employers must continue to limit their employees' exposures to benzene to the 10 ppm permissible exposure limit, 25 ppm limit ceiling and 50 ppm excursion limit of that section.

The emergency temporary standard is applicable to "general industry," construction and maritime.

B. *Permissible exposure limit.* The standard has separate permissible limits for airborne exposure and for eye and dermal exposures.

(1) *Airborne exposure limits.* Considerable scientific opinion supports the regulatory policy for carcinogens that no safe level exists for any exposed population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) stated:

> No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1).

Furthermore, NIOSH has stated that, "it is not possible at the present time to establish an exposure level at which benzene may be regarded to be without danger," a position which it has consistently taken with regard to other carcinogens.

This regulatory policy is consistent with previous OSHA actions to control employee exposure to carcinogens; see, e.g. the preambles to the carcinogen standards, 29 CFR 1910.1003 et seq. (39 FR 3758); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892) and the coke oven emissions standard, 29 CFR 1910.1029 (41 FR 46742). Thus, the level of 1 ppm has been chosen, not as a "safe" or "no effect" level, but on the basis of OSHA's belief, for the reasons set forth in the technical feasibility and economic impact study prepared for OSHA by Arthur D. Little Co., that 1 ppm is the lowest level that generally can be achieved at this time.

(2) *Ceiling limit.* In addition to limiting 8-hour time weighted average exposures to 1 ppm, the emergency standard requires that no employee be exposed to benzene in excess of 5 ppm averaged over any 15-minute period. An employee may be exposed to varying concentrations of benzene during the course of the workday with some periods of exposure above 1 ppm and corresponding periods below 1 ppm. OSHA has determined that the peak excursions permitted under the present standard are not appropriate in regulating exposure to benzene—a human leukemia hazard for which no safe level can be determined. For this reason, the 15-minute ceiling limit of 5 ppm is established to limit the magnitude of brief excursions which might otherwise occur even where the 8-hour time weighted average was not exceeded.

(3) *Dermal and eye exposure limits.* The standard prohibits eye and repeated or prolonged skin exposure to liquid benzene. While studies indicate benzene is not readily absorbed through intact skin, direct contact with liquid benzene can cause blistering and breakage of the skin surface. (46), (47) Under these circumstances, or where the skin is otherwise broken, prolonged or repeated skin contact may result in significant absorption of benzene. In addition, benzene absorp-

tion through the skin may be enhanced when it occurs in combination with other solvents. (48) Once absorbed, the benzene is distributed throughout the body by the blood.

C. *Notification of use.* The standard requires employers to notify OSHA of the location of workplaces in which benzene is used and to describe the conditions of use and protective measures in effect. This requirement is designed to assure compliance during the effective period of this ETS.

D. *Monitoring of exposure.* The standard requires employers to monitor each workplace where benzene is present to determine employee exposure. Such determinations may be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period. Actual measurements of airborne concentrations of benzene are required in order to determine employee exposure to benzene. However, employers do not have to measure the exposure of each individual employee.

Where the initial measurements reveal benzene exposure to be above the permissible exposure limit, monthly monitoring is required. Measurements which reveal levels of exposure to benzene below the permissible exposure limit require quarterly monitoring.

The results of the exposure measurement program determine what further action must be taken by the employer. In addition to monthly monitoring, measurement of exposures above the permissible exposure limit require the employer to institute controls to reduce the exposure to or below the permissible exposure limit. A monitoring requirement is necessary in the ETS to reduce employee exposure.

In establishing the monitoring and measurement requirements of this standard, OSHA has considered the importance of such activities to identifying exposed employees and their levels of exposure so that appropriate protective measures may be taken. OSHA has also considered the question of the feasibility of immediately complying with the monitoring requirements specified.

Performing the required measurements of employee exposure to benzene will generally involve the use of portable battery-powered air sampling pumps worn by the employee during the sampling period, charcoal tubes for absorption of the benzene, and access to appropriate laboratory facilities for subsequent analysis of the charcoal tube samples. The laboratory analysis would usually be performed using gas chromotographs, a technique commonly available in analytical laboratories and utilized for the analysis of a wide range of air contaminants found in samples of the workplace environment and general community. The standard provides that the initial sampling must be conducted and results obtained within 30 days of the effective date of the standard, which would be almost 50 days following publication of the standard. The standard does not require a separate measurement for each affected employee. It requires only that sufficient measurements are obtained to be representative of the exposure of all affected employees.

OSHA notes that the monitoring requirements will arise principally in the industries engaged in benzene production, gasoline production, and related chemical industries. These industries are generally regarded to be at the forefront of all industries with respect to existing industrial hygiene and occupational health programs. Many of the employers in these industries have extensive professional and technical staffs and established employee health programs which include periodic measurement of employee exposure to benzene. Thus these employers are expected to have little difficulty in complying with the monitoring requirements of this standard. Some of these employers have had to acquire much of the apparatus and equipment required for measuring employee exposure to benzene in order to comply with other occupational health standards previously issued by this Agency. For example, those employers engaged in manufacturing or use of vinyl chloride and polyvinyl chloride and employers engaged in the operation of coke ovens—one source of benzene production, will find that much of the effort made earlier in complying with the standards for vinyl chloride and coke oven emissions will be applicable to the requirements under this standard for measuring employee exposure to benzene.

There are approximately eight manufacturers of suitable sampling pumps. While it is not possible to know the total number of pumps immediately available from these manufacturers, one of the major manufacturers has indicated an ability to deliver 200 immediately and 800 within 45 days. That manufacturer estimated that the entire industry is capable of delivering up to 2,000 pumps in no more than 60 days from now. OSHA believes this capacity is adequate to meet the additional needs of employers who do not presently have a sufficient number of these sampling pumps. Moreover, the standard does not require that the employer own the equipment and do this monitoring himself; the utilization of consultants or contractors is another choice available to many employers.

For the above reasons, the Assistant Secretary concludes that the monitoring and measurement requirements of this emergency standard are feasible.

E. *Methods of compliance.* The standard requires employee exposure to benzene to be reduced to 1 ppm by engineering controls, work practices and respiratory protection. The emergency standard reflects a preference for the use of engineering controls, work practices and, where possible, substitution because of the greater reliability of these control techniques. (See, for example, the standards on vinyl chloride, § 1910.1017, and coke oven emissions § 1910.1029, and the reasons given therein.)

Thus, employers are required to institute feasible engineering controls and work practices as soon as possible to reduce employee exposure to or below the permissible exposure limits. In operations where engineering controls and work practices do not completely reduce exposure to the permissible level, they must still be implemented to reduce exposures to the lowest practicable level and supplemented by respirators.

OSHA recognizes that initial compliance may involve the use of respirators in many instances until engineering controls are installed and work practices initiated.

Based on a review of the Arthur D. Little Co. study and data furnished by respirator manufacturers, OSHA has determined that the availability of respirators of the required types, especially the air-purifying respirators and replacement cartridges, is adequate to meet the needs of employers who will require them for compliance with the ETS. For example, there are several manufacturers of air-purifying respirators for use against benzene. One of these manufacturers has indicated that it currently has in stock 100,000 replacement cartridges more than normal order requirements, can deliver more than 250,000 cartridges per month, and is presently increasing production capacity for this type of respirator. Additionally, OSHA is aware that respirators are currently available for use by employees in many job categories in the industries covered by this standard, such as the petroleum refining, petrochemical, chemical, and related industries.

OSHA estimates that approximately 30,000 of the 150,000 employees affected by this standard would have to be furnished respirators for use some of the time during the initial period of compliance with this standard. In view of the current existence of suitable respirators in many workplaces where they would be needed and the ability of the respirator manufacturers and suppliers to supply promptly on receipt of order additional respirators needed to comply, OSHA concludes that the respirator requirements of this standard are feasible.

F. *Medical surveillance.* The standard requires employers to institute a limited program of medical surveillance for all employees exposed to benzene. The purposes of these medical surveillance requirements are to determine the effects of exposure on the blood forming systems of the employees, to detect blood abnormalities, and to ensure that symptoms of overexposure to benzene are recognized as early as possible. The standard provides that this medical testing shall be conducted within 30 days of the effective date of the standard and quarterly thereafter. The medical surveillance requirements are limited to those minimum tests considered necessary for the emergency standard. (41) The standard also requires a medical history to be taken for every employee who may be exposed to benzene.

Facilities for performing such routine blood tests are readily available in all parts of the country and OSHA has concluded that compliance with this limited medical testing requirement is immediately feasible.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him at increased risk to his health from exposure to benzene. The employer must provide a copy of the physician's opinion to the affected employee. Employees are not required by the standard to submit to the medical surveillance offered under this provision.

G. *Employee education and training.* Information and training are important to protect employees from workplace cancer hazards. Appropriate training of employees can result in immediate benefits in terms of reduced exposures. To be effective, an employee education system must fully inform the employee of the specific hazards associated with the work environment. For this reason, the employer is required to inform each employee who is assigned to work in the presence of benzene about the specific operations where benzene exposure may occur and about proper procedures to avoid unnecessary exposure. The required training program must, among other things, advise employees of the signs and symptoms of exposure to benzene, the purpose of the medical tests, and the purpose, proper use, and limitation of respirators.

H. *Signs.* It is important for the protection of employees that appropriate forms of warning, as necessary, be used to inform employees of the hazards to which they are exposed in the course of their employment.

In light of the grave danger posed by exposure to benzene, OSHA believes that signs are necessary in addition to the periodic training program for informing employees of the carcinogenic hazard of benzene exposure.

I. *Recordkeeping.* The standard requires a limited amount of recordkeeping. Employers must maintain exposure measurement records and medical records. Such records must be maintained during the period of the emergency standard. Thereafter, employers will be subject to the long-term recordkeeping requirements included in the final standard promulgated under section 6 (b) of the Act.

J. *Appendixes.* Three appendixes have been attached to the standard for informational purposes. These appendixes do not impose any additional requirements on the employer.

V.—References

The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the emergency standard is based. A complete set of the references is available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

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VI. Environmental and Economic Impacts

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued thereunder (29 CFR Part 1999) require that Federal agencies assess their proposed major actions to determine whether a significant impact on the quality of the human environment may result, and if necessary to prepare an environmental impact statement. An environmental impact statement on the regulation of occupational exposure to benzene will be prepared and made available as required during the rulemaking proceedings under section 6(b) of the Act. Because of the emergency nature of this standard, no environmental impact statement can be prepared or is required for the emergency temporary standard. In addition, notice is hereby given that an economic impact analysis under Executive Order 11949 (42 FR 1017) and applicable procedures will be prepared and made available prior to the promulgation

of any permanent standard resulting from this emergency temporary standard. The preliminary economic and technological feasibility study done by Arthur D. Little indicates that the emergency standard is feasible.

VIII—PUBLIC PARTICIPATION—NOTICE OF HEARING

Pursuant to section 6(c) (3) of the Act, this ETS as published also serves as a proposal for a permanent rule. It is OSHA's intention to develop and publish a more comprehensive proposal in the very near future which will contain additional provisions and some modifications of this emergency standard. Since the comprehensive proposal will be based on the emergency standard and since the emergency nature of the proceeding and the requirements of section 6(c) will necessitate expedited treatment throughout the development of the final standard on benzene, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views and arguments with respect to this ETS and the supplementary proposal to be published shortly. These comments must be postmarked on or before June 20, 1977 and submitted in quadruplicate to the Docket Officer, Docket No. H-059, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue therein. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to section 6(b) (3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on July 12, 1977, in the New Department of Labor Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate a notice of intention to appear, postmarked on on before June 20, 1977 with the OSHA Committee Management Office, Docket No. H-059, Room N-3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210 (telephone: (202) 523-8024).

The notices of intention to appear, which will be available for inspection and copying at the OSHA Committee Management Office, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony including any documentary evidence to be presented at the hearing, to the OSHA Committee Management Office where it will be available for inspection and copying. This material must be received by July 5, 1977. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on July 12, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-2315, Washington, D.C. (202-523-9261).

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76, and 29 CFR Part 1911, Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new § 1910.1028 as set forth below. In addition, pursuant to section 4(b) (2) of the Act (84 Stat. 1592; 29 U.S.C. 653), the standard in the new § 1910.1028 is determined to be more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by the new standard in § 1910.1028. These amendments are effective May 21, 1977.

Signed at Washington, D.C., this 20th day of April 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore amended as follows:

1. A new § 1910.20 is added to 29 CFR Part 1910 to read as follows:

§ 1910.20 Benzene.

Section 1910.1028 shall apply to the exposure of every employee to benzene in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or § 1910.16, in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended]

2. Table Z-2 of § 1910.1000 is amended by adding a footnote 1 following the words "Benzene (Z37.4-1969)" and by adding the following below Table Z-2:

Occupational exposures to benzene are subject to the requirements of § 1910.-1028 except as specifically exempted by § 1910.1028(a). Exposures exempted by § 1910.1028(a) are covered by this section.

3. Part 1910 of Title 29 of the Code of Federal Regulations is amended by adding thereto a new § 1910.1028 to read as follows:

§ 1910.1028 Benzene.

(a) *Scope and application.* (1) This section applies to the production, reaction, release, packaging, repackaging, storage, transportation, handling, or use of benzene.

(2) This section does not apply: (i) To retail automotive service stations; or (ii) where the exposure to benzene is only from liquid mixtures containing 1 percent or less of benzene by volume, or the vapors released from these liquids.

(b) *Definitions.* "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

"Benzene" (C6H6) (CAS Registry No. 000071432), means benzene, or a mixture of liquids containing benzene, or the benzene vapor released by these liquids.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the employer's establishment is located.

(c) *Exposure limits.*—(1) *Permissible airborne exposure limits.* (i) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm), as an 8-hour time-weighted average.

(ii) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(2) *Dermal and eye exposure limit.* The employer shall assure that no employee is exposed to eye contact or repeated skin contact with benzene.

(d) *Notification of use.* Within 30 days of the effective date of this section, every employer who has a place of employment where benzene is present, shall report the following information to the nearest OSHA area office for each such establishment:

(1) The address and location of each establishment where employee exposure to benzene occurs;

(2) A brief description of each process or operation which may result in employee exposure to benzene;

(3) The number of employees engaged in each process or operation which may result in exposure to benzene and an estimate of the frequency and degree of exposure that results; and

(4) A brief description of the employee safety and health program as it relates to limitation of employee exposure to benzene.

(e) *Exposure monitoring and measurement.*—(1) *Initial monitoring.* (i) Each employer who has a place of employment where benzene is present, shall monitor each such workplace and work operation to determine the airborne concentrations of benzene to which employees may be exposed. This determination shall be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period.

(ii) Each employer, who has a place of employment in which benzene is present, shall inspect each workplace and work operation to determine if any employee may be exposed to benzene through eye contact or repeated skin contact.

(2) *Frequency of monitoring.* The monitoring required under paragraph (e) (1) of this section shall be conducted, and the results obtained, within thirty days of the effective date of this section and thereafter repeated quarterly for employees whose exposure is found to be less than 1 ppm, and monthly for those employees whose exposure is found to be in excess of the permissible exposure limit. The employer shall continue monthly measurements until at least two consecutive measurements taken at least seven (7) days apart are below the permissible exposure limit, and thereafter the employer shall measure quarterly.

(3) *Additional monitoring.* Whenever there has been a production, process, or control change which may result in new or additional exposure to benzene, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, additional monitoring which complies with paragraph (e) (1) of this section shall be made.

(4) *Employee notification.* (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results reveal the employee's exposure to be over the permissible exposure limit, this notification shall also include the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(5) *Accuracy of measurement.* The method of measurement shall have an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(6) *Employee exposure.* For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of benzene to or below the permissible exposure limit, and shall protect against employee exposure to eye or repeated skin contact with benzene, by engineering controls, work practices and personal protective devices and equipment, as follows:

(1) *Engineering controls.* The employer shall develop and implement, as soon as possible, feasible engineering controls to reduce the airborne concentration of benzene to or below the permissible exposure limit.

(2) *Work practices.* The employer shall examine each work area in which benzene is present and shall institute, as soon as possible, work practices to reduce employee exposure to benzene to or below the permissible exposure limit. The work practices shall be described in writing and shall include, among other things, the following:

(i) Limiting access to work areas where benzene is present to authorized personnel only;

(ii) Prohibiting smoking and the consumption of food and beverages in work areas where benzene is present; and

(iii) Establishing good maintenance and housekeeping including the prompt cleanup of spills, repair of leaks, etc.

(3) *Respiratory projection.* Whenever engineering and work practice controls which can be instituted are not sufficient to reduce exposures to or below the permissible exposure limit, they shall be used nontheless to reduce exposurse to the lowest practicable level, and shall be supplemented by the use of respirators in accordance with paragraph (g) of this section.

(g) *Respirators.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to or below the permissible exposure limit, and in emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table I below and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE I

RESPIRATORY PROTECTION FOR BENZENE

Concentration of benzene or condition of use	*Respirator type*
(a) Less than or equal to 10 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and half mask; or (2) Any supplied air respirator with half mask.
(b) Less than or equal to 50 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and full facepiece; or (2) Any supplied air respirator with full facepiece; or (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 ppm	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 ppm	(1) Supplied air respirator with full facepiece, helmet, or hood, in positive pressure mode.
(e) Less than or equal to 10,000 ppm	(1) Supplied air respirator and auxiliary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(4) Where air-purifying respirators are used (cartridge, canister or gas mask), the air-purifying canisters or cartridges shall be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first.

(h) *Protective clothing and equipment.* Where eye or repeated skin contact with liquid benzene may occur, employers shall provide and assure that employees wear impermeable protective clothing and appropriate equipment to protect the area of the body likely to come in contact with liquid benzene.

(i) *Medical surveillance.* (1) Each employer shall make available a medical surveillance program for all employees who are or will be exposed to benzene. The medical surveillance program shall consist of:

(i) A history which includes past work exposures to benzene or any other hematologic toxins, a family history of hematological neoplasms, a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements, a history of renal or liver dysfunction, a history of drugs routinely taken, alcoholic intake and systemic infections;

(ii) A complete blood count including a differential white blood cell count; and

(iii) Additional tests shall be conducted where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(2) All medical procedures shall be performed by or under the supervision of a licensed physician, and shall be provided by the employer without cost to the employee.

(3) Medical surveillance and testing of each employee shall be conducted within thirty days of the effective date of this section, and quarterly thereafter. If an employee is accidently or otherwise exposed to benzene by ingestion, inhalation, skin or eye contact, or for any reason, an employee develops signs and symptoms commonly associated with exposure to benzene, the employer shall provide appropriate medical examinations and emergency treatment.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(5) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of the medical testing;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to benzene;

(c) Any recommended limitations upon the employee's exposure to benzene or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(j) *Employee information and training.*—(1) *Training program.* Within fifteen days of the effective date of this section, the employer shall provide a training program for employees assigned to workplace areas where benzene is present and shall assure that each affected employee is informed of the following:

(i) The information contained in the substance data sheet for benzene which is contained in Appendix A of this section;

(ii) The quantity, location, manner of use, release or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limit, as well as necessary protective steps;

(iii) The purpose, proper use, and limitation of respiratory devices as specified in § 1910.134;

(iv) The purpose and a description of the medical testing program required by paragraph (i) of this section and the information contained in Appendix C of this section; and

(v) The contents of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(k) *Signs.* (1) The employer shall post signs to clearly designate all work areas where benzene may be present, bearing the legend:

DANGER
BENZENE
CANCER HAZARD

(2) Where the permissible exposure limit is exceeded, the signs shall also include the legend: Respirator required.

(3) The employer shall assure that no statement appear on or near any required sign which contradicts or detracts from the required information.

(l) *Recordkeeping.*—(1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements required by paragraph (e) of this section.

(i) This record shall include:

(a) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposures;

(b) A description of the sampling and analytical methods used;

(c) Type of respiratory protective devices worn, if any; and

(d) Name, social security number, and job classification of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(ii) This record shall be maintained during the effective period of this section.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (i) of this section.

(i) This record shall include:

(a) A copy of the physician's written opinion;

(b) Any employee medical complaints related to exposure to benzene; and

(c) A copy of the information provided to the physician as required by paragraph (i) (4) of this section;

(ii) This record shall be maintained during the effective period of this section.

(3) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Employee exposure measurement records as required by this section shall be made available for examination and copying to affected employees, and their designated representatives.

(iii) Former employees and the employees' designated representatives shall have access to such records as will indicate their own exposure to benzene.

(iv) Employee medical records required to be maintained by this section shall be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(m) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into an area where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective devices required to be worn by employees working in the area, assure the use of such equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(a) Receive an explanation of the measurement procedures;

(b) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(c) Record the results obtained.

(n) Effective date: This section shall become effective May 21, 1977.

(o) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

I. SUBSTANCE IDENTIFICATION

APPENDIX A—SUBSTANCE SAFETY DATA SHEET

BENZENE

A. *Substance.* Benzene.

B. *Permissible Exposure.* Except as to retail gasoline stations and operations which use liquids containing benzene in amounts greater than 1% by volume, or the benzene vapor released by any such liquids.

1. *Airborne.* 1 part of benzene vapor per million parts of air (1 ppm); time-weighted average (TWA) for an 8-hour workday for a 40-hour week, with a ceiling concentration of 5 ppm.

2. *Dermal.* Eye contact and repeated skin contact with liquid benzene shall be prohibited.

C. *Appearance and odor.* Benzene is a clear, colorless liquid with a pleasant, sweet odor. The odor of benzene does not provide adequate warning of its hazard.

II. HEALTH HAZARD DATA

A. *Ways in which the benzene affects your health.* Benzene can affect your health if you inhale it, or if it comes in contact with your skin or eyes. Benzene may also be harmful if you happen to swallow it.

B. *Effects of overexposure.* 1. Short-term (acute) overexposure: If you are overexposed to high concentrations of benzene, well above the levels where its odors are first recognizable, you may feel breathless, irritable, euphoric, or giddy; you may experience irritation in eyes, nose, and respiratory tract. You may develop a headache, feel dizzy, nauseous, or experience unsteadiness in walking. Severe exposures may lead to convulsions.

2. Long-term (chronic) exposure: Repeated and prolonged exposure of benzene may cause headache, fatigue, exhaustion, tendency to bleed, nervousness, sleeplessness, shortness of breath, and serious blood disorders, including leukemia.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. *Respirators.* Respirators are required for those operations in which engineering controls or work practice controls are not available to reduce exposure to the permissible level. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. *Protective Clothing.* You must wear impervious protective clothing (such as boots, gloves, sleeves, aprons, etc.) over any parts of your body that could be repeatedly exposed to liquid benzene.

C. *Eye and Face Protection.* You must wear splash proof safety goggles if it is possible that benzene may get into your eyes. In addition, you should wear a face shield if your face could be splashed with benzene liquid.

IV. EMERGENCY AND FIRST AID PROCEDURES

A. *Eye and face exposure.* If benzene is splashed in your eyes, wash it out immediately with large amounts of water. Call a doctor as soon as possible.

B. *Skin exposure.* If benzene is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of water and soap immediately. Wash contaminated clothing before you wear it again.

C. *Breathing.* If you or any other person breathes in large amounts of benzene, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call a doctor as soon as possible.

D. *Swallowing.* If benzene has been swallowed and the patient is conscious, do not induce vomiting. Call a doctor immediately.

V. MEDICAL REQUIREMENTS

If you are exposed to benzene your employer is required to provide the following medical procedures within thirty days of the effective date of this standard, consisting of a medical history and laboratory tests. These tests shall be provided without cost to you.

VII. OBSERVATION OF MONITORING

Your employer is required to perform measurements that are representative of your exposure to benzene and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with, and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to see the records of measurements of your exposure to benzene upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

IX. PRECAUTIONS FOR SAFE USE, HANDLING AND STORAGE

Benzene liquid is highly flammable. It should be stored in tightly closed containers in a cool, well ventilated area. Benzene vapor may form explosive mixtures in air. All sources of ignition must be controlled. You should use non-sparking tools when opening or closing benzene containers. You must ground or bond metal benzene containers. Fire extinguishers, where provided, must be readily available and you should know where they are located and how to operate them. Smoking is prohibited in areas where benzene is used or stored. Ask your supervisor where benzene is used on your work area and for additional plant safety rules.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES

BENZENE

I. PHYSICAL AND CHEMICAL DATA

A. Substance Identification

1. *Synonyms.* Benzol, benzole, coal naptha, cyclohexatriene, phene, phenyl hydride, pyrobenzol. (Benzin, petroleum benzin, and benzine, do not contain benzene).

2. *Formula.* C_6H_6 (CAS Registry Number: 000071432)

B. Physical Data

1. Boiling point (760 mm Hg): 80.1 C (176F).

2. Specific Gravity (water=1) :0.879.

3. Vapor Density (air=1):2.7.

4. Melting Point: 5/5 C (42F).

5. Vapor Pressure at 20 C (68F) :75 mm Hg.

6. Solubility in Water: .06%.

7. Evaporation Rate (ether=1) :2.8.

8. Appearance and Odor: Clear, colorless liquid with a distinctive sweet odor.

II. FIRE, EXPLOSION AND REACTIVITY HAZARD DATA

A. *Fire.* 1. Flash Point (closed cup): —11 C (12F).

2. Autoignition Temperature: 580 C (1076F).

3. Flammable Limits in Air, % by Volume: Lower: 1.3% Upper: 7.1%.

4. Extinguishing Media: Carbon dioxide, dry chemical, or foam.

5. Special Fire-Fighting Procedures: Do not use solid stream of water, since stream will scatter and spread fire. Water spray can be used to keep fire exposed containers cool.

6. Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hazardous locations. Benzene vapors are heavier than air; thus the vapors may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

7. Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of 29 CFR 1910.106. A concentration exceeding 3250 ppm is considered a potential fire or explosion hazard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class 1 Group D for the purposes of conforming to the requirement of 29 CFR 1910.309.

B. *Reactivity.* 1. Conditions contributing to instability: Heat.

2. Incompatibility: Heat and oxidizing materials.

3. Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

III. SPILL AND LEAK PROCEDURES

A. *Steps to be taken if the material is released or spilled.* Large amounts of water should be used to flush the spills. Do not flush benzene into confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

B. *Waste Disposal Method.* Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of: (a) By absorbing it in dry sand or earth and disposing in a sanitary land fill; (b) if small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it; (c) if large quantities, by atomizing it in a suitable combustion chamber.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Normal Monitoring Program: Measurements taken for the purpose of determining employee exposure are best taken such that the representive average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five (5) measurements is taken in a random manner over the 8-hour work shift. Random sampling means that

any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of an employee's average level of exposure for that work shift. NIOSH recommends that samples be collected at a sampling rate of one liter per minute for a minimum of two hours. Air samples should be taken in the employee's breathing zone (air that would nearly represent that inhaled by the employee). Sampling and analysis should be performed by gas absorption tubes with subsequent chemical analysis, by gas chromatography of those areas most likely to represent the highest airborne concentration of benzene where employees are exposed. Methods meeting the prescribed accuracy and precision requirements are available in the "NIOSH Manual of Analytical Methods."

V. MISCELLANEOUS PRECAUTIONS

A. High Exposures to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices should be established to avoid spills.

B. Non-sparking tools should be used to open benzene containers which should be effectively grounded and bonded prior to opening and pouring.

C. Employers should advise employees of all plant areas and operations where exposure to benzene could occur. A few of the common operations in which high exposures to benzene may be encountered are: manufacture of styrene, phenol, cyclohexane, pesticides, and detergents.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR BENZENE

I. ROUTE OF ENTRY

Inhalation; possible skin absorption.

II. TOXICOLOGY

Benzene is primarily an inhalation hazard. Systemic absorption cause depression of the hematopoietic system. Inhalation of high concentrations can affect the central nervous system function. Aspiration of small amounts of liquid benzene immediately causes pulmonary edema and hemorrhage of pulmonary tissue. Skin absorption through intact skin is negligible. However, absorption will be accelerated in the case of injured skin, and benzene may be more readily absorbed if it is present in a mixture or as a contaminate in solvents which are readily absorbed. Defatting action of benzene may produce primary irritation upon repeated or prolonged contact with the skin. High concentrations are irritating to the mucous membranes of the eyes, nose, and respiratory tract.

III. SIGNS AND SYMPTOMS

Benzene is poorly absorbed through the skin, however, direct contact may cause erythema or blistering. Repeated or prolonged contact may result in drying, scaling, dermatitis, or precipitate development of secondary skin infections. Local effects of benzene vapor or liquid on the eye are slight. Only at very high concentrations is there any smarting sensation in the eye. Droplet contamination of the eye by benzene causes a moderate burning sensation, but only slight transient injury of the epithelial cell, with the eye recovering rapidly. Inhalation of high concentrations of benzene may have an initial stimulatory effect on the central nervous system characterized by exhilaration, nervous excitation, and/or giddiness, followed by a period of depression, drowsiness, fatigue, or vertigo. There may be sensation of tightness in the chest accompanied by breathlessness and ultimately the victim may lose consciousness. Convulsions and tremors occur frequently, and death may follow from respiratory paralysis or circulatory collapse in a few minutes to several hours following severe exposures. The insidious and often irreversible effect on the blood-forming system of prolonged exposure to small quantities of benzene vapor is of extreme importance. These effects have been noted to occur at concentrations of benzene which may not cause irritation of mucous membranes, or any unpleasant sensory effects. Early signs and symptoms of benzene morbidity are varied and vague, and not specific for benzene exposure. Subjective complaints of headache, dizziness, and loss of appetite may precede or procede clinical symptomology. Bleeding from the nose, gums, or mucous membranes and the development of purpuric spots may occur as the condition progresses. Rapid pulse and low blood pressure in addition to a physical appearance of anemia may accompany a subjective complaint of shortness of breath. Clinical evidence of leucopenia and anemia are the most common abnormalities reported, however, macrocytosis and thrombocytopenia are also frequently present. Bone marrow may appear normal, aplastic, or hyperplastic and may not in all situations correlate with peripheral blood findings indicating hypo-hyper-activity of blood forming tissues. There are great variations in the susceptibility to benzene morbidity which prohibits the identification of "typical" blood picture. The effects of prolonged benzene exposure may appear after several weeks or years after the actual exposure has ceased. Development of leukemia also results from exposure to benzene.

IV. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Flush eyes and wash contaminated skin. Symptoms of non-specific nervous disturbances may persist following severe exposures. Recovery from mild exposures is usually rapid and complete.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. *Other considerations.* Benzene can cause both acute and chronic effects. It is important that the physician become familiar with the operating conditions in which exposure to benzene occurs. Those with skin disease may not tolerate the wearing of protective clothing and those with chronic respiratory disease may not tolerate the wearing of negative pressure respirators.

B. *Surveillance and screening.* Medical histories and laboratory examinations are required for each employee subject to exposure to benzene. The employer must screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. *Liver disease.* The primary site of biotransformation and detoxification of benzene is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of benzene. These precautions should be considered before exposing persons with impaired liver function to benzene vapors.

2. *Renal disease.* Although benzene is not known as a kidney toxin the importance of the organ in the elimination of toxic substances and metabolites justifies special consideration in those with possible impairment of renal function.

3. *Skin disease.* Benzene is a defatting agent and can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of benzene.

4. *Blood dyscrasias.* Benzene is a hematopoietic depressant. Persons with existing blood disorders may be more susceptible to the effects of benzene.

REFERENCES

1. Grant, W. Morton: Toxicology of the Eye, (Second Edition), Charles C. Thomas, Illinois, 1974, page 655.

2. Browning, Ethel: Toxicity and Metabolism of Industrial Solvents, Elsevier Publishing Company, Amsterdam, 1965, pp. 440-442.

3. Patty, F. A.: Industrial Hygiene and Toxicology, Volume II-Toxicology, Interscience Publishers, New York, 1593, pp. 1756-1758.

4. Gerade, H. W.: Toxicology and Biochemistry of Aromatic Hydrocarbons, Elsevier Publishing Company, Amsterdam, 1960, pp. 98-108.

(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc.77-14959 Filed 5-26-77;8:45 am]

Federal Register

FRIDAY, MAY 27, 1977

PART VII

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PRODUCTS

National List of Priority Needs for Minor Use Registration; Additional Information

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00042A; FRL 733-6]

PESTICIDE PRODUCTS

National List of Priority Needs for Minor Use Registration; Additional Information

On March 10, 1977 (42 FR 13448), the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER a list of the most important food-crop minor uses for which pesticide residue and/or efficacy data are needed to support tolerance and registration. This list and subsequent ones on this subject are being published to encourage the development of the needed data, and to inform the public that the Interregional Project Number 4 (IR-4) at Rutgers University is available to assist in solving minor use problems. However, the list showed only the pesticide and commodity involved, along with other general and technical information regarding that expressed need. As stated at that time, a non-crop list is also being prepared. The list published on March 10 has been revised to include additional information regarding the pest(s) or desired use(s) in each instance.

Comments concerning this notice and the revised list should be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St. SW., Washington DC 20460. The comments should be received within 60 days of publication of this notice and should bear the identifying notation OPP-00042A to facilitate the recordkeeping process. Comments received by the Agency will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. on normal business days.

Dated: May 19, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

STANDARDIZED INFORMATION RETRIEVAL SYSTEM KEY TO PESTICIDE CLEARANCE REQUESTS

Pr. No. (5 digits and 1 character, e.g. 1 thru 99999). Numbers assigned by IR-4. Numbers followed by an asterisk indicate a request for a non-food use.

Pesticide (52 characters, 1 line). Ref: Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels, USEPA, OPP, CED (current edition).

Commodity (50 characters, 1 line), Ref: 40 CFR 180.34.

Reason for use (48 characters, 3 lines), Ref: EPA, OPP, TSD standardized 7-letter code.
EX: Greenhouse whitefly—IRABANA.

State (9 characters, 5 lines). All states requesting same use pattern. Ref: U.S. Post Office approved abbreviations for states. ARS before state abbreviation signifies request via USDA-ARS.

Region (2 characters, 5 lines). USDA regions encompassing the interested states.

Activity (1 character, 5 lines). Activity of Pesticide.
A—Avicide.
I—Insecticide (incl. Miticides).
H—Herbicides.
F—Fungicides (incl. bactericides and viricides).
R—Rodenticide.
N—Nematicide.
M—Molluscicide.
D—Desiccant and/or defoliant.
P—Plant regulator.
B—Biocide.

Category (2 digits, 1 line). Status code assigned to that PR.

ACTION CATEGORY CODES

00—Amendment to existing registration.
01—Additional data not required for tolerance/registration.
02—Additional data required; data requirements are minor.
03—Additional data required; data requirements are major.
04—Cannot be registered at this time.
05—Manufacturer handling.
06—Undesignated.
07—Initially rejected by EPA, project still active.

INACTIVE CATEGORY CODES

10—Request deleted.
11—Manufacturer will not register.
12—Rejected by EPA.
13—Canceled Pesticide.

CLEARANCE CATEGORY CODES—FOOD USE

20—Petition submitted for tolerance.
21—Data package submitted to industry.
22—Tolerance or exemption established.
23—Registrant submission to EPA.
24—Use registered.

CLEARANCE CATEGORY CODES—NON-FOOD USE

30—Data package submitted to industry.
31—Registrant submission to EPA.
32—Use registered.

Data Requirements (1 character, 5 lines).
E—Efficacy data.
R—Residue data.
F—Phytotoxicity data.
V—Environmental data.

Residue Lab (9 characters, 5 lines).
Year: State, ARS (State), or Company responsible for residue analysis.
EX: 76:PA or 76:ARS(PA) or 76:DUPONT.

Company (6 characters, 5 lines). Six letter abbreviation of the manufacturer.
ABBOTT—Abbott Laboratories.
AGWAY—Agway, Inc.
AMCHEM—Amchem Products, Inc.
AMCY—American Cyanamid Co.
ANSUL—The Ansul Co.
BASF—BASF Wyandotte.
BORAX—United States Borax & Chemical Corp.
CHEMAG—Chemagro Ag. Chem. Div. Mobay Chemical Corp.
CHEMPR—Chempar Chemical Co., Inc.
CHEV—Chevron Chemical Co.
C-G—Ciba-Geigy Corp.
CLOROX—The Clorox Co.
D-S—Diamond Shamrock Chemical Co.
DOW—Dow Chemical Company.
DUPONT—E. I. DuPont De Nemours & Co., Inc.
ELANCO—Elanco Products Division Eli Lilly.
FMC—FMC Corp., Agricultural Chemicals Div.
HERC—Hercules Inc.
HOOKER—Hooker Chemical Corp.
ICI—ICI USA.
KOCIDE—Kocide Chemical Corp.
KUMIAI—Kumiai Chemical Industry Co., Ltd.
LILLY—The Charles H. Lilly Co.
MALLIN—Mallinckrodt, Inc.
MERCK—Merck & Co., Inc.
MEYER—Wilson and Geo. Meyer Co.
MILLER—Miller Chemical & Fertilizer Corp.
MOBIL—Mobil Chemical Co.
MONS—Monsanto Commercial Products Co.
NORAM—Nor-Am Agricultural Products, Inc.
OLIN—Olin Corp.
PENICK—S.B. Penick and Co.
PFIZER—Pfizer, Inc.
PPG—PPG Industries Inc.
R+H—Rohm and Haas Co.
RALPUR—Ralston-Purina.
RHODIA—Chipman Div. of Rhodia, Inc.
SANDOZ—Sandoz, Inc.
SHELL—Shell Chemical Co.
SMC—Southern Mill Creek Products, Co., Inc.
STAUFF—Stauffer Chemical Co.
T-H—Thompson-Hayward Chemical Co.
TNCOOP—Tennessee Farm Coop., Inc.
UC—Union Carbide Corp.
UNIROY—Uniroyal Inc.
UPJOHN—The Upjohn Company.
VELSI—Velsicol Chemical Corp.
WARF—Warf Institute, Inc.
WOOL—Woolfolk Chem. Works, Inc.
ZOECON—Zoecon Corp.

Comments (26 characters, 5 lines). Standardized comments about that PR.

EX: 76 PROJECT: IN.—A 1976 project in Indiana.

SUBMISSION: 78.—Projected year (or quarter, year) that the data package will be submitted by IR-4.
ARS(MD)—Maryland ARS involved.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00033*	DINOSEB BLUEGRASS (SEED CROP) DESSICATION	MN	NC	D	00	V		DOW	24(C). MFG DELAYING REG FOR ENV DATA.
00040	FONOFOS SWEET POTATOES FLEABEETLES	MD,MS	NE S	I	00			STAUFF	MFG SUGGESTS 24(C):10/76.
00041	PHOSMET SWEET POTATOES SWEET POTATO WEEVIL, TORTOISE BEETLE, SWEET POTATO HORNWORM, FLEA BEETLE	LA,MS,NC, FL	S	I	00			STAUFF	LABEL AMENDMENT OR 24(C).
00048	MSMA, DSMA COTTON JOHNSON GRASS	AZ	W	H	00			ANSUL	MSMA LABELLED. REQUEST NEW USE PATTERN:24(C).
00081	FENSULFOTHION PLANTAINS NEMATODES	PR	S	N	00	E		CHEMAG	LABEL FOR NEMATODE CONTROL. 24(C) FOR NEW PESTS. SEE PR 470.476.
00115	CARBARYL PECANS PHYLLOXERA, SPITTLEBUGS	MS,AR	S	I	00			UC	LABEL AMEND OR 24(C).
00116	CARBARYL +/OR METHONYL BEANS (SNAP + LIMA) VARIEGATED CUTWORM, DIABROTICA BEETLES, EUROPEAN CORN BORER	MS,WI,MI	NC S	I	00			UC DUPONT	LABEL AMEND OR 24(C).
00122	COPPER HYDROXIDE CRUCIFERS BLACK ROT	MS,CT,PA, NC	NE S	F	00			KOCIDE	LABEL AMEND OR 24(C).
00124	CARBARYL CORN CINCHBUG, COMMON STALK BORER	MS,WI,MO, IA,MI,KS, IL,OH	NC S	I	00	E		UC	76 PROJECT:WI,MI,KS,IL, OH,IA. EFFICACY FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00125	CARBARYL SORGHUM CINCHBUG, COMMON STALK BORER	~~09/75~~	MS,WI,MI, KS,IL,OH. IA	NC S	I	00	E		UC	76 PROJECT:WI,KS,IL,OH, IA. EFFICACY FOR LABEL AMEND OR 24(C).
00127	DIAZINON GRASS (PASTURE) CINCHBUG	~~09/78~~	MS,WA	S W	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00128	DIAZINON SORGHUM CINCHBUG	~~09/78~~	MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00129	DIAZINON CORN CINCHBUG	~~09/78~~	MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00150*	HYAMINE POTATOES DISINFECTANT	~~10/78~~	ME,PA	NE	F	00	E		R+H	NEED EFFICACY DATA FOR LABEL AMEND OR 24(C).
00179	CARBARYL SOYBEANS THISTLE CATEPILLAR	~~10/78~~	IA,IN	NC	I	00	E		UC	76 PROJECT FOR EFF DATA: IN,IA. POSSIBLE 24(C).
00180	MALATHION SOYBEANS THISTLE CATEPILLAR	~~10/75~~	IA.IN	NC	I	00	E		AMCY	76 PROJECT FOR EFF DATA: IN.IA. POSSIBLE 24(C).
00183	THIRAM CELERY (SEED TREATMENT) EARLY BLIGHT, LATE BLIGHT	~~10/76~~	PA	NE	F	00	E		DUPONT	PA TO SUPPLY EXIST EFF DATA FOR LABEL AMEND.
00190	PARATHION SORGHUM LESSER CORNSTALK BORER, STINKBUG	~~10/76~~	GA,AZ	S W	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00191	PARATHION CORN LESSER CORNSTALK BORER	~~1/0476~~	GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00192	PARATHION SOYBEANS LESSER CORNSTALK BORER	~~1/0476~~	GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00203*	SODIUM HYPOCHLORITE PEPPERS (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	~~1/0476~~	NJ,PA,VT, NC,NY	NE S	F	00			AGWAY CLOROX	PKG SUBMITTED TO AGWAY + CLOROX FOR LABEL REG:8/76.
00213	DIAZINON COFFEE GREENSCALE	~~1/0476~~	HI	W	I	00	E		C-G	EFFICACY NEEDED FOR LABEL AMEND OR 24(C).
00228*	HYDROCHLORIC ACID TOMATOES (SEED TREATMENT) SCARIFICATION	~~1/0476~~	PA,NJ,NC	NE S	F	00			AGWAY	24(C).
00229*	HYDROCHLORIC ACID PEPPERS (SEED TREATMENT) SCARIFICATION	~~1/0476~~	PA,NJ	NE	F	00			AGWAY	24(C).
00249	ETHEPHON BLUEBERRIES CONCENTRATE MATURITY	~~1/0476~~	PA,NE	NE	P	00	E		AMCHEM	EFF DATA FOR LABEL AMEND OR 24(C).
00270	DIAZINON PEANUTS BROWNING BUGS	~~1/1476~~	TX	S	I	00	E		C-G	NEED EFF DATA FOR LABEL AMEND OR 24(C).
00280	METHOMYL SPINACH CABBAGE LOOPER, BEET ARMYWORM	~~1/1476~~	AZ,NJ,WV	NE W	I	00	E		DUPONT	NEED EFF DATA FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00283	PARATHION (METHYL) COTTON PINK BOLL WORM	[illegible]	AZ	W	I	00	E		MONS	LABEL AMEND OR 24(C).
00287	SULFUR (WETTABLE) BEETS (GARDEN) POWDERY MILDEW	[illegible]	TX	S	F	00			SANDOZ	LABEL AMEND OR 24(C).
00314	ENDOSULFAN APPLES TARNISHED PLANT BUG	[illegible]	NC,TX,OH	S NC	I	00	E		FMC	EFF DATA FOR LABEL AMEND OR 24(C).
00339	2,4-D (BUTOXYETHANOL ESTER) CRANBERRIES CATSEAR, FALSE DANDELION, PURPLE ASTER, TUSSOCKS, BIRDSFOOT TREFOIL, SHEEP SORREL, CLOVER, VUNCUS, BRAMBLES BRIERS, GOLDENROD	[illegible]	WA,MA	NE W	H	00	E	76:WA	AMCHEM	TOL OF 0.5 PPM EST:3/76. 76 PROJECT FOR EFF DATA:WA. SEE PR 670.
00352	CAPTAN ONIONS, GARLIC LEAFSPOTS	[illegible]	NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00354	CAPTAN BEANS (LIMA) LEAFSPOTS	[illegible]	NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00355	CAPTAN LEEKS LEAFSPOTS	[illegible]	NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00392	CHLOROTHALONIL LEEKS, GARLIC LEAFSPOTS	[illegible]	NC,FL,NY, PA	NE S	F	00	E		D-S	TOL ON ONION INCL LEEK + GARLIC. NEED EFF + PHYTOTO DATA FOR REG. SEE EPA LETTER:6/76. POSSIBLE 24(C). MFG WANTS PET HELD.
00396	CHLOROTHALONIL SQUASH BOTRYTIS LEAFBLIGHT	[illegible]	NC	S	F	00	E		D-S	EFF DATA FOR LABEL AMEND OR 24(C). MFG WANTS PET HELD:2/77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00402	CARBARYL POTATOES POTATO TUBERWROM	~~1-2476~~	NC	S	I	00			UC	LABEL AMEND OR 24(C).
00404	METHOMYL CUCUMBERS PICKLEWORM, BEET ARMYWORM, CORN EARWORM	~~01478~~	NC	S	I	00	E		DUPONT	24(C) FOR LEAFMINER.
00418*	ZINC PHOSPHIDE SOYBEANS, TRUCK CROPS, GARDEN GROUNDHOGS	~~1-2775~~	TN	S	R	00	E V		HOOKER	CAND 24(C).
00429*	DISULFOTON RADISHES (SEED CROP) APHIDS:GREEN PEACH APHID	~~1-2476~~	ID	W	I	00	E		CHEMAG	EFF DATA FOR 24(C).
00450	METHOMYL POTATOES VARIEGATED CUTWORM	~~1-2478~~	OR,VA	S W	I	00	E		DUPONT	EFF FOR LABEL AMEND OR 24(C).
00454	MALATHION GRASS (RANGE) BLACKGRASS BUGS	~~1-2475~~	OR	W	I	00	E		AMCY	EFF DATA FOR LABEL AMEND OR 24(C).
00459	FONOFOS KOHLRABI (SEED CROP) ROOT MAGGOT	~~1-2475~~	OR	W	I	00	E		STAUFF	EFF DATA FOR 24(C).
00460	DISULFOTON KOHLRABI (SEED CROP) APHIDS	~~1-2475~~	OR	W	I	00	E		CHEMG	EFF DATA FOR 24(C).
00462	CARBOPHENOTHION ONIONS (SEED CROP) ROOT MAGGOTS	~~1-2475~~	OR	W	I	00	E		STAUFF	TOL OF 0.8 PPM EST. LABELLED IN NC + NE. 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00466	ZINC ION + MANEB KOHLRABI (SEED TREATMENT) ALTERNARIA, PHOMA BLACKLEG	~~1/2/76~~ OR	W	F	00	E		R+H DUPONT	EFF DATA FOR 24(C).
00469	CARBOFURAN SWEET POTATOES SWEET POTATO WEEVIL	~~01/76~~ PR	S	I	00	E R		FMC	TOL PENDING. LABEL DOES NOT INCLUDE THIS PEST. NEED CONFIRM DATA FOR PROPOSED TOL. 24(C). DIFF USE THAN PR 739.
00470	FENSULFOTHION BANANAS BANANA ROOT BORER	~~01/76~~ PR	S	I	00	E		CHEMAG	TOL OF 0.02 PPM EST. 24(C) SEE PR 81, 476.
00476	ETHOPROP PLANTAINS BANANA ROOT BORER, NEMATODES	~~01/76~~ PR	S	I N	00	E		MOBIL	24(C) FOR NEW PEST. LABEL FOR NEMA CONTR ON BANANA. NEED TO ADD PLANTAIN. SEE PR 470, 81.
00478	BENOMYL SUGARCANE BLACK ROT (E. ADIPOSA), TOP ROT (G. MONILIFORME)	~~01/76~~ PR	S	F	00	E R		DUPONT	LABELLED AS NON-FOOD IN HI. 24(C) FOR PR.
00496	DBCP PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, LESION NEMATODES	~~01/76~~ PR	S	N	00			DOW	ADD PLANTAIN TO LABEL OR 24(C).
00497	FENAMIPHOS PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, LESION NEMATODES	~~01/76~~ PR	S	N	00	E R		CHEMAG	TOL OF 0.1 PPM EST BASED ON HI DATA. NEED EFF + RES DATA FOR 24(C).
00500	DIURON PLANTAINS CAESARWEED, GUINEAGRASS, DAYFLOWER, BALSAMAPPLE, ANNUAL GRASSES, SENSITIVE PLANT REDTASSLEFLOWER, PURPLE NUTSEDGE	~~01/76~~ PR	S	H	00			DUPONT	ADD PLANTAIN TO LABEL OR 24(C).
00506	FENSULFOTHION SWEET POTATOES NEMATODES AND SOIL INSECTS	~~0~~ PR	S	I N	00			CHEMAG	TOL OF 0.05 PPM EST. LABELLED IN SE STATES FOR NEMA + SWEET POTATO WIREWORM, 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00509	MANEB GRAPES BLACK ROT, DOWNY MILDEW, ANTHRACNOSE, BUNCH ROT, POWDERY MILDEW	AR	S	F	00			DUPONT	TOL OF 8 PPM EST. LABELLED FOR BLACKROT IN GR LAKE STATES ONLY. POSSIBLE 24(C).
00513	FENAMINOSULF VEGETABLES DAMPING OFF, ROOT ROT	AR	S	F	00			CHEMAG	USE ON PLANTBED, GH, FIELD TRT. LABELLED FOR BEAN, PEA, BEET, SPINACH, CUCUMBER. VERIFY NON-FOOD USE FOR OTHER SEED TRTS.
00520	SIMAZINE AVOCADOS UNSPECIFIED ANNUAL AND PERENIAL WEEDS	FL	S	H	00			C-G	TOL OF 0.25 PPM EST. LABELLED IN CA. 24(C). SEE PR 524.
00529	CARBOXIN CORN HEAD SMUT	ID	W	F	00	E		UNIROY	LABELLED FOR SEED DECAY. 24(C) FOR HEAD-SMUT.
00530	AZINPHOS METHYL CRANBERRIES CRANBERRY WEEVIL	MA	NE	I	00	E		CHEMAG	LABELLED FOR OTHER INSECTS. 24(C) FOR CRANBERRY WEEVIL. SEE PR 532.
00531	CARBARYL CRANBERRIES GREEN CRANBERRY SPAN WORM	MA	NE	I	00	E		UC	LABELLED FOR OTHER INSECTS. 24(C) FOR GREEN CRANBERRY SPANWORM.
00532	PARATHION (METHYL) CRANBERRIES CRANBERRY WEEVIL	MA	NE	I	00	E		MONS	TOL OF 1 PPM EST. 24(C). SEE PR 530.
00535	MALATHION VEGETABLES (GH) FLYING INSECTS, SOIL INSECTS	MA	NE	I	00			AMCY	POSSIBLE 24(C).
00536	DIMETHOATE LETTUCE (GH) APHIDS, LEAFHOPPERS, LEAFMINER, MITES, THRIPS, WHITEFLIES	MA	NE	I	00			AMCY	LABELLED FOR OUTDOOR USE ON APHID, LEAFHOPPER, LEAF MINER. 24(C) FOR OTHER PEST.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00537	DIAZINON		~~11/76~~ MA	NE	I	00	E		C-G	LABELLED FOR OTHER INSECTS 24(C) FOR CRANBERRY GIRDLER.
	CRANBERRIES									
		CRANBERRY GIRDLER								
00549	ALACHLOR		~~06/76~~ MD	NE	H	00			MONS	TOL OF 0.1 PPM. LABELLED FOR WEST OF MISS ONLY. 24(C). SEE PR 262.
	BEANS (LIMA)									
		UNSPECIFIED WEEDS								
00550	TRIFLURALIN		~~06/76~~ MD	NE	H	00			ELANCO	TOL OF 0.05 PPM FOR FRUIT VEG. 24(C) FOR EGGPLANT.
	EGGPLANT									
		UNSPECIFIED WEEDS								
00558	CARBARYL		~~01/76~~ MI	NC	I	00	E		UC	TOL OF 100 PPM EST ON GRASS + HAY. 24(C). 1ST PREF. SEE PR 559,560,561.
	GRASS (HAY + PASTURE)									
		ESSEX SKIPPER								
00559	DIAZINON		~~01/76~~ MI	NC	I	00	E		C-G	TOL OF 60 PPM ON GRASS, 20 PPM ON GRASS HAY. 24(C). 2ND PREF. SEE PR 558,560,561.
	GRASS (HAY + PASTURE)									
		ESSEX SKIPPER								
00560	MALATHION		~~01/76~~ MI	NC	I	00	E		AMCY	TOL OF 135 PPM ON GRASS, 20 PPM ON GRASS HAY. 24(C). 3RD PREF. SEE PR 558,559,561.
	GRASS (HAY + PASTURE)									
		ESSEX SKIPPER								
00561	TRICHLOROFON		~~01/76~~ MI	NC	I	00	E		CHEMAG	TOL OF 60 PPM ON PASTURE GRASS, 90 PPM ON PASTURE GRASS HAY. 24(C). 4TH PREF. SEE PR 558,559,560.
	GRASS (HAY + PASTURE)									
		ESSEX SKIPPER								
00564	GIBBERELLIC ACID		~~07/76~~ CA	W	P	00	E		ABBOTT	TOL OF 0.15 PPM ON CIRTUS FRUIT. 24(C).
	LIMES									
		DELAY FRUIT MATURITY								
00565	CARBARYL		~~03/76~~ UT	W	I	00	E		UC	TOL OF 100 PPM ON ALFALFA. REQUEST EPA COMMENT ON REG REQ.
	BEES (LEAFCUTTING)									
		CONTROL OF PARASITES IN POLLINATING BEE CELLS								

PR NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00580	THIABENDAZOLE SWEET POTATOES BLACK ROT (CERATOCYSTIS FIMBIATA)	~~00476~~	LA	S	F	00			MERCK	TOL OF 0.02 PPM. POSSIBLE 24(C) FOR NEW USE PATTERN.
00587	BENOMYL PEACHES BARK NECROSIS (BOTRYOSPHAERIA DOTHIDAE)	~~00776~~	GA	S	F	00	E		DUPONT	TOL OF 15 PPM. NEW USE PATTERN. POSSIBLE 24(C).
00592	MALATHION ALFALFA (HAY) *EGYPTIAN ALFALFA WEEVIL	~~00470~~	CA	W	I	00	E		AMCY	TOL OF 135 PPM. NEW USE PATTERN.
00595	CARBARYL ALFALFA ALFALFA BLOTCH LEAFMINER	~~00476~~	NY	NE	I	00	E		UC	LABELLED. 24(C) FOR NEW PEST.
00596	AZINPHOS METHYL ALFALFA ALFALFA BLOTCH LEAFMINER	~~00476~~	NY	NE	I	00	E		CHEMAG	LABELLED. 24(C) FOR NEW PEST.
00597	MALATHION ALFALFA ALFALFA BLOTCH LEAFMINER	~~00470~~	NY	NE	I	00	E		AMCY	LABLLED. 24(C) FOR NEW PEST.
00607	DIAZINON *CRUCIFERS CABBAGE MAGGOTS	~~00476~~	NY	NE	I	00			C-G	TOL OF 0.75 PPM. 24(C) FOR NEW USE PATTERN (SEED FURROW).
00628*	METHONYL TOBACCO CUTWORM	~~00470~~	NC	S	I	00	E		DUPONT	ADD NEW PEST TO LABEL. 24(C).
00629*	ACEPHATE TOBACCO CUTWORM	~~00476~~	NC	S	I	00	E		CHEV	ADD NEW PEST TO LABEL. 24(C). SEE PR 502.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00634	BENOMYL CANTALOUPS, CUCUMBERS, WATERMELON, SQUASH BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	~~00476~~	NC	S	F	00	E		DUPONT	TOL EST ON ALL CUCURBITS. NEW PESTS?
00635	BENOMYL BEANS, PEAS, OKRA BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	~~00476~~	NC,NY	NE S	F	00	E		DUPONT	REC EFF DATA FROM NY: 11/76.
00655	BACILLUS THURINGIENSIS PECANS WALNUT CATERPILLAR	~~09476~~	TX	S	I	00	E		SANDOZ ABBOTT RHODIA	EXEMPT ON GROWING PLANTS.
00656	FONOFOS SUGARCANE WHITE GRUBS	~~00476~~	TX	S	I	00	E		STAUFF	NEW PEST.
00657	FENSULFOTHION SUGARCANE WHITE GRUBS	~~00476~~	TX	S	I	00	E R		CHEMAG	NEW PEST + POSSIBLY HIGHER TOL. SEE PR 272 FOR SAME PESTS. LABEL IN FL; FOR NEMA ONLY. SUGG 24(C) FOR GRUBS.
00660	AZODRIN TOMATOES HELIOTHUS CATERPILLARS	~~09476~~	TX	S	I	00			SHELL	TOL OF 0.5 PPM EST. LABELLED IN FL ONLY. 24(C).
00663	PICLORAM GRASS (RANGE) POST OAK, BLACKJACK OAK, ELM, YAUPON, HACKBERRY, BIGLEAF SHIN OAK, CATCLAW ACACIA, DOWNY SERVICEBERRY	~~09476~~	TX	S	H	00	E		DOW	ADD PESTS TO LABEL. SEE PR 93.
00664*	TRIFLURALIN RADISHES (SEED CROP) ANNUAL BROADLEAF WEEDS AND GRASSES	~~00476~~	ID	W	H	00			ELANCO	
00673	MALATHION MANGOES OLEANDER SCALE	~~10476~~	FL	S	I	00	E		AMCY	FL PREFERS PR 674,675. TOL OF 8 PPM EST. LABELLED FOR FRUITFLY IN HI. 24(C) FOR FL AFTER EFF DATA. SEC 18 TO FL FOR BLACKFLY ON CITRUS:2/77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00678	ENDOSULFAN SWEET POTATOES SWEET PTOATO WEEVIL	~~1/0476~~ FL	S	I	00	E R		FMC	TOL OF 0.2 PPM EST. NEW USE PATTERN. WILL REQ CONFIRM RES DATA.
00680	BENOMYL GRAPES ANTHRACNOSE	~~1/0476~~ FL	S	F	00	E		DUPONT	TOL OF 10 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00681	CAPTAN GRAPES ANTHRACNOSE	~~1/0476~~ FL	S	F	00	E		CHEV	TOL OF 50 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00682	SULFUR OKRA POWDERY MILDEW	~~1/0476~~ FL	S	F	00	E		FMC MONS STAUFF	EXEMPT CHEM. 24(C) FOR FL AFTER EFF DATA.
00685	LINURON CARROTS (SEED CROP) BROADLEAF WEEDS	~~1/0476~~ ID,WA	W	I	00	F		DUPONT	TOL OF 1 PPM EST AND LABELLED ON CARROT. WA GOING FOR 24(C) ON CARROT SEED. NEED PHYTOTOX DATA.
00691	ACEPHATE BEANS (SNAP + LIMA) MEXICAN BEAN BEETLE	~~1/1476~~ NJ	NE	I	00	E		CHEV	LABELLED IN VA. TOL OF 3 PPM EST. 24(C) FOR NJ AFTER EFF DATA. MFG WILL REGISTER NAT LABEL AND ADD AIR APPLICATION.
00697	CHLORPYRIFOS NECTARINES LESSER PEACHTREE BORER	~~1/476~~ OH	NC	I	00			DOW	TOL OF 0.05 PPM EST ON PEACH. ADVISE OH OF WORK IN PROG WITH PEACH. SEE PR 85.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00096	DIMETHOATE PEAS (SOUTHERN) LEAFMINERS, APHIDS	~~09/77~~	GA	S	I	01			AMCY	EPA AGREES TO REG AMEND. SUSPECT CHEMICAL. SUBMISSION:?
00159	DIMETHOATE BLACKBERRIES TARNISHED PLANT BUG	~~09/78~~	NY,CT,VT, WV	NE	I	01			AMCY	SUBMISSION AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00241	TERBACIL SAINFOIN DOWNY BROMEGRASS, BARNYARD GRASS, GREEN FOXTAIL, SHEPARD'S PURSE, DANDELION, LAMBSQUARTER, WILD MUSTARD, FANWEED, QUACKGRASS	~~10/78~~	MT	W	H	01			DUPONT	SUBMISSION AWAITING ALFALFA CLEARANCE. SEE PR 55.
00474	FENSULFOTHION TANIERS SOIL INSECTS, BANANA APHID, SUGARCANE ROOTSTALK BORER WEEVIL	~~01/76~~	PR	S	I	01	E		CHEMAG	POSSIBLE CAT 01 USING RUTABAGA. EFF DATA FOR 24(C).
00481	FENSULFOTHION YAMS SUGARCANE ROOTSTALK BORER WEEVIL	~~01/76~~	PR	S	I	01			CHEMAG	POSSIBLE CAT 01 USING SWEET POTATO. EFF DATA FOR 24(C).
00485	CARBOFURAN YAMS LESION NEMATODES, SPIRAL NEMATODES, ROOT-KNOT NEMATODES, SUGARCANE BEETLE	~~01/76~~	PR	S	I N	01			FMC	POSSIBLE CAT 01 USING SWEET POTATO. EFF DATA FOR NEW INSECT FOR 24(C).
00516	METHOXYCHLOR HORSERADISHES BEET LEAFHOPPER	~~01/76~~	IL	NC	I	01			DUPONT	USE CARROT AS PLIOT CROP. SUBMISSION:3RD,77. SEE PR 515.
00527	BROMACIL + DIRUON LIMES (TAHITI) UNSPECIFIED ANNUAL AND PERENIAL WEEDS	~~01/77~~	FL	S	H	01			DUPONT	COMBINED PROD (KROVAR II). CLEARED ON ORANGE, GRAPEFRUIT, LEMON. SUBMISSION:3RD,77.
00538	DIAZINON RUTABAGA CABBAGE MAGGOT	~~11/76~~	MA	NE	I	01			C-G	USE TURNIP AS PILOT CROP. SUBMISSION:3RD,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00545	PEBULATE PEPPERS UNSPECIFIED WEEDS	MD	NE	H	01			STAUFF	USE TOMATO AS PILOT CROP. SUBMISSION:3RD,77.
00600	CARBARYL BIRDSFOOT TREFOIL (SEED CROP) CUTWORMS, PLANTBUGS, LEAFHOPPERS	NY	NE	I	01			UC	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00601	DIAZINON BIRDSFOOT TREFOIL (SEED CROP) CUTWORMS, APHIDS, PLANTBUGS	NY	NE	I	01			C-G	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00602	TRICHLOROFON BIRDSFOOT TREFOIL (SEED CORP) CUTWORMS, PLANTBUGS	NY	NE	I	01			CHEMAG	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00603	MALATHION BIRDSFOOT TREFOIL (SEED CROP) APHIDS	NY	NE	I	01			AMCY	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00604	MEVINPHOS BIRDSFOOT TREFOIL (SEED CROP) APHIDS, PLANTBUGS	NY	NE	I	01			SHELL	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00605	PARATHION (METHYL) BIRDSFOOT TREFOIL (SEED CROP) APHIDS, PLANTBUGS	NY	NE	I	01			MONS	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00606	PARATHION BIRDSFOOT TREFOIL (SEED CROP) LEAFHOPPERS, PLANTBUGS	NY	NE	I	01			MONS	USE ALFAFA AS PILOT CROP. SUBMISSION:3RD,77.
00609	DEMETON ENDIVE APHIDS	NY	NE	I	01			CHEMAG	USE LETTUCE AS PILOT CROP. SUBMISSION:3RD,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00610	MEVINPHOS ENDIVE APHIDS	NY	NE	I	01			SHELL	USE LETTUCE AS A PILOT CRO SUBMISSION:3RD,77.
00611	DCNA ENDIVE BOTRYTIS GRAY MOLD	NY	NE	F	01			UPJOHN	USE LETTUCE AS A PILOT CRO SUBMISSION:3RD,77.
00631	PCNB VEGETABLES (LEAFY) CLUBROOT (PLASMIDOPHORA BRASSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	NC	S	F	01			OLIN	PEND TOL ON CABBAGE:12/71. USE CABBAGE, CAULIFLOWER, BROCCOLI, BRUSSEL SPROUT, AS PILOT CROPS. SUBMISSION:4TH,77.
00640	ALDICARB CUCUMBERS, CANTALOUPS, WATERMELON, SQUASH PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	NC	S	N I	01			UC	SUBMISSION:4TH,77.
00641	ALDICARB BEANS, PEAS, OKRA PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	NC	S	N I	01			UC	MFG PET TO EPA FOR TOL ON SOYBEANS (SUCC + DRY). SOYBEAN (STRAW): 9/76. SUBMISSION:4TH,77.
00642	ALDICARB CABBAGE, GREENS, LETTUCE PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	NC	S	N I	01			UC	SUBMISSION:4TH,77.
00643	ALDICARB EGGPLANT, PEPPERS, TOMATOES PREPALNT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES.	NC	S	N I	01			UC	SUBMISSION:4TH,77.
00644	ALDICARB CARROTS, POTATOES, SWEET POTATOES PREPLANT USE FOR SOIL NEMATODES WHITEFLIES, LEAFMINERS MITES IN FIELDS, PLANT BEDS, GREENHOUSE	NC	S	N I	01			UC	TOL EST ON POTATO AND SWEET POTATO. SUBMISSION:4TH,77.
00645	ALDICARB CORN PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PALNTBEDS, GREENHOUSES	NC	S	N I	01			UC	SUBMISSION:4TH,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00650	CHLORAMBEN PEAS (PIGEON) PREEMERGENT WEED CONTROL	PR	S	F	01	E		AMCHEM	USE BEAN (SNAP + LIMA) AS PILOT CROP. MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING. SUBMISSION: 2ND,77.
00665	TRIFLURALIN ONIONS (SEED CROP) ANNUAL BROADLEAF WEEDS AND GRASSES	ID	W	H	01			ELANCO	SUBMISSION: 3RD,77.
00672	CARBOFURAN EGGPLANT APHIDS; COLORADO POTATO BEETLES, FLEABEETLES, NEMATODES	NJ	NE	I N	01			FMC	MFG OK:11/76. EFF + RES DATA AVAIL FROM RUTGERS. IF NEEDED. USE PEPPERS AS PILOT CROP. SUBMISSION: 3RD,77.
00720	DCPA CRESS (UPLAND) WEEDS	TN	S	H	01			D-S	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 5 PPM EST ON MUSTARD AND TURNIP GREENS. SUBMISSION:4TH, 77.
00721	TRIFLURALIN CRESS (UPLAND) WEEDS	TN	S	H	01			ELANCO	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.5 PPM EST ON LEAFY VEG. SUBMISSION: 4TH.77.
00722	CDEC CRESS (UPLAND) WEEDS	TN	S	H	01		77:FL	HONS	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.2 PPM EST ON MUSTARD AND TURNIP GREENS. 77 PROJ:TN. SUBMISSION: 4TH.77.
00765	ALUMINUM PHOSPHIDE SAFFLOWER (SEED CROP) STORED PRODUCT PESTS	CA	W	I	01			PHOTOX	PET IN PREP:3/77. SUBMITTED TO EPA:3/77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00016	CHLOROTHALONIL PEAS (SOUTHERN) CERSOSPORA RUST, LEAFSPOT, ANTHRACNOSE	[redacted]	MS,NC,GA, ARS(GA)	S	F	02	E R	76:ARS-GA	D-S	76 PROJECT:MS,GA. ARS(GA). MFG WANTS PET HELD:2/77.
00017	CHLOROTHALONIL SAFFLOWER ALTERNARIA LEAF BLIGHT	[redacted]	ND	NC	F	02	E R	76:ND	D-S	77 PROJ:ND. EFF DATA FROM ND:3/77. MFG WANTS PET HELD:2/77.
00023	2,4-DB GRASS (PASTURE) WEEDS	[redacted]	NY,VT,WI, ARS(MD)	NC NE	H	02	E R	76:ARS-MD	AMCHEM	76 PROJ:WI. EFF DATA FROM WI:3/77. SUBMISSION:3RD, 77.
00043	METHOMYL COLLARDS, KALE, GREENS BEET ARMYWORM, CABBAGE LOOPER, IMPORTED CABBAGE WORM, DIAMONDBACKED MOTH, FLEABEETLE	[redacted]	GA,VA,AL, MS,TN,FL, ARS(SC), ARS(AZ)	S W	I	02	E R	76:VA 75:ARS-GA	DUPONT	76 PROJ:ARS(SC,AZ),GA,AL, VA. DATA:MFG(R):11/76, VA(E):2/77. AWAIT ADD RES DATA. SUBMISSION::3RD, 77. SEE PR 279.
00054	SIMAZINE BIRDSFOOT TREFOIL ANNUAL WEEDS	[redacted]	MN,PA,NY	NC NE	H	02	E R	76:MI	C-G	76 PROJECT:MN. SUBMISSION:3RD,77.
00064	BROMOXYNIL GARLIC ANNUAL BROADLEAF WEEDS	[redacted]	CA,OR	W	H	02	E R		AMCHEM RHODIA	OR POTEN REGISTRANT:10/76. REC EFF + RES DATA FROM CA:12/76. PET IN PREP: 12/76.
00067	BENOMYL CABBAGE (FOLIAR)	[redacted]	MS,NY,AZ, PA	NE S W	F	02	E R	76:NY	DUPONT	76 PROJ:NY. DATA:NY(E+R): 3/77. SUBMISSION:4TH,77.
00069	CHLORPYRIFOS GRASS (PASTURE) MOLE CRICKETS, ARMYWORMS	[redacted]	MS,GA,FL, TN,TX	S	I	02	E R	76:VA 77:VA	DOW	76 PROJECT:TX. 77 PROJ:TX. MFG WILL SUPPORT:1/77. SUBMISSION:2ND,78.
00070	SODIUM BORATE	[redacted]	MS	S	F	02	E	76:VA	BORAX	76 PROJECT:MS.
	SWEET POTATOES SCURF, BLACK ROT, STEM ROT						R			SUBMISSION:2ND,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00073	BENOMYL TURNIPS (GREENS) CERCOSPROA, CERCOSPORELLA, ANTHRACNOSE	GA	S	F	02	E R	76:FL	DUPONT	76 PROJECT:GA. SUBMISSION:4TH,77. SEE PR 67,138,636.
00084*	ACEPHATE CABBAGE, BROCCOLI, GREENS, SPINACH CABBAGE WORMS, CUTWORM, APHIDS, CABBAGE LOOPERS	NC,TN,MA, TX,AL,NY, GA,VA,FL, ARS(SC)	NE S	I	02	E R	76:NY 77:GA	CHEV	PEND TOL ON CABB, BROC, BR SPRTS. 76 PROJ:ARS(SC),AL, NY,VA,GA. 77 PROJ:GA. DATA:ARS(SC)(E):1/77. VA(E):2/77. SUBMISSION: 2ND,78. SEE PR 622.
00085	CHLORPYRIFOS PEACHES PEACH TREE BORER, LESSER PEACH TREE BORER	MI,AR,NY, ARS(IN), ARS(GA)	NC NE S	I	02	E R	76:ARS-GA	DOW	76 PROJECT:ARS(GA,IN). SUBMISSION:3RD,77. REC 75 ANAL DATA FROM MI:11/76. SEE PR 697, 728. MFG WILL SUPPORT: 1/77.
00087	ACEPHATE TOMATOES (GH) WHITEFLIES, APHIDS, LEAFMINERS	OH,NC,TN, IN, ARS(MD)	NC NE S	I	02	E R	76:MI	CHEV	76 PROJECT:IN,OH. COOP PROJ WITH MFG. SUBMISSION: 3RD,77. TOL PEND:12/76. SEE PR 401.
00092	LINURON ASPARAGUS ANNUAL WEEDS	IN,MI,MD, ARS(MD), CA	NC NE W	H	02	R	76:DUPONT 77:DUPONT	DUPONT	PET SUB CA ONLY:3/76; 76 PROJECT FOR NAT LABEL: IN,MD,ARS(MD). REC EFF DATA FROM IN:1/77. 77 PROJECT:MI. SUBMISSION:4TH,77.
00109	PHORATE SORGHUM (GRAIN) GREENBUG, MITES	TX	S	I	02	E R	76:FL	ANCY	76 PROJECT:TX. REQUEST IS FOR 2 APPLICATIONS. SUBMISSION:3RD,77.
00130	CAPTAFOL HORSERADISHES CERCOSPORA, ALTERNARIA LEAFSPOT, WHITERUST, LEAF BLIGHT, ANTHRACONSE, ALTERNARIA	IL	NC	F	02	R	76:CHEV	CHEV	76 PROJ:IL. 77 PROJ:IL. MFG WILL CHECK ON RES WORK.
00138	BENOMYL LETTUCE (GH) DROP ROT, RHIZOCTONIA BOTTOM ROT, BOTRYTIS GRAY MOLD, SCLEROTINIA, SCLEROTIORUM	NY,NJ,PA, AZ. ARS(MD)	NE W	F	02	E R F	76:PA	DUPONT	76 PROJ:NY,NJ,ARS(MD). TOL PEND:11/76. AWAIT ON MFG PET, THEN 24(C).
00144	CARBOFURAN BIRDSFOOT TREFOIL PLANTBUGS	NY,VT,WV	NE	I	02	E R	76:NJ	FMC	76 PROJECT:VT. SUBMISSION:3RD,77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00145	CARBOFURAN CROWN VETCH PLANTBUGS	[illegible]5	NY,WV, ARS(NY)	NE	I	02	E R	76:NJ	FMC	76 PROJECT:ARS(NY). SUBMISSION:3RD,77.
00158	DIMETHOATE RASPBERRIES TARNISHED PLANT BUG	[illegible]6	NY,CT,VT, WV	NE	I	02	E R		AMCY	ANALYSIS COMPLETED. AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00177	NAA (PAINT) APPLES INHIBITS SPROUTING OF DORMANT BUDS	[illegible]6	ME,NC	NE S	P	02	E R		AMCHEM	TOL EST. EUP ISSUED TO MFG:9/76. MFG EUAL 76 RESULTS. 77 PROJ:NE. NC PLANS 24(C):3/77. SUBMISSION:79.
00184	DICHLOROVOS SHEEP SHEEP NOSE BOT	[illegible]5	IA,KY	NC S	I	02	E R		SHELL	KY HAS EFF DATA. IA HAS NO INT AS A 77 PROJ.
00187	ATRAZINE MILLET (PROSO) BROADLEAF WEEDS + GRASSES	[illegible]5	MN,CO,NB, MI	NC W	H	02	E R	76:MI	C-G	76 PROJ:MN,NB. EFF DATA FROM CO,NB,MN:12/76. SUBMISSION:2ND,77.
00193	PARATHION PEACHES SCALES, PEACH TREE BORER, SHOT HOLE BORER, MITES, LEAFHOPPERS	[illegible]6	SC,GA,NC	S	I	02	E R		MONS	CAND 24(C).
00200	PCNB CRUCIFERS (GH) TRANSPLANT WATER DRENCH, BLACK ROT, BLACKLEG	[illegible]5	NJ,PA,WV	NE	F	02	E		OLIN	76 PROJ:NJ,PA. RES DATA FROM NY:3/77. SUBMISSION: 4TH.77.
00205	BENOMYL VEGETABLES (PLANTS) ROOT ROT	[illegible]5	NJ,NY	NE	F	02	E F	76:PA	DUPONT	76 PROJ:NJ. EFF DATA FROM NY:11/76. SUBMISSION:78.
00208	DIAZINON GINGER APHIDS, BEETLES, CHEWING CATERPILLARS	[illegible]5	HI	W	I	02	E R	76:HI	C-G	76 PROJECT:HI. HI DEVELOPING DATA. SUBMISSION:2ND,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00210	CARBARYL COFFEE PEACH TWIG BORER	[redacted] HI	W	I	02	E R		UC	
00211	MALATHION TARO TARO LEAFHOPPER, APHIDS	[redacted] HI	W	I	02	E R		AMCY	
00214	DIURON COFFEE WEEDS	[redacted] HI	W	H	02	E R		DUPONT	MFG REQUIRES PHYTOTOX DATA.
00216	DBCP PAPAYA NEMATODES	[redacted] HI	W	N	02	E R		DOW	MFG WILL SUPPORT:1/77.
00230	FERBAM BLUEBERRIES SHORTER PHI:ANTHRACNOSE	[redacted] PA,NJ, ARS(NJ)	NE	F	02	E R	76:NJ	RHODIA FMC	76 PROJ:ARS(NJ). EFF DATA FROM ARS(NJ):1/77. SUBMISSION:2ND.77.
00252	PARAQUAT VEGETABLES PREPLANT/PRE EMERGENCE WEED CONTROL	[redacted] PA,MD,IL, CA,OR,MI, FL,NY,NJ, ARS-GA,WA	NE NC S W	H	02	E R	76:CHEV 75:NJ 77:CHEV	CHEV	COOP PROJ WITH MFG. 76 PROJ:IL,CA,OR,MI,FL,NY,NJ MD. 77 PROJ:ARS(GA)(SNAP, LIMA),NJ,IL,MI. ONION PET SUB:2/77. SUBMISSION:4TH, 77.
00256	AZINPHOS METHYL PARSLEY CARROT WEEVILS	[redacted] NJ	NE	I	02	E	76:NJ	CHEMAG	76 PROJ:NJ. RES DATA FROM NJ:3/77. SUBMISSION:1ST, 78.
00259	AZINPHOS METHYL EGGPLANT COLORADO POTATO BEETLES	[redacted] NJ	NE	I	02	E R		CHEMAG	ANALYSIS IN PROGRESS. SUBMISSION:3RD.77. 76 PROJECT:NJ.
00265	METHIOCARB VEGETABLE BEDDING PLANTS (GH) SNAILS AND SLUGS	[redacted] TN,IL	NC S	N	02	E R	77:MI	CHEMAG	77 PROJ:IL. SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00272	CARBOFURAN SUGARCANE WHITE GRUBS	[redacted] ARS(TX), TX,PR,LA	S	I	02	E		FMC	MFG REQ CLARIFICATION OF USE PATTERN. SEE PR 657 FOR PESTS. 77 PROJ: ARS(TX). SUBMISSION:1ST. 78.
00276	METHOMYL FENNEL CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02			DUPONT	CAT 00 PET REJ:11/76. SAME SITE AS PR 277.
00277	METHOMYL ANISE CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02			DUPONT	CAT 00 PET REJ:11/76. SEE PR 276.
00279	METHOMYL CHINESE CABBAGE CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02	E R		DUPONT	PET IN PREP FOR LEAFY VEG. SUBMISSION:2ND,77. SEE PR 43.
00281	METHOMYL RADISHES CABBAGE LOOPER, BEET ARMYWORM, FLEA BEETLES	[redacted] AZ	W	I	02	E R		DUPONT	FOR ROOT CORP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ. SUBMISSION:4TH, 77.
00282	METHOMYL BEETS (GARDEN) CABBAGE LOOPER, BEET ARMYWORM, FLEA BEETLES, VARIEGATED CUTWORM	[redacted] AZ,OR,ID, WA	W	I	02	E R		DUPONT	FOR ROOT CROP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ,OR. SUBMISSION: 4TH,77.
00299	METHIDATHION SAFFLOWER BANDED SUNFLOWER MOTH, SUNFLOWER MAGGOT,SUNFLOWER BLOSSOM MIDGE, JUNIPERTIP MIDGE	[redacted] CA	W	I	02	E R		C-G	AWAITING RES DATA FROM CA. CAND 77 PROJ:CA. MFG OK: 2/77. SUBMISSION:2ND,78.
00305	BENOMYL SWEET POTATOES FUSARIUM WILT	[redacted] CA,NJ,MD	NE W	F	02	E R	76:PA	DUPONT	76 PROJ:MD,CA. DATA: DUPONT(E),NY(R):2/77. DATA NOW COMPLETE. SUBMISSION:3RD,77. SEE PR 503.
00325	ACEPHATE COLLARDS DIAMOND BACKED MOTH, CABBAGE LOOPERS, CATERPILLARS, APHIDS	[redacted] NC,VA,AL, FL,GA	S	I	02	E R	76:GA	CHEV	76 PROJECT:VA,AL. SUBMISSION:3RD,77. REC EFF DATA FROM VA: 2/77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00338	ORYZALIN SWEET POTATOES WEEDS	[redacted]	MS,NC,LA, MD,VA,SC, GA,AR,TN	NE S	H	02	E R	76:FL	ELANCO	76 PROJECT:VA,NC,MS. SUBMISSION:4TH,77. REC EFF DATA FROM TN:11/76
00343	DCPA CARROTS DODDER WEED	[redacted]	MD,OH	NC NE	H	02	E R	76:NY	D-S	76 PROJECT:MD,OH. SUBMISSION:3RD,77.
00348	DALAPON WALNUTS WEEDS	[redacted]	OH	NC	H	02	E R		DOW	WAITING FOR USE PATTERN FROM FOREST SERVICE.
00366	PARAQUAT RHUBARB DORMANT WEED CONTROL	[redacted]	OR	W	H	02	E R	77:CHEV	CHEV	COOP PROJ WITH MFG. NO COOP IN 76. PA WITHDRAW REQUEST:1/77. 77 PROJ:MI. SUBMISSION:3RD,78.
00381	ATRAZINE GRASS (ORCHARD + FESCUE) (SEED CROP) WINTER ANNUAL WEEDS	[redacted]	OR	W	H	02	R		C-G	MFG OK:10/76. MFG SENT EFF DATA TO EPA:10/76.
00407	BACILLUS THRUINGIENSIS + METHOMYL COLE CROPS CABBAGE LOOPERS, CABBAGE WORMS, DIAMOND BACKED MOTHS	[redacted]	NC,VA	S	I	02	E R	76:VA	DUPONT	76 PROJECT:VA. SUBMISSION:1ST,77.
00416	ETHION BLUEBERRIES BUD MITE	[redacted]	NC	S	I	02	E R		FMC	NEEDS TOL.
00445	DIMETHOATE CORN (SWEET) THRIPS	[redacted]	OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).
00446	DIMETHOATE GRASS (SEED CROP) APHIDS, BROWN CLOVER MITE	[redacted]	OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).

PR. NO	PESTICIDE / CONNODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00480	ENDOSULFAN PAPAYA LEAFHOPPERS, PAPAYA FRUIT FLY	[redacted]	PR	S	I	02	E R		FMC	POSSIBLE ADI PROB. MFG OK:10/76.
00493	PARAQUAT YAMS POSTEMERGENT DIRECT WEED CONTROL	[redacted]	PR	S	H	02	E R		CHEV	LOW PRIORITY. MFG OK: 10/76. 77 PROJECT:PR.
00494	PARAQUAT TANIERS POSTEMERGENT DIRECT WEED CONTROL	[redacted]	PR	S	H	02	E R		CHEV	LOW PRIORITY. MFG OK: 10/76.
00502	PARAQUAT PEAS (PIGEON) UNSPECIFIED WEEDS	[redacted]	PR	S	H	02	E R	77:ARS-GA	CHEV	MFG OK:10/76. 77 PROJ:PR. SUBMISSION:1ST,78.
00503	BENOMYL YAMS COLLECTOTRICHUM ANTHRACNOSE	[redacted]	PR	S	F	02	E R		DUPONT	MFG OK:10/76.
00515	METHOMYL HORSERADISHES BEET LEAFHOPPER	[redacted]	IL	NC	I	02	E R F	77:MI	DUPONT	TOL OF 0.2 PPM EST ON ROOT CROP VEG. NEED CONFIRM DATA. MFG STILL INTERESTED 77 PROJ:IL. SUBMISSION: 3RD,78. SEE PR 516.
00525	DIURON MANGOES UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted]	FL	S	H	02	E R F	77:DUPONT		MFG OK. MFG TO PERFORM RES ANAL:9/76. SUBMISSION: 4TH,78.
00539	DIAZINON ASPARAGUS ASPARAGUS MINER	[redacted]	MA	NE	I	02	E R		C-G	77 PROJECT:MA. SUBMISSION:3RD,78.
00547	DINOSEB BEANS (LIMA, SNAP, SOUTHERN PEA) UNSPECIFIED WEEDS	[redacted]	ARS(MD), MD,AR,NC	NE S	H	02	E		DOW	77 PROJ:ARS(MD),AR,GA. LABELLED WEST OF ROCKIES FOR FLD BEANS. SUBMISSION: 4TH,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00548	DCPA RHUBARB UNSPECIFIED WEEDS	[redacted] ARS(MD), MD	NE	H	02	E R	77:NY	D-S	MFG OK IF NO PHYTOTOX: 10/76. 77 PROJ:ARS(MD), MD. SUBMISSION:2ND.77.
00566	METHONYL AVOCADOS OMNIVOROUS LEAFROLLER, MEXICAN LEAFROLLER, AVACADO LOOPER	[redacted] CA	W	I	02	E R	76:DUPONT	DUPONT	MFG ANAL CA SAMPLES:10/76.
00567	ETHEPON GRAPES (MUSCADINE) HARVEST AID	[redacted] NC,GA	S	P	02	E R	77:VA	AMCHEM	TEMP TOL OF 10 PPM EST. MFG PET TO EPA:9/76. MUSCADINE NOT ON LABEL. 77 PROJ:GA. SUBMISSION: 2ND,78.
00571	CHLOROTHALONIL PEPPERS ANTHRACNOSE	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. MFG WANTS PET HELD:2/77.
00574	CHLOROTHALONIL COLLARDS DOWNY MILDEW	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572.573. MFG WANTS PET HELD.
00575	CHLOROTHALONIL KALE DOWNY MILDEW	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572.573. MFG WANTS PET HELD.
00577	CHLOROTHALONIL STRAWBERRIES GRAY MOLD LEAFSPOT	[redacted] NJ,NH,CT	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. MFG WANTS PET HELD:2/77.
00649	METRIBUZIN PEAS (PIGEON) PREEMERGENT WEED CONTROL	[redacted] PR	S	H	02	E R	77:VA	CHEMAG DUPONT	MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING. TOL PEND ON PEA + FORAGE: 12/76. 77 PROJ:PR. SUBMISSION:4TH,77.
00666	FONOFOS TOMATOES (GH) GARDEN SYMPHYLAN	[redacted] IN	NC	I	02	E R		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C). MAY NEED CONF RES DATA FOR GH USE.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00667	FONOFOS LETTUCE (GH) GARDEN SYMPHYLAN	[redacted]	IN	NC	I	02	E R		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C). MAY NEED CONF RES DATA FOR GH USE.
00674	ETHION MANGOES OLEANDER SCALE	[redacted]	FL	S	I	02	E R	77:FL	FMC	FL PREFERS THIS TO PR 673. MFG OK FOR 24(C):11/76. ADI PRO. 77 PROJ:FL. SUBMISSION:2ND,78.
00677	PHORATE SWEET POTATOES CUCUMBER BEETLE LARVAE, WIREWORMS	[redacted]	FL	S	I	02	E R	77:FL	AMCY	FL PREFERS THIS TO PR 676. 77 PROJ:FL. SUBMISSION: 2ND,78.
00705	ALUMINUM PHOSPHIDE GRAPEFRUITS, PAPAYA, MANGOES, AVOCADOES CORN BLOTCH LEAFMINER COMPLEX	[redacted]	ARS(SC), FL,HI	S W	I	02	E R		PHOTOX	RESEARCH UNDER WAY IN FL, HI. REQ SOME DATA ON ALL 4 COMMOD. SUBMISSION:79.
00709	OXAMYL CELERY NORTHERN ROOT-KNOT NEMATODE	[redacted]	OH	NC	N	02	E R	77:MI	DUPONT	TOL OF 3 PPM EST. LABELLED FOR LEAFMINER IN FL. HIGHER RATE + NEW USE PATTERN. 77 PROJ:OH. SUBMISSION:4TH,78.
00711	CAPTAFOL BLUEBERRIES ANTHRACNOSE, FRUIT ROT, PHOMOPSIS, FUSICOCCUM, MUMMYBERRY	[redacted]	ARS(NJ)	NE	F	02	E R		CHEV	TOL EST + LABELLED FOR GRND USE. REQ IS FOR AIR APPLICA SO E+R DATA ARE NEEDED. 77 PROJ:ARS(NJ). SUBMISSION:1ST,78. SEE PR 181.
00713*	SIMAZINE CABBAGE (SEED CROP) WINTER ANNUAL WEEDS	[redacted]	ID	W	H	02	E F		C-G	
00716*	OXADIAZON ONIONS (SEED CROP) WEEDS	[redacted]	ID	W	H	02	E F		RHODIA	
00717*	EPTAM RADISHES (SEED CROP) NIGHTSHADE	[redacted]	ID	W	H	02	E F		STAUFF	TOL OF 0.1 PPM EST ON ROOT CORP VEG. POSSIBLE 24(C)

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00718*	TRIFLURALIN + EPTAM TURNIPS (SEED CROP) GRASSES, BROADLEAF WEEDS, NIGHTSHADE	[redacted]	ID	W	H	02	E F	ELANCO	TOL EST OF BOTH EPTAM AND TRIFLURALIN ON ROOT CROP VEG. POSSIBLE 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00001	ALDICARB CUCUMBERS (GH) GREENHOUSE WHITEFLY, VEGETABLE, LEAFMINER, TWO-SPOTTED SPIDER MITE, APHID	[redacted] OH,IN,MI, NC	NC S	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN. SUBMISSION:78. 77 PROJECT:OH.
00003	ALDICARB TOMATOES (GH) GREENHOUSE WHITEFLY, VEGETABLE LEAFMINER, TWO-SPOTTED SPIDER MITE, APHID	[redacted] OH,NC,OR, IN,MI,GA	NC S W	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN,OH,NC. SUBMISSION:3RD,78. 77 PROJECT:OH,IN.
00006	BENOMYL ONIONS, GARLIC BOTRYTIS LEAF BLIGHT, SCLEROTIUM WHITE ROT, ROOT DISEASES	[redacted] ARS(MD), PA,NJ,AR, NY,NC,WA, CA,OR	NE S W	F	03	E R	76:NY 77:NY	DUPONT	76 PROJ:OR,ARS(MD),NJ,WA. DATA:ARS(MD),NJ(E): 11/76,CA(E+R):1/77. 77 PROJ:ARS(MD). CAND:CA,WA. SUBMISSION:2ND,78.
00014	CHLOROPHACINONE APPLES PINE VOLE, MEADOW VOLE	[redacted] VA,NC,WV	NE S	R	03	E V		CHEMPR	WAITING FOR ENV DATA FROM MFG.
00019	CARBOFURAN CRANBERRIES ROOT WEEVILS	[redacted] WA,OR	W	I	03	E R	76:WA	FMC	NON-IRRIGATED CRANBERRIES ONLY. 76 PROJ:WA. NJ,NY, WI,MA WITHDRAWS REQUESTS: 1/77. SUBMISSION:79.
00020	CHLORPYRIFOS CRUCIFERS ROOT MAGGOT, CABBAGE MAGGOT	[redacted] NY,WA,ID, HI,MI,WI	NC NE W	I	03	E R	76:MI	DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77; NY(R):1/77. MFG OK: 1/77. SUBMISSION:3RD. 77. SEE PR 452, 29.
00052	RONNEL HORSES LICE, FLIES	[redacted] CO,AZ,UT, NV,WY,WA, ARS(TX), CA	S W	I	03	E R		DOW	76 PROJECT:ARS(TX). SUBMISSION:3RD,77.
00063	ALDICARB PECANS APHIDS, MITES, NEMATODES, LEAF PHYLLOXERA, PECAN BUD MOTH	[redacted] GA,MS,SC, AL	S	I N	03	E R	76:FL 76:ARS-GA 76:UC	UC	76 PROJECT:SC,MS,GA,AL, SUBMISSION:3RD,77. SEE PR 563.
00066	CHLORPYRIFOS GRAPES GRAPE ROOT BORER	[redacted] AR,SC,NC, GA	S	I	03	E R	76:VA	DOW	76 PROJ:SC. MFG WILL SUPPORT:1/77. SUBMISSION AFTER EVAL OF DATA.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00077	CARBOFURAN BLUEGRASS (SEED CROP) BILLBUGS, CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted]	WA,AZ,OR	W	I	03	E R		FMC	
00078	CHLORPYRIFOS BLUEGRASS (SEED CROP) CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted]	WA	W	I	03	E R	76:CA	DOW	76 PROJECT:WA. SUBMISSION:4TH,77.
00088	OXYTETRACYCLINE PEACHES TRUNK INJECTION:MYCOPLASMA DISEASES, FOLIAR SPRAY:BACTERIAL SPOT	[redacted]	ARS(MD), SC,MI	NC NE S	F	03	E R		PFIZER	2 USE PATTERNS:TRUNK INJ + FOLIAR SPRAY.SPRAY PET SUB + REJECTED FOR INCOMPL RES DATA. INJ PET SUBMITTED: 11/76. EUP TO NY FOR INJ; 12/76. 77 PROJ:ARS(MD).
00089	ACEPHATE CRANBERRIES CRANBERRY FRUITWORM, CRANBERRY SPANWORM, CRANBERRY FIREWORMS, SPARGANOTHIS FRUITWORM, CRANBERRY BLOSSOM WORM	[redacted]	MA,CT,PA, NJ,WI,WA	NC NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	COOP PROJ WITH MFG. HAVE 76 PROJ:MA,NJ,WI,WA. 77 PROJ:WI. SUBMISSION:1ST. 78. 4,75,76 EFF DATA FROM WI.
00090	PARAQUAT MINT WINTER ANNUAL WEEDS, BROADLEAF WEEDS, GRASSES, RUSSIAN THISTLE	[redacted]	WA,OR,ID, ARS(WA), WI	NC W	H	03	E R	76:CHEV	CHEV	COOP PROJ WITH MFG. 76 PROJ:WA,WI,OR. 77 PROJ: ARS(WA). SUBMISSION:3RD. 77.
00091	GLYPHOSATE ASPARAGUS COMMON MILKWEED, FIELD BINDWEED, HORSENETTLE	[redacted]	ARS(MD), IN,MI,CA, MD,NJ,IL, ARS(WA), NC	NC NE W S	H	03	E R	76:MONS 77:MONS	MONS	76 PROJ:IN,MI,MD,NJ. ARS(MD). COOP PROJ WITH MFG. DATA:IN(E):1/77. 77 PROJ:ARS(MD,WA),NC. MN, SUBMISSION:79.
00095	DIMETHOATE SQUASH LEAFMINERS, APHIDS	[redacted]	ARS(SC), ARS(IN), GA	NC S	I	03	E R		AMCY	SUSPECT CHEM. 77 PROJ:ARS(SC,IN). SUBMISSION:79.
00103	FENSULFOTHION SPINACH WHITE GRUBS	[redacted]	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00104	FENSULFOTHION CABBAGE WHITE GRUBS	[redacted]	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00105	FENSULFOTHION BEETS (GARDEN) WHITE GRUBS	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00106	FENSULFOTHION CARROTS WHITE GRUBS	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00117	RESMETHRIN CUCUMBERS (GH) WHITEFLIES	OH,MA	NC NE	I	03	E R F		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00134	BENOMYL BEETS (GARDEN) ROOT ROT, RHIZOCTONIA, CERCOSPORA, PYTHIUM	NY,AR	NE S	F	03	E R	76:NY	DUPONT	76 PROJ:NY. EFF DATA FROM NY:11/76. SUBMISSION:4TH, 77.
00135	BENOMYL BRUSSEL SPROUTS BOTRYTIS, SCLEROTINIA, ALTERNARIA, SOD ROOT ROT	NY,OR,AR	NE S W	F	03	E R	76:NY	DUPONT	76 PROJ:NY. EFF + RES DATA FROM NY:3/77. SUBMISSION:4TH,77.
00136	RESMETHRIN TOMATOES (GH) GREENHOUSE WHITEFLIES	OH,NC,NJ, MA,MI	NC NE S	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76. 77 PROJ:OH,MI?
00151	PHOSMET BLUEBERRIES BLUEBERRY MAGGOT, THRIPS	NH,NJ	NE	I	03	E R		STAUFF	HELD IN 76 BY ME FOR MORE EFF DATA. ME WITHDRAWS REQUEST:4/77. SUBMISSION:79.
00153	2,4-DB GRASS (FORAGE) WEEDS	NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	AMCHEM	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00156	DIMETHOATE CARROTS ASTER LEAFHOPPER, APHIDS	NY,WV,OR	NE W	I	03	E R	76:NY	AMCY	76 PROJ:NY. EFF + RES DATA FROM NY:1/77. SUSPECT CHEMICAL. SUBMISSION: 3RD,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00157	RESMETHRIN LETTUCE (GH) GREENHOUSE WHITEFLY	[redacted] OH	NC	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00173	NEODECANOIC ACID ONIONS DESSICANT	[redacted] NY,MD	NE	D	03	E R	76:NY	AGWAY	METHOD APPROVED BY EPA. 76 PROJECT:NY. SUBMISSION: 3RD,77.
00198	GLYPHOSATE CRANBERRIES WEEDS	[redacted] NJ,MA,WI, ARS(NJ)	NC NE	H	03	E R	76:MONS 77:MONS	MONS	76 PROJ:ARS(NJ). 77 PROJ: ARS(NJ). WI HAS DATA. SUBMISSION:80.
00199	TERBACIL CRANBERRIES WEEDS	[redacted] NJ,CT,WV, WA,WI,MA, ARS(NJ)	NC NE W	H	03	E R	76:DUPONT 77:DUPONT	DUPONT	76 PROJECT:WA,WI,MA, ARS(NJ). 77 PROJ: ARS(NJ). SUBMISSION:78.
00215	GLYPHOSATE PAPAYA PERENIAL WEEDS	[redacted] HI	W	H	03	E R		MONS	
00217	DICOFOL TARO SPIDER MITES	[redacted] HI	W	I	03	E R		R+H	
00221	CHLORPROPHAM BIRDSFOOT TREFOIL WEEDS	[redacted] NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	PPG	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00253	GLYPHOSATE VEGETABLES QUACKGRASS, CANADA THISTLE, BRAMBLES	[redacted] AR,TN,TX, PA,CT,ND, WV,MI,NC, ARS(TX)	NC NE S	H	03	E R	77:FL	MONS	77 PROJ:MI,CT,PA:FOR LETTUCE, SPINACH, CABBAGE (FALL CROP):AR,TN, TX. MFG PET FOR ROOT CROP VEG. SUBMISSION:80.
00266	METHOXYCHLOR PECANS, CHESTNUTS NUT WEEVILS	[redacted] ARS(GA), TN	S	I	03	E R	76:VPI 77:GA	DUPONT	76 PROJECT:AL,TN,ARS(GA). 77 PROJ:ARS(GA). AL WITHDRAWS:2/77. SUBMISSION:2ND,78.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00275	2,4-DB		TX	S	H	03	E R		RHODIA	POSSIBLE CAT 01 IF USE PATTERN SAME AS ALFALFA. TX WILL ADVISE.
	GUAR									
	BROADLEAF WEEDS:PIGWEED									
00284	NAA		AZ,CA	W	P	03	E R		AMCHEM	PET IN PREP.
	TANGARINES									
	FRUIT THINNING									
00285	PARAQUAT		AZ	W	H	03	E R	77:CHEV	CHEV	76 PROJECT:AZ. SUBMISSION:4TH,77.
	PLANTAGO									
	WINTER AND ANNUAL WEEDS									
00286	NAA		AZ,CA	W	P	03	E R		AMCHEM	PET IN PREP.
	MANDARINS									
	FRUIT THINNING									
00289	PROPACHLOR		ND,MN	NC	H	03	E R	76:MI 77:MI	DOW	76 PROJECT:ND,MN. 77 PROJ:ND,MN. SUBMISSION:3RD,77.
	WHEAT, BARLEY, OATS									
	SESBANIA									
00291	PROPACHLOR		ARS(IL), NC,MN	NC	H	03	E R	76:ND 77:ND	DOW	76 PROJECT:ND. 77 PROJ:ND,MN,ARS(IL). SUBMISSION:3RD,78.
	FLAX									
	SESBANIA									
00306	CHLOROTHALONIL		CA	W	F	03	E R		D-S	MFG WANTS PET HELD:2/77.
	FIGS									
	SURFACE ROT.(ALTERNARIA ALTERNATA)									
00313	ETHEPHON		NC,TX	S	P	03	E R	76:FL	AMCHEM	76 PROJECT:OH,NC. DATA: OH(E),NC(E),FL(R):3/77. SUBMISSION:3RD,77.
	CUCUMBERS									
	INCREASE FRUIT SETS									
00329	ETHOPROP		NC,VA,OK, ARS(MO), AL	NE S	N	03	E R	76:NC 76:ARS-MO	MOBIL	76 PROJECT:NC,VA,ARS(MO). 77 PROJ:ARS(MO). SUBMISSION:78.
	ROOT + TUBER CROPS									
	LESION NEMATODES, ROOT-KNOT NEMATODES, SPIRAL NEMATODES									

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00330	ETHOPROP BULB CROP NEMATODES	[redacted]	NC,VA,OK, ARS(MD), AL	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC,VA. 77 PROJ:ARS(MD). SUBMISSION:78.
00331	ETHOPROP VEGETABLES (LEAFY BRASSICA) NEMATODES	[redacted]	NC,VA,OK, ARS(MD), AL	NE S	N	03	E R	76:VA	MOBIL	76 PROJECT:VA. 77 PROJ:ARS(MD). SUBMISSION:78. EUP TO MFG:1/77.
00332	ETHOPROP VEGETABLES (LEAFY) NEMATODES	[redacted]	NC,VA,OK, ARS(MD), AL	NE S	N	03	E R	75:NC 76:ARS-MD	MOBIL	76 PROJECT:NC,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.
00333	ETHOPROP VEGETABLES (STEM) NEMATODES	[redacted]	NC,VA,OK, AL	S	N	03	E R		MOBIL	
00334	ETHOPROP VEGETABLES (LEGUMES) NEMATODES	[redacted]	NC,VA,OK, ARS(MD), AL	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC. 77 PROJ:ARS(MD). SUBMISSION:78. EUP TO MFG:1/77.
00335	ETHOPROP VEGETABLES (BUSH + VINE, EDIBLE PEEL) NEMATODES	[redacted]	NC,VA,OK, ARS(MD), AL	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:VA,NC,ARS(MD). 77 PROJ:ARS(MD),VA. SUBMISSION:78.
00336	ETHOPROP VEGETABLES (BUSH + VINE, INEDIBLE PEEL) NEMATODES	[redacted]	NC,VA,OK, AL	S	N	03	E R		MOBIL	NO 76 SAMPLES DUE TO DRY WEATHER.
00341	DIAZINON MUSHROOMS CORN SILK FLY, SCIARID MUSHROOM FLIES	[redacted]	ARS(MD), DE	NE	I	03	E R	76:CSCO	C-G	76 PROJECT:ARS(MD). SUBMISSION:4TH,77. EUP ISSUED TO DE:9/76.
00342	PCNB + TERRAZOLE CUCUMBERS PYTHIUM, RHIZOCTONIA	[redacted]	MS,NC	S	F	03	E R		OLIN	

NOTICES

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00344	CAPTAFOL CARROTS CEROSPORA LEAFSPOTS, LEAF BLIGHT, BACTERIAL BLIGHT	[redacted] OH,TX,WI, FL	NC S	F	03	E R	76:CHEV	CHEV	76 PROJECT:WI,OH,TX,FL. EUP TO MI. SUBMISSION:4TH, 77. REC EFF & RES DATA FROM MI:1/77.
00345	CARBOFURAN GRAPES BLACKVINE WEEVIL	[redacted] ARS(WA)	W	I	03	E R	76:ARS-WA	FMC	PEND TOL:6/76. 76 PROJ: ARS(WA). EFF DATA FROM ARS(WA):1/77. NOT AN ARS PROJ IN 77. SUBMISSION: 78.
00370	FENSULFOTHION JAPANESE RADISHES ROOT MAGGOTS	[redacted] ARS(WA), OR	W	I	03	E R		CHEMAG	77 PROJECT:ARS(WA). SUBMISSION:79.
00372	ACEPHATE ASPARAGUS CUTWORMS, ARMYWORMS, BEETLES, APHIDS	[redacted] WA,MI,DE, CA	NC NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:WA,MI,CA. 77 PROJ:DE,MI,WA. MFG'S PROJ IN MI,WA. SUBMISSION: 4TH, 77.
00373	ACEPHATE STRAWBERRIES FLOWER THRIPS, LEGUME BUG, TARNISHED PLANT BUG	[redacted] CA,NJ,NH	NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:CA,NJ. COOP PROJ WITH MFG. 77 PROJ: NJ,CA. SUBMISSION:4TH,77. SUBMISSION:2ND,77 FOR CA ONLY.
00374	ACEPHATE BLUEBERRIES CHERRY FRUITWORM, CRANBERRY FRUITWORM	[redacted] NJ,WA,MI	NE NC	I	03	E R	76:NY 77:CHEV	CHEV	76 PROJECT:NJ,MA. COOP PROJ WITH MFG. 77 PROJ NJ. SUBMISSION:3RD,78.
00375	CAPTAFOL SUGAR BEETS CERCOSPORA	[redacted] ND,MI,OH, TX,CO,NM	NC W S	F	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:OH,MI,TX,CO,NM. COOP PROJ WITH MFG. 77 PROJ:MI,NM,CO,TX. SUB-MISSION:4TH,78.
00376	CAPTAFOL CHERRIES CHERRY LEAFSPOT	[redacted] MI	NC	F	03	E R	76:CHEV	CHEV	76 PROJECT:MI. COOP PROJ WITH MFG. SUBMISSION:3RD, 77.
00378	PARAQUAT ONIONS DESSICANT (HARVEST AID)	[redacted] WA,PA,NJ, MI,NY	NC NE W	D	03	E R	76:NY 77:MI	CHEV	76 PROJ:MI. 77 PROJ:MI. MFG'S PROJ:FL,OR. SUBMISSION:3RD,78.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00379	TERRAZOLE + THIOPHANATE METHYL VEGETABLES (BEDDING PLANTS) (GH) DAMPING OFF, PHTHIUM, RHIZOCTONIA, FUSARIUM	[redacted]	NJ	NE	F	03	E R	MALLIN	WAITING FOR MFG COMMENTS:1/77.
00380	BUTRALIN CUCUMBERS BROADLEAF WEEDS AND GRASSES	[redacted]	NC,MD,GA, SC,AR,VA, CT,TX,FL	NE S	H	03	E R	76:FL	ANCHEM	76 PROJECT:NC,GA,SC,AR, VA. EFF DATA FROM AR: 3/77. SUBMISSION:2ND.77.
00387	PRONAMIDE STRAWBERRIES GRASSES	[redacted]	OR	W	H	03	E R		R+H	PET IN PREP. SUBMISSION: 2ND,77.
00395	CHLOROTHALONIL PEAS (ENGLISH) LEAFSPOTS, POWDERY MILDEW	[redacted]	NC	S	F	03	E R		D-S	NC ASKED TO HOLD IN 77.
00397	CHLOROTHALONIL SPINACH WHITE RUST, LEAFSPOTS	[redacted]	NC,AR,TX	S	F	03	E R	76:FL	D-S	76 PROJECT:TX,NC. D-S HAS DATA. SUBMISSION:4TH,77. SEE PR 273. MFG WANTS PET HELD: 2/77.
00398	BENOMYL + CHLOROTHALONIL PAPAYA POST HARVEST USE FOR RHIZOPUS, PEDUNCLE INFECTION	[redacted]	HI	W	F	03	E R		DUPONT D-S	CHLOROTHALONIL REJECTED: 4/77, SUBMISSION:1ST,77.
00399	CHLOROTHALONIL MINT LEAFSPOT (SEPTORIA MENTHICOLA), SPEARMINT RUST (PUCCINIA MENTHAE)	[redacted]	WI,MI,IN, WA	NC W	F	03	E R	76:MI	D-S	76 PROJ:IN. RES DATA FROM MI:1/77. MFG WANTS ALL PET HELD:2/77. SUBMISSION:79.
00417	CARBOFURAN CUCUMBERS, SQUASH LEAFMINER, PICKLEWORM, SQUASH VINE BORER	[redacted]	NC,AL	S	I	03	E R	76:FL	FMC	76 PROJ:AL. TOL PEND ON BOTH CROPS:12/76. SUBMISSION:79.
00424	CARBOFURAN MINT STRAWBERRY ROOT WEEVIL, MINT ROOT WEEVIL	[redacted]	ID,OR,WA, ARS(WA)	W	I	03	E R	76:OR	FMC	76 PROJ:OR. ARS(WA). 77 PROJ:ARS(WA). SUBMISSION:79.

ENTRIES

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00426	CARBOFURAN HOPS ROOT WEEVILS, BLACKVINE WEEVIL	[redacted]	ID,OR, ARS(WA)	W	I	03	ER	76:ARS-WA	FMC	76 PROJECT:ARS(WA),ID. SUBMISSION:79.
00427	METHOXYCHLOR WATER (CANALS) BLACK FLY	[redacted]	ID	W	I	03			MILLER	ID STILL INTERESTED. NEW MFG SO NEEDS REEVALUATION: 10/76.
00430	ACEPHATE MINT CUTWORMS, LOOPERS, APHIDS	[redacted]	OR,ID,MI, WA,IN	NC W	I	03	ER	76:CHEV	CHEV	76 PROJECT:MI,WA,OR,ID,IN. COOP PROJ WITH MFG. SUBMISSION:3RD,77. SEE PR 461.
00433	BENTAZON MINT WEEDS:CANADA THISTLE	[redacted]	ARS(WA), OR,WI	NC W	H	03	ER	76:BASF	BASF	76 PROJ:OR. COOP PROJ WITH MFG. WI SENT SAMPLES TO MFG:1/77. SUBMISSION:2ND,77.
00438	CARBOFURAN CHINESE CABBAGE ROOT MAGGOTS	[redacted]	OR	W	I	03	ER		FMC	MFG ADVISES TO WAIT ON CRUCIFER REG.
00452	CHLORPYRIFOS ONIONS DION MAGGOT	[redacted]	OR,WA,WI, NY,MI, ARS(WA)	NC NE W	I	03	ER	77:MI	DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77: NY(R):1/77. 77 PROJ:WI. NY,ARS(WA). SEE PR 20, 29. SUBMISSION:3RD,78.
00453	CHLORPYRIFOS MINT CUTWORMS, ROOT BORERS	[redacted]	OR, ARS(WA)	W	I	03	ER	76:OR	DOW	76 PROJECT:OR,ARS(WA). MFG WILL SUPPORT:1/77. SUBMISSION:79.
00455	FONOFOS HOPS SYMPHYLIDS	[redacted]	OR	W	I	03	ER		STAUFF	
00456	FENSULFOTHION CHINESE CABBAGE ROOT MAGGOTS	[redacted]	ARS(WA), OR	W	I	03	ER		CHEMAG	77 PROJ:ARS(WA). SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00461	METHAMIDOPHOS MINT LOOPERS	[redacted]	OR	W	I	03	E R		CHEMAG	WORK IN PROGRESS ON PR 430.
00475	FENSULFOTHION COFFEE	[redacted]	PR	S	N	03	E R		CHEMAG	
00498	FENAMIPHOS PINEAPPLE ROOT-KNOT NEMATODES, SPIRAL NEMATODES, LESION NEMATODES, RING NEMATODES	[redacted]	PR	S	N	03	E R	77:ARS-GA	CHEMAG	TWO DIFF USE PATTERNS. TEMP TOL FOR HI EXP:9/76. COMPLETE DATA PKG REQ FOR PR. MFG OK:11/76. 77 PROJ: PR. SUBMISSION:79.
00504	PIRIMIPHOS-ETHYL BANANAS BANANA ROOT BORER	[redacted]	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00505	PIRIMIPHOS-ETHYL PLANTAINS BANANA ROOT BORER	[redacted]	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00522	PARAQUAT CHERRIES (BARBADOS) UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted]	FL	S	H	03	E R F	77:FL	CHEV	77 PROJECT:FL.
00523	GLYPHOSATE MANGOES UNSPECIFIED PERENIAL WEEDS	[redacted]	[redacted]	S	H	03	E R		[redacted]	
00533	SILVEX CRANBERRIES POISON IVY	[redacted]	MA,NH	NE	H	03	E R		DOW AMCHEM	DIOXIN PROD. NEED AQUATIC DATA. MFG FEELS REG TO BE DIFFICULT. DEPENDS ON IR-4 SUCCESS. DOW WILL SUPPORT:1/77.
00534	MALEIC HYDRAZIDE CRANBERRIES WILD BEAN	[redacted]	MA	NE	P	03	E R		UNIROY	1957-60 RES DATA AVAIL. NEED DATA ON AQUATIC ENV. MFG OK:10/76. 77 PROJ:MA. SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00551	GLYPHOSATE BLUEBERRIES PERENIAL WEEDS	[redacted]	ARS(NJ),RI,CT,NJ,NH,AR,NC,ARS(GA)	NE S	H	03	E R	77:NY	MONS	77 PROJ:ARS(NJ). SUBMISSION:80.
00554	BENTAZON BEANS (SNAP + LIMA) UNSPECIFIED WEEDS	[redacted]	ARS(GA),MD,WI	NE S	H	03	E R	77:NY 77:MI	BASF	MFG WORKING ON TOL FOR LIMA:11/76. MFG OK ON SNAP:11/76. 77 PROJ:MD,ARS(GA). WAIT ON PEA TOL. SUBMISSION:79. SEE PR 555.
00562	CHLORPYRIFOS STRAWBERRIES STRAWBERRY WEEVIL	[redacted]	MI,NY,WI	NC NE	I	03	E R	77:NY 77:MI	DOW	MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI,WI. SUBMISSION:79.
00569	PIRIMICARB SPINACH APHIDS	[redacted]	TX	S	F	03	E R		ICI	MFG OK:11/76. SUBMISSION:79.
00570	CHLORPYRIFOS PEANUTS LESSER CORNSTALK BORER	[redacted]	TX,OK	S	I	03	E R	77:VA	DOW	MFG WILL SUPPOT:1/77. REC EFF DATA FROM TX: 1/77. 77 PROJ:OK. SUBMISSION:79.
00578	CARBOFURAN BLUEBERRIES OTIORHYNCHUS WEEVILS, OBSCURE ROOT WEEVIL, WOODS WEEVIL	[redacted]	WA	W	I	03			FMC	76 PROJECT:WA. SUBMISSION:79.
00579	CARBOFURAN RASPBERRIES OTIORHYNCHUS WEEVILS, OBSCURE ROOT WEEVIL, WOODS WEEVIL	[redacted]	WA	W	I	03			FMC	76 PROJECT:WA. SUBMISSION:79.
00581	GLYPHOSATE PEPPERS PREPLANT PERENIAL WEEDS:NUTSEDGE, BERMUDA GRASS	[redacted]	LA,TN,NC	S	H	03	E R	77:FL	MONS	77 PROJ:TN,NC,LA. SUBMISSION:79. SEE PR 369.
00586	PROPACHLOR ONIONS CRABGRASS, PROSTATE SPRUGE	[redacted]	MI,IN,NY,OH,IN	NC NE S	H	03	E R	77:MSU 77:NY	DOW	MUCK SOILS. MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI,IL,IN. SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00588	CHLORPYRIFOS TOMATOES TOMATO FRUITWORM	[redacted] ARS(SC)	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. 77 PROJ:ARS(SC). SUBMISSION:79.
00589	TERRAZOLE BEANS (SNAP) (SEED TREATMENT) BLIGHT, ROOT ROT, PYTHIUM DAMPING OFF	[redacted] ARS(MD)	NE	F	03	E R	77:OLIN	OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. 77 PROJ:ARS(MD). SUBMISSION: 80.
00590	TERRAZOLE SOYBEANS (SEED TREATMENT) ROOT ROT, PHYTOPHTHORA DAMPING OFF	[redacted] ARS(MD)	NE	F	03	E R		OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. SUBMISSION:80.
00593	TERRAZOLE TOMATOES PYTHIUM	[redacted] FL	S	F	03	E R	77:FL	OLIN	PLUG MIX AT PLANTING. MFG OK:9/76. 77 PROJ: FL,GA. SUBMISSION:80.
00598	PARATHION ASPARAGUS ASPARAGUS BEETLE	[redacted] NY	NE	I	03	E R		MONS	
00613	CROTOXYPHOS + DICHLOROVOS HORSES BITING FLIES, FACE FLIES	[redacted] NY	NE	I	03	E R		SHELL	CROTOXYPHOS TOL NEEDED ON HORSEMEAT. 77 PROJ: NY. SUBMISSION:79.
00615	RABON POULTRY HOUSEFLY, LITTLE HOUSEFLY	[redacted] NY,NH	NE	I	03	E R		SHELL	RES DATA NEEDED FOR CHICKEN AND EGGS. BARN TRT. 77 PROJ:NY. SUBMISSION:79.
00617	FENSULFOTHION CRUCIFERS ROOT MAGGOT	[redacted] NY	NE	I	03	E R		CHEMAG	77 PROJ:NY. SUBMISSION: 79. SEE PR 323.
00618	FENSULFOTHION ROOT CROPS ROOT MAGGOTS	[redacted] NY	NE	I	03	E R		CHEMAG	RUTABAGA ALREADY LABELLED. SEE PR 326. 77 PROJ:NY. SUBMISSION: 79.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00620	CYHEXATIN EGGPLANT TWO-SPOTTED SPIDER MITES	[redacted]	NJ	NE	I	03	E R	77:NY	DOW	MFG WILL SUPPORT:1/77. 1ST CHOICE OVER PR 690. 77 PROJ:NJ. SUBMISSION: 79.
00630	CYHEXATIN WATERMELON TWO-SPOTTED SPIDER MITES	[redacted]	NC	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. 77 PROJ:NC. SUBMISSION: 79.
00632	PCNB RUTABAGA CLUBROOT (PLASMIDOPHORA BRSSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	[redacted]	NC	S	F	03	E R		OLIN	MFG OK:9/76.
00633	PCNB RADISHES CLUBROOT (PLASMIDOPHORA BRASSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	[redacted]	NC	S	F	03	E R		OLIN	MFG OK:9/76.
00637	BENOMYL EGGPLANT, PEPPERS BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	[redacted]	NC,PR	S	F	03	E R	77:DUPONT	DUPONT	MFG OK:10/76. 77 PROJ:NC. SUBMISSION:79.
00638	BENOMYL CARROTS, POTATOES, SWEET POTATOES BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	[redacted]	NC	S	F	03	E R	77:DUPONT	DUPONT	MFG OK:10/76. TOL PEND ON CARROTS 77 PROJ (POTATO + SWEET POTATO):NC. SUBMISSION: 79.
00648	OXAMYL PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, RENIFORM NEMATODES	[redacted]	PR	S	N	03	E R F		DUPONT	REQUEST GRAN SOIL + LIQ FOLIAR APPLICA. MFG WANTS TOL ON BANANA. THINKS PLANTAIN CAN BE ADDED: 10/76.
00651	OXYAMYL PINEAPPLE SPIRAL NEMATODES, RING NEMATODES, ROOT-KNOT NEMATODES, LESION NEMATODES	[redacted]	PR	S	N	03	E R	77:DUPONT	DUPONT	FOLIAR APPLICA. MFG REQU EUP + TEMP TOL FOR HI. MFG HAS SOME PR DATA + MAY INCLUDE PR IN TEMP TOL REQUEST:10/76. 77 PROJ:PR. SUBMISSION:79.
00652	CARBOFURAN GRASS (PASTURE) WHITE GRUBS	[redacted]	TX	S	I	03	E R		FMC	TOL EST ON ALFALFA.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00654	CHLORPYRIFOS SORGHUM (GRAIN) FALSE CINCH BUGS, STINKBUGS	TX,UT	W S		03	E R	77:WA	DOW	TOL EST ON CORN. CAND 77 PROJ:UT.
00662	PIRIMICARB GREENS APHIDS	TX	S	I	03	E R	77:ICI	ICI	SEE PR 84 FOR SAME PEST. 77 PROJ:NC. SUBMISSION: 80.
00668	2,4-D SOYBEANS HEDNSESBANIA	LA	S	H	03	E R	77:FL	DOW AMCHEM RHODIA	EPA ISSUED LA EXEMT TO USE 2,4-D:9/76. 77 PROJ:LA. SUBMISSION:3RD,78.
00669	CHLORBROMURON CARROTS GRASSES AND BROADLEAF WEEDS	WA	W	H	03	E R		C-G	
00671	RESMETHRIN VEGETABLES WHITEFLIES	NJ	NE	I	03	E R		PENICK	FOR USE IN HOME VEG GARDENS. MFG O :10/76 NO TOL.
00675	METHIDATHION MANGOES OLEANDER SCALE	FL	S	I	03	E R	77:FL	C-G	FL PREFERS THIS TO PR 673. METABOLITE PROB. 77 PROJ: FL. SUBMISSION:1:79.
00684	DICOFOL PAPAYA MITES:YELLOW SPIDER MITE, SPIDERMITES. BROAD MITE	HI	W	I	03	E R		R+H	
00686	SODIUM CHLORATE CORN DESSICANT	TX	S	D	03	E R	77:TX		NEED CATTLE FEED STUDIES TO REMOVE GRAZING RESTRIC. 77 PROJ(CROP STUDIES): TX. SUBMISSION:2ND,78.
00687	BENTAZON PEPPERS POSTEMERGENT CONTROL OF RAGWEED, COCKLEBUR, MORNINGGLORY	NC,LA,TX		H	03	E R	77:NC	BASF	77 PROJ:NC.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00690	OXAMYL EGGPLANT COLORADO POTATO BEETLE, APHIDS, MITES, NEMATODES	[redacted]	NJ	NE	I N	03	E R		DUPONT	NO. 2 CHOICE OVER PR 620.
00693	METHIOCARB STAWBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MN	CHEMAG	NEW USE. 77 PROJ:OH
00694	METHIOCARB RASPBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH.
00695	METHIOCARB GRAPES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH.
00696	METHIOCARB BLUEBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH. SUBMISSION: 78.
00698	CHLORPYRIFOS CHERRIES (SWEET & TART) LESSER PEACHTREE BORER	[redacted]	OH,MI	NC	I	03	E R	77:MI	DOW	APPLICA TO TRUNK AND LIMBS. 77 PROJ:MI. SUBMISSION:78.
00707	ETHYLENE DICHLORIDE GRAPES GRAPE ROOT BORER, SOIL FUMIGANT	[redacted]	GA	S	I	03	E R F	77:GA	WOOL	77 PROJ:GA. SUBMISSION: 3RD.78.
00710	NORFLURAZON HOPS ANNUAL AND PERENIAL WEEDS	[redacted]	ARS(WA), OR	W	H	03	E R		SANDOZ	77 PROJ:ARS(WA). CAND 77 PROJ:OR.
00723	POTASSIUM AZIDE ONIONS, GARLIC WHITE ROT (SCLEROTIUM CEPIVORUM)	[redacted]	ARS(MD)	NE	F	03	E F	77:ARS-MD	PPG	77 PROJ:ARS(MD).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00724	CHLORPYRIFOS APPLES CUTWORMS	[redacted]	ARS(WA)	NE	I	03	E R	DOW	NEW USE PATTERN. GROUND APPL. TOL PEND ON APPLES:12/76.
00728	CHLROPYRIFOS BLUEBERRIES BLACK VINE WEEVIL	[redacted]	IN,OH	NC	I	03	E R	DOW	

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00030	DIMETHOATE WHEAT, BARLEY APHIDS	[redacted]	ND,NB	NC	I	05			AMCY	MFG HANDLING.
00032	DIMETHOATE STRAWBERRIES TARNISHED PLANT BUGS	[redacted]	NY,WV,VT, CT	NE	I	05			AMCY	PEND TOL:9/75. NEED CHRONIC STUDIES. SEE PR 158, 159.
00050	CYHEXATIN CORN TWO-SPOTTED SPIDER MITES. BANKS GRASS MITE	[redacted]	UT,ID,WA, CO,NC,NJ	NE S W	I	05			DOW	MFG HANDLING. PROJ NEARLY COMPLETE:1/77.
00051	CYHEXATIN RASPBERRIES TWO-SPOTTED SPIDER MITES	[redacted]	UT,ID,WA, CO	W	I	05			DOW	MFG HANDLING:1/77. PROJ NEARLY COMPLETE:1/77. CAND 77 PROJ:UT.
00055	TERBACIL ALFALFA PERENIAL WEEDS	[redacted]	WY	W	H	05			DUPONT	SUBMISSION UNDER REVIEW. SEE PR 241.
00056	TOXAPHENE SUNFLOWER CUTWORM, THISTLE CATERPILLAR, SUNFLOWER CATERPILLAR	[redacted]	MN	NC	I	05			HERC	MFG HANDLING.
00068	NALED MUSHROOMS MYCETOPHILID MUSHROOM FLIES, PHORID MUSHROOM FLIES, SCIARID MUSHROOMFLIES	[redacted]	PA	NE	I	05			CHEV	SHORTER PHI REQUESTED.
00080	FONOFOS BLUEGRASS (SEED CROP) CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted]	WA	W	I	05			STAUFF	MFG HANDLING. WA OBTAINED 24(C):4/76.
00086	ALACHLOR CABBAGE BROADLEAF WEEDS, GRASSES	[redacted]	NC,VA,FL, OH,MI	NC S	H	05			MONS	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00097	METHIOCARB STRAWBERRIES SLUGS, SNAILS	[redacted]	OH,IL,VA	NC S	M	05			CHEMAG	MFG HANDLING.
00098	LINDANE PECANS PHYLLOXERAS, PECAN WOOD BORERS, PECAN SPITTLEBUGS	[redacted]	GA,AR	S	I	05			WOOL	MFG HANDLING.
00101	ATRAZINE SUGARCANE ANNUAL BROADLEAF WEEDS, GRASSES	[redacted]	TX	S	H	05			C-G	MFG TO AMEND LABEL.
00102	PROMETRYN COTTON WINTER ANNUAL WEEDS	[redacted]	TX	S	H	05			C-G	MFG TO AMEND LABEL.
00107	FENSULFOTHION SORGHUM (GRAIN) WHITE GRUBS	[redacted]	TX	S	I	05			CHEMAG	MFG HANDLING.
00108	CARBOFURAN SORGHUM (GRAIN) WHITE GRUBS	[redacted]	TX,NB	NC S	I	05			FMC	MFG HANDLING.
00121	CARBOFURAN CORN (SWEET) EUROPEAN CORN BORER	[redacted]	NJ,KY	NE S	I	05			FMC	MFG HANDLING.
00123	CARBOFURAN CORN (FIELD) SOUTHERN CORN BILLBUG, LESSER CORNSTALK BORER	[redacted]	MS,FL,NC, NB	NC S	I	05			FMC	EFFICACY FOR LABEL AMEND OR 24(C). FL OBTAINED 24(C) 9/76.
00141	CARBOFURAN CRUCIFERS MAGGOTS, FLEABEETLES	[redacted]	NY,VT,WV, IL	NC NE	I	05			FMC	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00142	CARBOFURAN POTATOES VERTICULLUM WILT, NEMATODES	[redacted]	NY,CT,WV, FL,NJ,PA	NE W	N F	05			FMC	ADDED NEMATODES TO LABEL. MFG HAS SUB PET TO EPA TO LOWER TOL FROM 2.0 PPM TO 1.3 PPM:11/76. NJ OBTAINED 24(C):3/76.
00171	COPPER PARSNIPS BLACK ROT, BACTERIAL DISEASES	[redacted]	NY	NE	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00172	COPPER SPINACH BLACK ROT, BACTERIAL DISEASES	[redacted]	NY,NC	NE S	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00201*	SODIUM HYPOCHLORITE ASPARAGUS (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	[redacted]	NJ	NE	F	05			AGWAY CLOROX	PKG SUBMITTED TO AGWAY + CLOROX FOR LABEL REG:8/76.
00206	CARBARYL POULTRY NORTHERN FOWL MITE, LICE	[redacted]	NY,NJ,VT	NE	I	05			UC	MFG HANDLING.
00257	CARBOFURAN TOMATOES POTATO BEETLES, APHIDS, FLEA BEETLES, NEMATODES	[redacted]	NJ,WV	NE	I N	05			FMC	MFG HANDLING.
00269	DBCP PEANUTS LESION NEMATODE, ROOT-KNOT NEMATODE	[redacted]	TX	S	N	05			DOW	LABEL AMENDMENT FOR IRRIGATION USE:MFG CHECKING ON RESIDUES: 1/77.
00278	METHOMYL TOMATOES (GH) TOMATO PINWORM	[redacted]	AZ,OH	NC W	I	05			DUPONT	MFG HANDLING. OH OBTAIN 24(C):11/76.
00290	PARAQUAT BEANS (DRY) DESSICANT:HARVEST AID	[redacted]	ND	NC	D	05			CHEV	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00292	PARAQUAT WHEAT DESSICANT	[redacted]	ND	NC	D	05		CHEV	MFG HANDLING:1/77.
00293	TERBUFOS SUGAR BEETS SUGARBEET ROOT MAGGOT	[redacted]	ND	NC	I	05		AMCY	MFG HANDLING.
00310	CYHEATIN PEANUTS SPIDER MITES	[redacted]	NC	S	I	05		DOW	SAME USE AS PR 311.
00320	COPPER HYDROXIDE ASPARAGUS FUNGAL LEAFSPOTS, RUST	[redacted]	NC	S	F	05		KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00321	COPPER HYDROXIDE ARTICHOKES LEAFSPOTS	[redacted]	NC	S	F	05		KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00377	CAPTAFOL CRANBERRIES CRANBERRY FRUIT ROT	[redacted]	MA,WI,NJ NE	NC	F	05	76:CHEV 77:CHEV	CHEV	76 PROJECT:NJ,MA. ADD AERIAL APPL TO EXIST LABEL. MFG'S PROJ.
00386	ATRAZINE GRASS ANNUAL GRASSES AND BROADLEAF WEEDS	[redacted]	IA,MO	NC	H	05		C-G	MFG HANDLING.
00389	CHLOROTHALONIL BEANS (LIMA) LEAFSPOTS	[redacted]	NC	S	F	05		D-S	MFG HANDLING.
00488	AMETRYN PLANTAINS UNSPECIFIED WEEDS	[redacted]	PR	S	H	05		C-G	ADD PLANTAIN TO CURRENT HI, PR LABEL OR 24(C). MFG HOLDING PROJ:12/77. SEE PR 483.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00514	PARAQUAT		08/76	NJ	NE	H	05		CHEV	TOL OF 5 PPM. LABELLED FOR DORM ALFAL IN OR + WA. 90 DAY PHI. NEED CONFIRM DATA. MFG'S PROJECT.
	ALFALFA									
		FALL PANICUM								
00521	GLYPHOSATE		01/76	FL	S	H	05	77:FL	MONS	MFG PROJ IN CA,FL: 2/77.
	AVOCADOS									
		UNSPECIFIED PERENIAL WEEDS								
00540	CHLORPYRIFOS		11/75	ARS(SC), ARS(IN), MA,NH,NY, NJ	NC NE S	I	05		DOW	MFG HANDLING AND WILL REGISTER:3/77.
	CORN (SWEET)									
		CORNWORMS, EUROPEAN CORN BORER, ARMYWORM, CLIMBING CUTWORMS, CORN EARWORM, FALL ARMYWORM								
00541	CHLORPYRIFOS		11/75	MA,NJ,WI	NC NE	I	05		DOW	MFG HANDLING:1/77. HAS SAMPLES FOR RES ANAL:1/77.
	CRANBERRIES									
		BLUEBERRY FRUITWORM, CRANBERRY SPANWORM, CRANBERRY FIREWORMS, CRANBERRY GIRDLER, SPARAGANOTHIS FRUITWORM, CRANBERRY BLOSSOMWORM								
00544	BENSULIDE		01/76	MD	NE	H	05		STAUFF	REFER TO MFG.
	CUCURBITS									
		DELETE ROTATIONAL RESTRICTIONS; PERENIAL WEEDS								
00546*	NAPROPAMIDE		06/76	MD	NE	H	05		STAUFF	TOL OF 0.1 PPM FOR FRUIT VEG. LABLLED IN CA ONLY. MFG TO EPA FOR NAT LABEL: 10/76.
	TOMATOES (SEED TREATMENT)									
		UNSPECIFIED WEEDS								
00555	BENTAZON		06/76	MD	NE	H	05		BASF	SEE MFG LETTER OF 11/76.
	PEAS									
		UNSPECIFIED WEEDS								
00556	METHAZOLE		06/76	MD	NE	H	05		VELSI	10/76:MFG EXPECTS FULL LABEL LATE 79.
	ONIONS									
		UNSPECIFIED WEEDS								
00594	ACEPHATE		08/76	NJ	NE	I	05		CHEV	TOL OF 10 PPM. LABELLED IN CA, AZ, FL ONLY. EFF + RES DATA ON CORN EARWORM REQ FOR 24(C). MFG'S PROJ. SUBMISSION:3RD.78.
	LETTUCE									
		CABBAGE LOOPER, GREEN PEACH APHIDS, CORN EARWORMS								

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00679	COPPER SULFATE FIGS	FL	S	F	05			KOCIDE	
00683	PARAQUAT GRASS (HAY) RETAIN NUTRIENTS OF GRASS	OR	W	D	05			CHEV	MFG HANDLING.
00692	METHIOCARB CHERRIES (SWEET + TART) BIRD REPELLANT	OH	NC	A	05			CHEMAG	TOL OF 25 PPM EST. LABELLED FOR MITE + CURCULIO, MFG PROJ FOR BIRD REPELLENT.
00702	GLYPHOSATE RASPBERRIES (DORMANT) PERENIAL WEEDS	OH	NC	H	05			MONS	CONTACT MFG.
00703	GLYPHOSATE BLACKBERRIES PERENIAL WEEDS	OH	NC	H	05			MONS	CONTACT MFG.
00727	FENAMINOPHOS TOMATOES (TRANSPLANTS) ROOT-KNOT NEMATODES	ARS(GA)	S	N	05			CHEMAG	TOL OF 0.5 PPM PEND.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00131	PESTICIDES PINEAPPLE (BY-PRODUCTS) PESTS IN GENERAL	[redacted]	HI	W	B	06			NO MFG	HI HANDLING.
00612	DIMETHOATE LIVESTOCK STABLE FLIES	[redacted]	NY	NE	I	06			AMCY	
00704	DIURON PEAS (WINTER) GROMWELL, LAMBSQUARTER, FANWEED, PIGWEED, REDROOT	[redacted]	ID	W	H	06			DUPONT	TOL OF 1 PPM EST. EFF DATA AVAIL FROM ID. CHECK WITH MFG.
00706	CARBOFURAN BARLEY, WHEAT BLIGHT (PSEUDOMONAS SYNINGAE)	[redacted]	ND,SD,MN, MT	NC W	F	06			FMC	POSSIBE 24(C). TOL PEND ON BARLEY. OAT. WHEAT. RYE:12/76.
00708	CARBOFURAN SAFFLOWER BLIGHT (PSEUDOMONAS SYNINGAE)	[redacted]	ND,SD,MT, NM	NC W	W	06			FMC	POSSIBLE 24(C).

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NOTICES

00245
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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00245	AZINPHOS METHYL GOOSEBERRIES GOOSEBERRY FRUITWORM	[redacted]	CO	W	I	07		CHEMAG	REJECT:8/76; 2ND ONCO STUDY REQUIRED. SCHEDULED BY MFG:10/76.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00007	BENOMYL PEANUTS BLACKHULL DISEASE	[redacted]	NM	W	F	11			DUPONT	MFG WILL NOT REGISTER.
00009	CARBOFURAN PEPPERS EUROPEAN CORNBORER, CORN EARWORM APHID	[redacted]	NJ,NC,MS,IL,KY,DE,WV	NC NE S	I	11			FMC	NEED NEW TOLERANCE OR PHI.
00013	CHLORDIMEFORM TOMATOES (GH) TOMATO PINWORM	[redacted]	OH	NC	I	11			C-G NORAM	WITHDRAWN FROM MKT BY MFG:9/76.
00018	CHLOROTHALONIL WILD RICE HELMINTHOSPORIUN LEAF BLIGHT	[redacted]	MN	NC	F	11			D-S	MFG WILL NOT REGISTER.
00028	DIMETHOATE BLUEBERRIES BLUEBERRY MAGGOTS, THRIPS	[redacted]	WV,ME	NE	I	11			AMCY	RESIDUES TOO HIGH FOR PHI REQUIRED.
00045	MCPB PEAS BROADLEAF WEED:CANADA THISTLE	[redacted]	WI,PA	NC NE	H	11			RHODIA	INACTIVE PROJECT. NEED ANIMAL FEED STUD. USE CLEARED FOR MCPA:10/76.
00111	PICLORAN SORGHUM BROADLEAF PERENIAL WEEDS	[redacted]	TX,NB,OR,KS	NC S W	H	11			DOW	LIABILITY.
00146	CHLORPROPHAM LETTUCE WEEDS	[redacted]	NY,MD	NE	H	11			PPG	PHYTOTOX PROB. IPC REGISTERED ON LETTUCE: 11/76.
00147	CHLOROTHALONIL LETTUCE DOWNY MILDEW, BOTRYTIS GRAY MOLD	[redacted]	NY,PA,AR,FL,NC,KY	NE S	F	11			D-S	MFG DECLINES DUE TO ADI PROBLEM.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00148	CHLOROTHALONIL RADISHES DOWNY MILDEW	[redacted]	NY,PA,NC,AR	NE S	F	11			D-S	HIGH RESIDUE POTENTIAL.
00149	CHLOROTHALONIL RHUBARB ASCOCHYTA LEAFSPOT	[redacted]	NY,PA	NE	F	11			D-S	LIABILITY.
00173	CHLORDIMEFORM CUCUMBERS (GH) TWO-SPOTTED SPIDER MITES	[redacted]	OH	NC	I	11			C-G NORAM	LIABILITY. WITHDRAWN FROM MKT BY MFG:9/76.
00197	ETHEPHON PEACHES ADVANCE MATURITY	[redacted]	NJ,PA	NE	P	11			AMCHEM	LIABILITY.
00212	ATRAZINE GUAVAS PRE AND POST EMERGENCE WEED CONTROL	[redacted]	HI	W	H	11			C-G	LIABILITY.
00225	PARAQUAT POTATOES VINE DESSICANT	[redacted]	NE,CT,VT,WV	NE	H	11			CHEV	LABEL FOR NON-STORED POTATOES. MFG WILL REGISTE USE ON POTATOES TO BE STORED.
00237	CHLOROTHALONIL MUSHROOMS VERTICULLUM, MILDEW, BUBBLE	[redacted]	PA,CA,MI,OH,IN,FL,TX,WA,MO,NJ,DE,NY	NE NC S W	F	11			D-S	LIABILITY.
00238	CHLOROTHALONIL BLUEBERRIES ALTERNARIA LEAFSPOT, ANTHRACNOSE, MUMMYBERRY, CRANBERRY FRUIT ROT	[redacted]	PA,NJ,WV,NC	NE S	F	11			D-S	AQUATIC HAZARDS.
00246	LINURON CELERY GALINSAGA, RAGWEED, FALL PANICUM	[redacted]	PA	NE	H	11			DUPONT	PHYTOTOX IN MINERAL SOILS.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00250	ETHEPHON TOMATOES (GH) 'CONCENTRATE MATURITY	[redacted]	PA,CA	NE W	P	11			AMCHEM	LIABILITY.
00261	DINOSEB STRAWBERRIES WINTER BROADLEAF WEEDS	[redacted]	TN	S	H	11			DOW	LIABILITY. TOL EST:12/74. LIMITED TO NW.
00262	ALACHLOR BEANS (SNAP) BROADLEAF WEEDS AND GRASSES	[redacted]	TN,AR	S	H	11			MONS	PHYTOTOXICITY PROBLEM. SEE PR 549.
00288	PARAQUAT SUNFLOWER DESSICANT (HARVEST AID)	[redacted]	ND	NC	D	11			CHEV	MFG WILL NOT REGISTER.
00294	ENDOSULFAN SESAME GREENPEACH APHID, LYGUS, STINKBUG, CATERPILLARS	[redacted]	CA	W	I	11			FMC	ADI PROBLEM.
00337	DESMEDIPHAM BEETS (GARDEN) RED ROOT PIGWEED	[redacted]	WI,OH,NY	NC NE	H	11			NORAM	POSSIBLE PHYTOTOXICITY.
00353	CHLOROTHALONIL OKRA LEAFSPOTS	[redacted]	NC	S	F	11			D-S	ADI PROBLEM.
00393	CHLOROTHALONIL PARSLEY LEAFSPOTS	[redacted]	NC	S	F	11			D-S	LIABILITY.
00400	DIAZINON TOMATOES (GH) LEAFMINER, APHIDS	[redacted]	NC,VT,WV	NE S	I	11			C-G	LIABILITY.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB.	CO.	COMMENTS
00437	CARBOFURAN JAPANESE RADISHES ROOT MAGGOTS, FLEA BEETLES	[redacted]	OR	W	I	11			FMC	RESIDUES + LIABILITY.
00446	DIMETHOATE CHERRIES CHERRY FRUITFLY	[redacted]	OR	W	I	11			ANCY	MFG WILL NOT REGISTER.
00482	PROMETRYN CASSAVA UNSPECIFIED WEEDS	[redacted]	PR	S	H	11			C-G	HIGH POTENTIAL INJURY.
00483	PROMETRYN PLANTAINS UNSPECIFED WEEDS	[redacted]	PR	S	H	11			C-G	AMETRYN TO BE LABELLED FOR SMAE USE.
00484	PROMETRYN YAMS UNSPECIFIED WEEDS	[redacted]	PR	S	H	11			C-G	HIGH POTENTIAL INJURY.
00489	AMETRYN TANIERS PREEMERGENT WEED CONTROL	[redacted]	PR	S	H	11			C-G	HIGH POTENTIAL INJURY
00490	AMETRYN YAMS SPRUCE, PANGOLAGRASS, SIGNALGRASS, JUNGLERICE, AMARANTHUS, GOOSEGRASS, HORSE PURSLANE	[redacted]	PR	S	H	11			C-G	HIGH POTENTIAL INJURY.
00491	PROMETRYN TANIERS UNSPECIFIED WEEDS	[redacted]	PR	S	H	11			C-G	HIGH POT INJURY
00492	PROMETRYN PEAS (PIGEON) UNSPICIFIED WEEDS	[redacted]	PR	S	H	11			C-G	

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00495	DBCP YAMS LESION NEMATODES, SPIRAL NEMATODES, ROOT-KNOT NEMATODES	[redacted]	PR	S	N	11		DOW SHELL	MFGS WILL NOT REGISTER. PHYTOTOXICITY PROBLEM.
00519	TERBUFOS MALANGA (YAUTIA) WIREWORMS	[redacted]	FL	S	I	11		AMCY	WITHDRAW BY FL:8/76. MFG WITHDRAWS SUPPORT: 11/76.
00524	SIMAZINE MANGOES UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted]	FL	S	H	11		C-G	MFG DECLINES DUE TO LOW MKT POTENTIAL + LIABILITY. SEE PR 520.
00552	BENTAZON CUCUMBERS UNSPECIFIED WEEDS	[redacted]	MD	NE	H	11		BASF	LIABILITY.
00553	BENTAZON WATERMELON UNSPECIFIED WEEDS	[redacted]	MD	NE	H	11		BASF	LIABILITY.
00563	CARBOFURAN PECANS, CHESTUNTS SUCKING INSECTS, LEAFMINERS, CHESTNUT WEEVILS, PECAN WEEVILS	[redacted]	GA	S	I	11		FMC	NOTIFIED:10/76. SEE PR 63.
00583	CHLORATHALONIL TOMATOES (GH) EARLY BLIGHT, GRAY LEAF MOLD, BOTRYTIS GRAY MOLD, LATE BLIGHT, SEPTORIA LEAFSPOT, ANTHRACNOSE, LEAFMOLD	[redacted]	KY,IN	NC S	F	11		D-S	TOL OF 5 PPM. LABELLED FOR FIELD USE ONLY. SEE PR 584. MFG WILL NOT REG:10/76.
00715	LINURON ONIONS (SEED CROP) ANNUAL WEEDS	[redacted]	ID	W	H	11		DUPONT	NOTIFIED:12/76.

00132 00176 00207 00247 00248 00273 00301 00302 00383 00403 00468

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00132	AMETRYN BEANS (LIMA) DEFOLIANT	[redacted]	NY	NE	D	12		C-G	REJECTED:11/76. LABEL RESTRICTIONS.
00176	CALCIUM CYANAMIDE BLUEBERRIES MUMMYBERRY	[redacted]	PA,NJ	NE	F	12		MEYER	REJECTED:10/76. NOT A NON-FOOD USE.
00207	OXYTHIOQUINOX PAPAYA BROAD MITE, RED AND BLACK FLAT MITE, FALSE SPIDER MITE, SPIDER MITES	[redacted]	HI	W	I	12		CHEMAG	REJECTED:1/77. HI HAS SEC 18. WILL COLLECT RES SAMPLES: 1/77. MFG WANTS NO MORE TOL:2/77.
00247	NITROFEN COLLARDS, KALE, GREENS ANNUAL GRASSES AND BROADLEAF WEEDS, PIGWEED, PURSELANE, SHEPARD'S PURSE, NIGHTSHADE, CRABGRASS	[redacted]	PA,AR,NC	NE S	H	12		R+H	REJECTED:1/77.
00248	NITROFEN RAPE WEEDS	[redacted]	PA	NE	H	12		R+H	TO MFG FOR REVIEW:8/76. SUBMITTED TO EPA:9/76. REJECTED:1/77.
00273	DODINE SPINACH ALBUGO WHITE RUST	[redacted]	TX,AR,TN	S	F	12	E R	AMCY	REJECTED:8/74. ENV DATA LACKING. SEE PR 397.
00301	TEPP PEACHES MIDGES, THRIPS, LEAFHOPPERS, CATERPILLARS	[redacted]	CA	W	I	12		MILLER	REJECTED:5/76. NEED:ONCO, CHRONIC TERATO.
00302	TEPP APRICOTS, NECTARINES MIDGES, THRIPS, LEAFHOPPERS, CATERPILLARS	[redacted]	CA	W	I	12		MILLER	REJECTED:5/76. NEED: ONCO, CHRONIC TERATO.
00303	NCPA LEGUMES ANNUAL AND PERENIAL BROADLEAF WEEDS: MUSTARD, WILD RADISH	[redacted]	WI	NC	H	12		DOW	SUBMITTED TO EPA:8/76. REJECTED:3/77.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00403	CARBARYL SWEET POTATOES SWEET POTATO WEEVIL, CORN EARWORM, SWEET POTATO HORWORM, FLEABEETLE, TORTOISE BEETLE	[redacted]	NC	S	I	12			UC	SUBMITTED TO EPA:8/76. REJECTED:3/77.
00468	BENOMYL CURRANTS POWDERY MILDEW	[redacted]	OR	W	F	12			DUPONT	SUBMITTED TO EPA:7/76. REJECTED:4/77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00160	PYRETHRINS (ULV) LETTUCE (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FNC.	SUB TO MFG FOR A LABEL AMENDMENT:3/77.
00161	PYRETHRINS (ULV) CUCUMBERS (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FNC	SUB TO MFG FOR A LABEL AMENDMENT:3/77.
00166	PYRETHRINS (ULV) TOMATOES (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FNC	SUB TO MFG FOR A LABEL AMENDMENT:3/77. DATA FROM ARS(MD):10/76.
00189	PROPACHLOR PUMPKIN WEEDS	[redacted]	IL.	NC	H	20		MONS	PET IN PREP:11/76. SUBMITTED TO MFG:3/77.
00202*	SODIUM HYPOCHLORITE TOMATOES (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	[redacted]	NJ,PA,VT, NC	NE S	F	20		AGWAY CLOROX	PKG SUBMITTEDTO AGWAY + CLOROX FOR LABEL REG:8/76.
00350	CAPTAN PARSLEY LEAFSPOTS	[redacted]	NC,WV	NE S	F	20		CHEV STAUFF	TO MFG FOR REVIEW:7/76.
00351	CAPTAN PARSNIPS LEAFSPOTS	[redacted]	NC	S	F	20		CHEV STAUFF	SUB TO MFG:9/76.
00356	CAPTAN COLLARDS, KALE, ENDIVE, ESCAROLE LEAFSPOTS, CLUBROOT	[redacted]	NC	S	F	20		CHEV STAUFF	SUBMITTED TO STAUFF:8/76.
00357	COPPER HYDROXIDE SQUASH, PUMPKIN ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00358	COPPER HYDROXIDE RADISHES ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00359	COPPER HYDROXIDE PEAS (ENGLISH) ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00360	COPPER HYDROXIDE ONIONS, LEEKS, GARLIC ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00361	COPPER HYDROXIDE OKRA ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00362	COPPER HYDROXIDE BEANS (LIMA) ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00363	COPPER HYDROXIDE KHOLRABI, TRUNIP + MUSTARD GREENS, KALE, ESCAROLE ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC,AR	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00364	COPPER HYDROXIDE EGGPLANT BOTRYTIS, LEAFSPOTS	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00365	COPPER HYDROXIDE BEETS (GARDEN) BOTRYTIS, LEAFSPOTS	[redacted]	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00405	METHOMYL BERMUDAGRASS (COASTAL) FALL ARMYWORM	[redacted]	NC,TX	S	I	20			DUPONT	PETITION IS FOR FORAGE. GRASSES AND LEGUMES. SUBMITTED TO MFG:12/76. SUBMITTED TO EPA:3/77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00422	CAPTAN KHOLRABI LEAFSPOTS	NC	S	F	20			CHEV	PET TO MFG:8/76.
00463	BENOMYL BROCCOLI (SEED TREATMENT) ALTERNARIA, PHOMA BLACKLEG	OR,WA	W	F	20			DUPONT	INCLUDED IN PR 385. SUBMITTED TO MFG:7/76. WA ISSUED SEC 18:1/77.
00499	METHOMYL PEAS (PIGEON) TOBACCO BUDWORM, LIMABEAN POD BORER, CORN EARWORM, CARIBBEAN POD BORER	PR	S	I	20			DUPONT	MFG CONSULTED ON 24(C) REG:3/77.
00621	2,4-D MACADAMIA NUTS BROADLEAF WEEDS:SPREADING DAYFLOWER	HI	W	H	20			DOW	SUBMITTED TO MFG:10/76.
00726	CARBARYL CHESTNUTS BLACK VINE WEEVIL	ARS(SC)	W	I	20			UC	PET SUB TO MFG:3/77.
00733	BENOMYL + CAPTAFOL CORN (SWEET) (SEED TREATMENT) SEED ROT AND SEEDLING DAMPING OFF	FL	S	F	20			DUPONT CHEV	DATA SENT TO MFG:12/76. BENOMYL REJECTED:4/77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00011	CARBARYL SMALL GRAINS ARMYWORM, CUTWORM, ARMY CUTWORM, WHEATHEAD ARMYWORM	[redacted]	OK,GA,TN, VA,WI	NC S	I	21			UC	PEND TOL ON BARLEY WHEAT, OAT, RYE:11/76.
00015	CHLOROTHALONIL BEANS (DRY) CERCOSPORA RUST, LEAFSPOT	[redacted]	GA,MN,FL, ARS(MI)	NC S	F	21			D-S	SUBMITTED TO MFG:12/76. MFG WANTS ALL PET HELD: 2/77.
00022	2,4-D MILLET (PROSO) BROADLEAF WEEDS, NON-GRASS ANNUAL WEEDS, PERENIAL WEEDS	[redacted]	MN,CO,NB, ND	NC W	H	21			DOW	PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00038	ENDOSULFAN RASPBERRIES ROSE STEM GIRDLER	[redacted]	UT,CA, ARS(WA)	W	I	21			FMC	PET IN PREP:12/76. SUBMITTED TO MFG:3/77. SUBMITTED TO EPA:3/77.
00042	MALATHION WILD RICE RICE WORM, MIDGES	[redacted]	MN	NC	I	21			AMCY	SUBMITTED:10/76. SEE PR 12.
00065	2,4-D (AMINE) WALNUTS, ALMONDS, FILBERTS SUCKERS, BROADLEAF WEEDS, PLANT GROWTH REGULATOR	[redacted]	CA,OR	W	H P	21			DOW	OR PET TO EPA FOR FILBERTS:4/76 (PP 6E1776). PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00072	CHLOROTHALONIL TURNIPS (GREENS) ALTERNARIA LEAFSPOT, WHITE SPOT, BOTRYTIS GRAY MOLD, BOTTOM ROT, DOWNY MILDEW, ANTHRACNOSE	[redacted]	GA,NC,TN, MS	S	F	21			D-S	TURNIP GREENS PET TO EPA: 7/76. TURNIP ROOT PET TO EPA:11/76.
00112	2,4-D STONE FRUITS BROADLEAF PERENIAL WEEDS	[redacted]	WA	W	H	21		76:WA	LILLY DOW	76 PROJECT:WA. APRICOT PROPOSAL PUB:1/76. PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00113	2,4-D CITRUS FRUITS EXTEND POSTHARVEST TOLERANCE	[redacted]	FL	S	H	21			DOW	24(C) FOR LEMON IN FL: 1/77. PET FOR ALL RAC REJ:1/77. RESUBMITTED: 2/77.

PR NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00164	DINOSEB GRASS (FORAGE) ANNUAL SMARTWEED, NIGHTSHADE, YELLOWSTAR THISTLES, LAMBSQUARTER, PIGWEED, CRABGRASS, CHICKWEED, MUSTARD	[redacted]	NY,VT,WV	NE	H	21			DOW	SUBMITTED:7/76.
00165	ENDOSULFAN ENDIVE APHIDS	[redacted]	NY	NE	I	21			FMC	SUBMITTED:10/76.
00174	SILVEX APPLES POISON IVY, HORSENETTLE, BROADLEAF WEEDS, BRAMBLES	[redacted]	WV,NY,AR, VA,CT,MD, NJ,VT	NE S	H	21			ANCHEM	SUBMITTED:7/76. SEE PR 599.
00175	TERRBACIL STRAWBERRIES ANNUAL BROADLEAF WEEDS, GRASSES:QUACKGRASS	[redacted]	NY,AR,CT, PA,NC,VA	NE S	H	21			DUPONT	SUBMITTED:3/77.
00218	DICOFOL PASSION FRUIT BROAD MITE, CARMINE SPIDER MITE RED AND BLACK FLAT MITE	[redacted]	HI	W	I	21			R+H	SUBMITTED:5/76.
00244	DICOFOL GOOSEBERRIES TWO-SPOTTED SPIDER MITES	[redacted]	CO,NY	NE W	I	21			R+H	SUBMITTED:11/76.
00255	AZINPHOS METHYL CARROTS CARROT WEEVILS	[redacted]	NY,NJ,MA, DE,MD,OH	NE NC	I	21			CHEMAG	AMEND PET TO EPA:3/77.
00295	OXYDEMETONMETHYL SESAME (SEED) GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00296	OXYDEMETONMETHYL SESAME (SEED CROP) GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00297	OXYDEMETONMETHYL TURNIPS GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00298	OXYDEMETONMETHYL MUSTARD GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00367	PARAQUAT STRAWBERRIES POSTEMERGENT BROADLEAF WEEDS AND GRASSES	[redacted]	FL,MD,TX, LA, ARS(MD)	NE S	H	21			CHEV	SUBMITTED TO EPA:8/76.
00371	PARAQUAT ASPARAGUS WEEDS	[redacted]	MI,NJ,IL, CA,WA,MD, MA,VA	NC NE S W	H	21			CHEV	SUBMITTED:7/76.
00384	DINOSEB LENTILS BROADLEAF WEEDS:MUSTARD, BORAGE, LAMBSQUARTER, AMARANTH, MINT	[redacted]	WA,ID	W	H	21			DOW	PET SUB TO EPA:3/77.
00385	BENOMYL BRASSICA CROPS (SEED TREATMENT) BLACKLEG (PHOMA LINGAM)	[redacted]	WA,WI,NY, OR,CA	NC NE W	F	21			DUPONT	SUBMITTED:9/76. WA ISSUED SEC 18:1/77. SEE PR 463.
00391	CHLOROTHALONIL BEETS (GARDEN) ALTERNARIA LEAFSPOT	[redacted]	NC	S	F	21			D-S	SUBMITTED:11/76.
00394	CHLOROTHALONIL PARSNIPS ALTERNARIA LEAFSPOTS	[redacted]	NC,SC	S	F	21			D-S	SUBMITTED:11/76.
00411	PYRETHRIN SWEET POTATOES (STORAGE) FRUITFLIES (DROSOPHILA)	[redacted]	NC	S	I	21			FMC	SUBMITTED TO MFG:8/76. SUBMITTED TO EPA:9/76.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00425	FORMETANATE HYDROCHLORIDE HOPS TWO-SPOTTED SPIDER MITES	[redacted]	ID,WA	W	I	21			NORAM	SUBMITTED TO EPA:3/77.
00428	CARBARYL LENTILS ALFALFA LOOPER, WESTERN YELLOW-STRIPED WORM	[redacted]	ID,WA. ARS(WA)	W	I	21		76:ARS-WA	UC	76 PROJECT FOR AIR APPLIC: ARS(WA). SUBMITTED:7/76.
00432	PARATHION (METHYL) LENTILS ARMYWORMS, CUTWORMS, LOOPERS, APHIDS	[redacted]	ID,WA, ARS(WA)	W	I	21		76:ARS-WA	MONS	76 PROJECT FOR AIR APPLIC: ARS(WA). SUBMITTED:5/76.
00439	CARBOFURAN ONIONS ROOT MAGGOTS	[redacted]	OR	W	I	21			FMC	TOL PEND FOR ROOT MAGGOT.
00467	DINOCAP CURRANTS POWDERY MILDEW	[redacted]	OR	W	F	21			R+H	SUBMITTED:5/76.
00520	GLYPHOSATE LIMES (TAHITI) UNSPECIFIED PERENIAL WEEDS	[redacted]	FL	S	H	21			MONS	MFG TO PET FOR GRP TOL ON CITRUS:2/77.
00572	CHLROTHALONIL ENDIVE DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00573	CHLOROTHALONIL ESCAROLE DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00576	CHLOROTHALONIL MUSTARD DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00619	METRIBUZIN TOMATOES GALINSOGA	[redacted]	NJ	NE	H	21			CHEMAG	TOL AND LABEL PENDING: 7/76.
00636	BENOMYL LETTUCE (FOLIAR) BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	[redacted]	NC,NJ	NE S	F	21			DUPONT	MFG SUB PET TO EPA:3/77.
00647	GLYPHOSATE GRASS (FORAGE) VENEZUELA GRASS	[redacted]	PR	S	H	21			MONS	PET SUB FOR FORAGE GRASS + LEGUME.
00661	AZODRIN CORN SOUTHWESTERN CORN BORER	[redacted]	TX	S	I	21			SHELL	MFG SUB PET FOR TOL ON KERNEL, GRAIN, FORAGE, FODDER:11/76.
00688	GLYPHOSATE APPLES (BEARING) PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	TOL OF 0.2 PPM PEND ON POME FURIT:10/76.
00689	CARBARYL CELERY ASTER LEAFHOPPER	[redacted]	NY,FL,CA, MI,NY	NC NE S W	I	21			UC	SUBMITTED TO MFG:11/76. SUB TO EPA:3/77.
00699	CHLORPYRIFOS PLUMS LESSER PEACHTREE BORER	[redacted]	OH	NC	I	21			DOW	CONTACT MFG ON TOL PENDING.
00700	GLYPHOSATE PEACHES PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	MFG SUB PET FOR STONE FRUIT:2/77.
00701	GLYPHOSATE GRAPES PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	MFG SUB PET FOR GRAPES: 2/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00712	GLYPHOSATE CORN (SEED CROP) BROADLEAF WEEDS	[redacted] ID	W	H	21			MONS	MFG SUB PET TO EPA:2/77.
00725	GLYPHOSATE FILBERTS WEEDS	[redacted] ARS(OR)	W	H	21			MONS	PET SUB FOR NUTS.
00766	CALCIUM POLYSULFIDE BLUEBERRIES PHOMOPSIS STEM CANKER	[redacted] NJ	NE	F	21			MILLER	SUB TO MFG:3/77. MFG SUB TO EPA:3/77.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00167	COPPER BROCCOLI BLACK ROT. BACTERIAL DISEASES	[redacted]6	NY,NC	NE S	F	23			KOCIDE	SUBMITTED:11/76.
00168	COPPER BRUSSEL SPROUTS BLACK ROT. BACTERIAL DISEASES	[redacted]6	NY	NE	F	23			KOCIDE	SUBMITTED:11/76.
00169	COPPER CABBAGE BLACK ROT. BACTERIAL DISEASES	[redacted]6	AR,MI,NY, NC	NC NE S	F	23			KOCIDE	SUBMITTED:11/76.
00170	COPPER CAULIFLOWER BLACK ROT. BACTERIAL DISEASES	[redacted]6	NY	NE	F	23			KOCIDE	SUBMITTED:11/76.
00449	CHLOROTHALONIL CHERRIES ALTERNARIA ROT	[redacted]6	CA	W	F	23			D-S	MFG SUB PET TO EPA: 6/76.
00510	COPPER HYDROXIDE PEACHES BACTERIAL SPOT	[redacted]6	AR	S	F	23			KOCIDE	TO BE SUBMITTED:11/76.
00542	ACEPHATE CORN (SWEET) APHIDS, LEPIDOPTEROUS LARVAE	[redacted]6	MA	NE	I	23			CHEV	LABEL + PET SUBMITTED: 10/76.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00714*	ETHEYLENE OXIDE BEEHIVES (EMPTY) BEE DISEASES	[redacted]6	NJ. ARS(MD)	NE	F	31			UC	MFG SENT PROP LABEL AMEND TO EPA:11/76.
00734*	ZINC PHOSPHIDE HONEY + BEESWAX MICE CONTROL IN HIVES	[redacted]7	NY. ARS(MD)	NE	R	31			HOPKIN	PET SUB FOR NON-FOOD RULING:1/77.
00758	RESMETHRIN HONEY BEES KILL PEST BEES AND CONTROL DISEASES	[redacted]6	ARS(MD). NJ.PA.MI. WI.MD.CA	NC NE W	I	31			PENICK	LABEL SUBMITTED TO EPA: 04/76.

[FR Doc.77-14957 Filed 5-26-77;8:45 am]

FRIDAY, MAY 27, 1977

PART VIII

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

federal register

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Indiana	IN77–2093, IN77–2094, IN77–2095, IN77–2096, IN77–2097, IN77–2098, IN77–2099

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77–4018	Feb. 4, 1977.
AR77–3082; AR77–4078; AR 77–4083.	Apr. 8, 1977.
Colorado:	
CO77–5049	May 6, 1977.
Florida:	
FL77–1024	Feb. 25, 1977.
FL77–1065	May 13, 1977.
Idaho:	
ID77–5045	Do.
Indiana:	
IN77–2006	Feb. 4, 1977.
IN77–2082; IN77–2083; IN 77–2084; IN77–2085.	May 13, 1977.
Iowa:	
IA77–4100	Do.
Kansas:	
MO77–4075; MO77–4076; KS77–4076; KS77–4079; KS77–4080; KS77–4081.	Apr. 8, 1977.
KS77–4085	Apr. 15, 1977.
Maryland:	
MD77–3017	Jan. 14, 1977.
Michigan:	
MI77–2050	May 6, 1977.
Missouri:	
MO77–4051	Mar. 4, 1977.
Nevada:	
NV77–5022	Mar. 18, 1977.
Oklahoma:	
OK77–4063	Mar. 11, 1977.
Texas:	
TX77–4006	Jan. 21, 1977.
TX77–4053	Mar. 4, 1977.
TX77–4101; TX77–4102	May 13, 1977.
Washington, D.C.:	
DC77–3040	Mar. 18, 1977.
Virginia:	
MD77–3041	Do.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR77–4061 (AR77–4106)	Mar. 11, 1977.

Signed at Washington, D.C. this 20th day of May 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: INDIANA COUNTY: BARTHOLOMEW
DECISION NO.: IN77-2093 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
BRICKLAYERS	$6.75				
CARPENTERS	5.53				
CEMENT MASONS	7.00				
HEATING MECHANICS	4.50				
LABORERS	4.00				
PAINTERS	6.00				
ROOFERS	5.04				
SHEET METAL WORKERS	4.50				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	7.00				
Bulldozer operators	7.00				

NEW DECISION

STATE: INDIANA COUNTY: DELAWARE
DECISION NO.: IN77-2094 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING AND HEATING MECHANICS	$5.00				
BRICKLAYERS	5.00				
CARPENTERS	5.13				
CEMENT MASONS	5.00				
ELECTRICIANS	5.50				
INSULATORS	5.00				
LABORERS	4.00				
PAINTERS	5.75				
PLUMBERS	5.75				
ROOFERS	4.93				
SHEET METAL WORKERS	5.00				
TRUCK DRIVERS	4.75				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	6.00				
Bulldozer operators	6.00				

NEW DECISION

STATE: INDIANA COUNTY: HENDRICKS
DECISION NO.: IN77-2095 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
AIR CONDITIONING MECHANICS	$4.00				
BRICKLAYERS	5.50				
CARPENTERS	4.33				
CEMENT MASONS	6.00				
ELECTRICIANS	4.00				
HEATING MECHANICS	5.00				
LABORERS	3.00				
PAINTERS	3.00				
PLUMBERS	5.56				
SHEET METAL WORKERS	5.00				
POWER EQUIPMENT OPERATORS:					
Dozer operators	5.50				
Backhoe operators	5.50				

NEW DECISION

STATE: INDIANA COUNTY: LAWRENCE
DECISION NO.: IN77-2096 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
BRICKLAYERS	$5.00				
CARPENTERS	5.00				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.00				
LABORERS	3.00				
PAINTERS	4.75				
PLUMBERS	5.00				
ROOFERS	5.00				
SHEET METAL WORKERS	5.00				
SOFT FLOOR LAYERS	5.00				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	5.00				
Grader operator	4.00				

NEW DECISION

STATE: INDIANA COUNTY: MADISON
DECISION NO.: IN77-2097 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
AIR CONDITIONING/HEATING MECHANICS	$5.75				
BRICKLAYERS/BLOCKLAYERS	6.00				
CARPENTERS	6.42				
CEMENT MASONS	5.48				
DRYWALL HANGERS	6.92				
ELECTRICIANS	7.09				
HOD CARRIERS	3.91				
LABORERS	3.86				
LANDSCAPERS	5.25				
PAINTERS	5.00				
PLUMBERS	5.82				
ROOFERS	5.48				
SHEET METAL WORKERS	5.75				
SOFT FLOOR LAYERS	5.24				
TILE SETTERS	5.00				
TRUCK DRIVERS	5.05				
POWER EQUIPMENT OPERATORS:					
Bulldozer operators	5.74				
Backhoe operators	5.00				

NEW DECISION

STATE: INDIANA COUNTY: STEUBEN
DECISION NO.: IN77-2098 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
AIR CONDITIONING MECHANICS	$7.00				
BRICKLAYERS	5.75				
CARPENTERS	5.89				
CEMENT MASONS	5.38				
DRYWALL FINISHERS	7.25				
DRYWALL HANGERS	7.25				
ELECTRICIANS	5.90				
HEATING MECHANICS	7.00				
INSULATION INSTALLERS	5.37				
LABORERS	4.00				
PAINTERS	5.40				
PLASTERERS	6.70				
PLUMBERS	5.79				
ROOFERS	5.65				
TRUCK DRIVERS	4.75				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	6.17				
Dozer operators	6.17				

NEW DECISION

STATE: INDIANA COUNTY: TIPPECANOE
DECISION NO.: IN77-2099 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
AIR CONDITIONING MECHANICS	$6.80				
BRICKLAYERS	6.25				
CARPENTERS	5.00				
CEMENT MASONS	5.43				
DRYWALL FINISHERS	7.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.76				
HEATING MECHANICS	7.34				
LABORERS	3.68				
PAINTERS	4.97				
PLUMBERS	6.50				
ROOFERS	5.55				
SHEET METAL WORKERS	6.89				
SOFT FLOOR LAYERS	7.10				
POWER EQUIPMENT OPERATORS:					
Bulldozer operators	5.25				
Grader operators	5.25				
Tractor operators	6.00				
Backhoe operators	6.71				

MODIFICATIONS P. 1

DECISION NO.: AR77-3082 - Mod. #2
(42 FR 18798 - April 8, 1977)
Union and Ouachita Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

DECISION NO. AR77-4018 - Mod. #5
(42 FR 7040 - February 4, 1977)
Crawford, Sebastian and Washington Counties, Arkansas

CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

DECISION NO.: AR77-4078 - Mod. #3
42 FR 18796 - April 8, 1977)
Pulaski County, Arkansas

CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		
Change modification No. 1 issued in Federal Register dated May 20, 1977 to read "modification No. 2"					

DECISION NO. AR77-4083 - Mod. #2
(42 FR 18800 - April 8, 1977)
Garland, Hot Springs and Clark Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

DECISION NO. CO77-5049 - Mod. #2
(42 FR 23329 - May 6, 1977)
El Paso County, Colorado

	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Educati and/or Appr. T
Change:							
LABORERS	ZONE 1*	Zone 2*	Zone 3*				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.0!
Group 2	7.00	7.45	7.90	.49	.55		.0!
Group 3	7.28	7.73	8.18	.49	.55		.0!
Group 4	7.50	7.95	8.40	.49	.55		.0!
Group 5	7.55	8.00	8.45	.49	.55		.0!
Group 6	7.70	8.15	8.60	.49	.55		.0!

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in Colorado Springs

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in Colorado Springs

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in Colorado Springs.

DECISION #FL77-1024 - Mod. #3 (42 FR 11193 - February 25, 1977) Orange County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
Change:					
Laborers:					
Air tool operator	$6 45	.25	10		
Laborers	6.30	.25	.10		
Mason tenders	6 45	25	10		
Mortar mixers	6.45	25	.10		
Pipelayers (concrete & clay)	6 45	25	10		
Plasterers tenders	6.45	.25	10		
DECISION NO. FL77-1065 - Mod. #1 (42 FR 24575 - May 13, 1977) Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site), Florida.					
Add:					
Plumbers, pipefitters, steamfitters:					
Industrial (Powerhouses, chemical plants, missile sites, oil refineries, bulk plants, etc.)	$10.52	.57	.56	.60	.05

DECISION #ID77-5045 - Mod. #1 (42 FR 24577 - May 13, 1977) Statewide Idaho	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Electricians:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	$10.75	.70	1% + .50		1%
Cable splicers	10%overJR	.70	1% + .50		1%
Add:					
Plumbers:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, Shoshone Countees	11.60	.65	1.10	1.00	.11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
DECISION NO. IN77-2006 - Mod. #4 (42 FR 7046 - February 4, 1977) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana					
Change:					
Glaziers:					
Benton Co. (E. of Rte. #41, S. to Gravel Hill)	$9.05	.40	.30		
Vanderburgh Co.	10.105	.48	.50	.25	
Plumbers; Steamfitters:					
Vanderburgh Co.	12.18	.50	.90		.06
DECISION NO. IN77-2082 - Mod #1 (42 FR 24588 - May 13, 1977) Lake, LaPorte, Porter, & St. Joseph Counties, Indiana					
Change:					
Ironworkers:					
LaPorte (Rem. of Co.), & St. Joseph Cos.	$10.10	.75	1.00		.01
Add:					
Glaziers:					
Lake (E. of Rte #41, excl. Hammond), LaPorte (W. of Rte #39), & Porter Cos.	9.05	.40	.30		
Painters:					
Porter Co. (S. of Hwy #6):					
Brush; Paperhanging; Taping on drywall; Sandblasting; Vinyl hanging	8.75				
Spray	9.75				
Work above 40 ft. above ground	9.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN77-2083 - Mod. #1 (42 FR 24596 - May 13, 1977) Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana					
Change:					
Ironworkers:					
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	$10.10	.75	1.00		.01
DECISION NO. IN77-2084 - Mod. #1 (42 FR 24555 - May 13, 1977) Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana					
Change:					
Carpenters:					
Lawrence & Orange Cos.:					
Carpenters; Soft floor layers	$9.87	.57	.50		
Millwrights; Piledrivermen	10.27	.57	.50		
DECISION NO. IN77-2085 - Mod. #1 (42 FR 24562 - May 13, 1977) Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana					
Change:					
Bricklayers; Stonemasons:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	$9.40	.80			
Marble setters; Tile setters:					
Fayette, Franklin, Rush, Union, & Wayne Cos.					
Tile setters	9.40	.80			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #IA77-4100 - Mod. #1 (42 FR 24609 - May 13, 1977) Des Moines County (City of Burlington & abutting municipalities & Burlington Ordnance Plant), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Ironworkers	$10.75	.55	.65		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #MO77-4075 - Mod. #2 (42 FR 18815 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.					
Change: Soft floor layers	$8.71	.45	.75	10%	1%
DECISION #MO77-4076 - Mod. #1 (42 FR 18820 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
Change: Soft floor layers	$8.71	.45	.75	10%	1%

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #KS77-4079 - Mod #2 (42 FR 18803 - April 8, 1977) Shawnee County, Kansas					
Change: Sprinkler fitters	$11.48	.60	.90		.08
DECISION #KS77-4080 - Mod. #2 (42 FR 18806 - April 8, 1977) Shawnee County, Kansas					
Change: Sprinkler fitters	11.48	.60	.90		.08

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
DECISION #KS77-4085 - Mod. #2 (42 FR 20063 - April 15, 1977) Leavenworth County, Kansas					
Change: Sprinkler fitters	$11.48	.60	.90		.08
DECISION #KS77-4081 - Mod. #2 (42 FR 18809 - April 8, 1977) Sedgwick County, Kansas					
Change: Sprinkler fitters	11.48	.60	.90		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #MD77-3017 - Mod. #7 (42 FR 3042 - January 14, 1977) Counties of Anne Arundel (excluding the D C. Training School), Baltimore, Baltimore City, Harford, and Howard, Maryland					
OMIT: Modification #4 issued in Federal Register Dated March 25, 1977, Page # 15253					
Glaziers:					
Inside work	$7.90	.25	.40		
Outside work	9.77	.80	1.53		.06
ADD:					
Glaziers	$9.77	.80	1.53		.06
DECISION #MI77-2050 - Mod. #1 (42 FR 23369 - May 6, 1977) Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle, Counties, Michigan					
CHANGE:					
Sheet Metal Workers: Mason, Muskegon & Oceana Counties	$9.55	.67	.65	.67	.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #MO77-4051 - Mod. #4 (42 FR 12618 - March 4, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change:					
ELECTRICIANS:					
Zone 17					
Electricians	$10.99	.27	1%	7%+.30	½ of 1%
Cable splicers	11.24	.27	1%	7%+.30	½ of 1%
Omit:					
Zone 5					
PAINTERS					
Brush	8.75				
Spray, taping machine	9.75				
Bridges 75 ft. in height	9.75				
All structural steel over 50 ft. in height	9.50				
Sandblasting	9.75				
Bridge	9.50				
Add:					
Zone 5					
PAINTERS					
Brush	9.25				
Bridge	10.00				
Spray; storage bins & storage tanks underground, storage bins & storage tanks above ground which are over (40) ft. in height or depth; sandblasting operator; work performed on bridges 75 ft., in height	10.25				
All structural steel over 50 ft. in height	10.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
DECISION #NV77-5022 - Mod. #4 (42 FR 15273 - March 18, 1977) Clark County (does not include the Nevada Test Site), Nevada					
Add:					
Brick Tenders	$8.47	.51	$1.25	$1.00	
DECISION NO. OK77-4063 - Mod. #4 (42 FR 13790-- March 11, 1977) Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma					
CHANGE:					
GLAZIERS	$8.60				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #TX77-4006 - Mod. #4 (42 FR 4105 - January 21, 1977) Travis County, Texas					
Change:					
Ironworkers	$ 9.45	.55	.80		.12
Laborers:					
Group 1	5.655	.275	.30		.02
Group 2	5.805	.275	.30		.02
Group 3	5.90	.275	.30		.02
Group 4	6.055	.275	.30		.02
DECISION #TX77-4053 - Mod. #3 (42 FR 12668 - March 4, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Ironworkers	9.45	.55	.80		.12
Sheet metal workers:					
Zone 1 - Within a radius of 20 miles from the McLennan County Court House, Waco	9.26		.39		.03
Zone 2 - Over 20 miles but less than 45 miles including the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton	9.76		.39		.03
Zone 3 - Over 45 miles	10.26		.39		.03

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #TX77-4101 - Mod. #1 (42 FR 24705 - May 13, 1977) Bexar County, Texas					
Change:					
Carpenters:					
Carpenters	$ 8.14	.43	.40	.40	.05
Millwrights	8.44	.43	.40	.40	.05
DECISION #TX77-4102 - Mod. #1 (42 FR 24707 - May 13, 1977) Galveston & Harris Cos., Texas					
Change:					
Bricklayers & stonemasons:					
Galveston County	10.53	.63	.60		.06
Laborers:					
Group 1	7.58	.33	.40		.02
Group 2	7.755	.33	.40		.02
Group 3	7.855	.33	.40		.02
Group 4	8.13	.33	.40		.02
Group 5	7.705	.33	.40		.02
Group 6	8.005	.33	.40		.02

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
DECISION #DC77-3040 - Mod. #4 (42 FR 15293 - March 18, 1977) Washington, D. C.					
CHANGE:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS)					
Laborers (excluding WMATA RRTS):					
Common laborers, landscapers	$8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
Laborers (WMATA - RRTS ONLY)					
Group I	8.46	.60	.45		.05
Group II	8.61	.60	.45		.05
Group III	8.66	.60	.45		.05
Group IV	8.71	.60	.45		.05
Group V	8.91	.60	.45		.05
Group VI	9.11	.60	.45		.05
Group VII	9.235	.60	.45		.05
Group VIII	9.685	.60	.45		.05
Ironworkers, reinforcing	10.80	.62	.95		.03
Painters:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
Sprinkler fitters	11.70	.65	.95		.08

MODIFICATIONS P. 18

DECISION #MD77-3041 - Mod. #4
(42 FR 15268 - March 18, 1977)
Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D.C. Training School, and for WMATA - RAPID RAIL TRANSIT SYSTEM PROJECTS ONLY, Alexandria, Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS)					
Laborers (excluding WMATA RRTS):					
Common laborers, landscapers	$8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcrates	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
Laborers (WMATA - RRTS ONLY)					
Group I	8.46	.60	.45		.05
Group II	8.61	.60	.45		.05
Group III	8.66	.60	.45		.05
Group IV	8.71	.60	.45		.05
Group V	8.91	.60	.45		.05
Group VI	9.11	.60	.45		.05
Group VII	9.235	.60	.45		.05
Group VIII	9.685	.60	.45		.05
Ironworkers, reinforcing	10.80	.62	.95		.03
Painters:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
Sprinkler fitters	11.70	.65	.95		.08

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Conway, Faulkner, Van Buren, Cleburne & Perry

DECISION NO. AR77-4106 DATE: Date of Publication

SUPERSEDES DECISION NO. AR77-4061 dated March 11, 1977 in 42 FR 13723.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ASBESTOS WORKERS	$10.05	.45	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.70	.40	.35		.04
CARPENTERS:					
Cleburne, Van Buren, Falkner County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.63	.45	.35		.05
Millwrights & piledrivermen	9.13	.45	.35		.05
Western half of Conway and Perry Counties:					
Carpenters	7.63	.40	.30		.04
Millwrights & Piledrivermen	8.13	.40	.30		.04
CEMENT MASONS	8.27	.25			.03
ELECTRICIANS:					
Electricians	9.95	.40	1%		1/4%
Cable splicers	10.075	.40	1%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	8.88	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
GLAZIERS	7.90		.25		
IRONWORKERS	9.06	.45	.40		.01
LABORERS:					
Group I	5.82	.25	.35		.04
Group II	6.07	.25	.35		.04
Group III	6.22	.25	.35		.04
Group IV	6.32	.25	.35		.04
Group V	6.47	.25	.35		.04
Group VI	6.72	.25	.35		.04
Group VII	6.62	.25	.35		.04

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II

Semi-skilled laborer; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP III
Steelform setters, curb and gutters, grout and cement muckers
GROUP IV
Swinging scaffold, Barco, 90 lb pavement breaker, and burners
GROUP V
Nozzleman (Gunite, Grout, and sandblasterer; concrete pump (nozzle placer)
GROUP VI
Powderman & blasterers
GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LATHERS	$ 8.85				.02
LINE CONSTRUCTION:					
Linemen	10.85		1%		3/8%
Cable splicers	10.975		1%		3/8%
Operator	10.85		1%		3/8%
Groundmen (advanced)	65%JR		1%		3/8%
Groundmen (1st 6 months)	49%JR		1%		3/8%
Winch equipment	73%JR		1%		3/8%
MARBLE, TILE AND TERRAZZO WORKERS	7 40				
MARBLE, TILE & TERRAZZO HELPERS	5 35				
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02
PLASTERERS	7.80				.02
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.35	.45	.55		.02
Over 10 mile from Pulaski County Courthouse	10.65	45	.55		.02
POWER EQUIPMENT OPERATORS:					
GROUP I	9.64	.35	.35		
GROUP II	8.76	.35	.35		
GROUP III	8.36	.35	.35		
GROUP IV	6.92	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS:
All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS:
Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ROOFERS	$7 60		.10		
SHEET METAL WORKERS	9.65	.40	.40		.02
SPRINKLER FITTERS	10.12	.65	.95		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays - A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

[FR Doc 77-14844 Filed 5-26-77;8:45 am]