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

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

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

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

FEDERAL REGISTER, Daily Issue:
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Subscription problems (GPO) ............ 202-275-3050
"Dial - a - Reg" (recorded summary of highlighted documents appearing in next day's issue).
Washington, D.C. ......................... 202-523-5022
Chicago, Ill ................................ 312-663-0884
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Photo copies of documents appearing in the Federal Register,.... 523-5240
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FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Agreement Act of regulating the handling of lemons.

FOR FURTHER INFORMATION:

DATES:

lemons grown

activities of the Lemon Administrative Committee which locally administers the Federal marketing order covering lemons grown in California and Arizona.


FOR FURTHER INFORMATION CONTACT:


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

§ 910.218 Expenses and rate of assessment.

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

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

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

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


Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

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


FOR FURTHER INFORMATION CONTACT:


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

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

Upon the basis of the record it is found that:

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

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

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

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

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

(b) Determinations. It is hereby determined that:

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

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

ORDER RELATIVE TO HANDLING

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

1. Add a new § 911.12 Export as follows:

§ 911.12 Export.

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

2. Revise § 911.48 by-designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 911.48 read as follows:

§ 911.48 Issuance of regulations.

(a) * * *

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

(b) The committee may be increased by one public member and alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary.

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

§ 911.41 Assessments.

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

4. Revise § 911.31 to read as follows:

§ 911.31 Expenses.

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

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

§ 911.42 Accounting.

(a) * * *

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

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

§ 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems advisable to be handled to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada during the next succeeding week: Provided, That such volume regulation shall not be recommended for any week except during the 16-week regulatory period beginning with the week preceding the first full week in May: Provided, further, That no such regulation shall be recommended after such regulations have been in effect for an aggregate of eight (8) weeks during the aforesaid period.

Revise §911.54 to read as follows:

§ 911.54 Issuance of volume regulations.

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

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

§ 911.55 Prorate bases.

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

§ 911.51 Limes subject to regulation.

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

§ 911.130 Limes not subject to regulation.

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

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

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

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

Subpart—Pack Regulation

§ 911.31 Lime Regulation 9.

(a)(1) * * *

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

(See § 911.41, 911.48, and 911.51, exempt from the provisions of §§ 911.41, 911.48, and 911.51, and the regulations issued thereunder. * * *

As corrected, the proviso reads as follows:

Subpart—Rules and Regulations

§ 911.110 Exemption certificates.

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

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

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

§ 911.130 Limes not subject to regulation.

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

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

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

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

Subpart—Pack Regulation

§ 911.311 Lime Regulation 9.

(a)(1) * * *

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

(See § 911.41, 911.48, and 911.51, exempt from the provisions of §§ 911.41, 911.48, and 911.51, and the regulations issued thereunder. * * *

As corrected, the proviso reads as follows:

Subpart—Rules and Regulations

§ 911.110 Exemption certificates.

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

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

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

§ 911.130 Limes not subject to regulation.

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

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

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

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

Subpart—Pack Regulation

§ 911.311 Lime Regulation 9.

(a)(1) * * *

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

(See § 911.41, 911.48, and 911.51, exempt from the provisions of §§ 911.41, 911.48, and 911.51, and the regulations issued thereunder. * * *

Effective date: September 30, 1978.


P. R. “Bobby” Smith, Assistant Secretary for Marketing Services.

[FR Doc. 78-24337 Filed 9-1-78; 8:45 am]

[3410-02]

[Docket No. AO-254-A8]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This decision amends the Federal marketing agreement and order for fresh avocados grown in south Florida. Avocado growers ap
proved the amendment in a referendum held June 21 through June 30, 1978. The principal changes: Authorize addition of a public member to the committee; allow an assessment rate exceeding 20 cents per bushel when recommended by a specified majority of the committee; change the financial reserve provision to authorize recovery of up to three years' expenses; authorize regulations for export shipments that are different from regulations for shipments to domestic markets; and delete the provision allowing compensations to committee members for performing program duties.


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

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

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

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act; (2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of avocados grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held; (3) The marketing agreement and order, as amended, and as hereby further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; (4) The marketing agreement and order prescribe, so far as practicable, regulations for shipments to domestic markets; and (5) All handling of avocados grown in the production area as defined in the marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Determinations. It is hereby determined that:

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

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is in the current of interstate or foreign commerce and is necessary to effectuate the declared policy of the act; (3) The marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

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

1. Add a new § 915.12 Export as follows:

§ 915.12 Export.

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

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

§ 915.51 Issuance of regulations.

(a) * * * * *

(b) The committee may be increased by one public member and an alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office and the procedure for nominating the public member and alternate. Revise paragraph (a) of § 915.30 and add a new paragraph (c) to such section. As amended, § 915.30 reads as follows:

§ 915.30 Procedure.

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

(b) For any recommendation of the committee for an assessment rate exceeding 50 cents per bushel to be applied pursuant to § 915.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

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

§ 915.20 Establishment and membership.

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

§ 915.30 Procedure.

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

(c) For any recommendation of the committee for an assessment rate exceeding 50 cents per bushel to be applied pursuant to § 915.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

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

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§ 915.41 Assessments.

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

In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

4. Revise § 915.31 to read as follows:

§ 915.31 Expenses.

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

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

§ 915.42 Accounting.

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

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

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

§ 915.205 Reserve fund.

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

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

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

Effective date: September 30, 1978.


P. R. "Bobby" Smith, Assistant Secretary for Marketing Services.

[FR Doc. 78-24838 Filed 9-1-78; 8:45 am]

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

§ 927.41 Expenses.

Effective date: September 30, 1978.

P. R. "Bobby" Smith, Assistant Secretary for Marketing Services.

[FR Doc. 78-24838 Filed 9-1-78; 8:45 am]

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

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Expenses and Rates of Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

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


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Finding. Pursuant to marketing order Nos. 927 and 931 (7 CFR Parts 927 and 931), respectively, regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nels, Doyenne du Comice, Beurre Easter, and Beurre Clairgjeux varieties of pears grown in Oregon, Washington, and California, and Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1977, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committees, established under these marketing orders, and upon other information, it is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

MARKETING ORDER 927

§ 927.218 Expenses and rates of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Control Committee during the period July 1, 1978, through June 30, 1979, will amount to $899,788.

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

MARKETING ORDER 931

§ 931.213 Expenses and rates of assessment.

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

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

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

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

(See L. 119, 48 Stat. 31, as amended (7 U.S.C. 501-574))


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

[FR Doc. 78-24397 Filed 8-1-78 8:45 am]

SUMMARY: This action provides for a "base-excess" plan for paying production during August through February, each producer would be paid a higher uniform base price up to his base, and a lower price for any excess milk. During August through February, producers would receive the blend price for all their deliveries. The intent of the plan is to provide an incentive to producers to reduce their milk production during the year.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:


FINDINGS AND DETERMINATIONS

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

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

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

  (1) The said orders as hereby amended, and all of the terms and conditions, thereof, will tend to effectuate the declared policy of the act.

  (2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which may affect the demand for milk in the said marketing areas, and the minimum prices specified in the orders as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

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

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

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

(c) Determinations: It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the act) of more than 50 percent of the milk which is marketed within each of the aforesaid marketing areas, to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

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

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

ORDER RELATIVE TO HANDLING

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

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

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

§ 1071.31 Payroll reports.

(a) * * *

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

* * * * *

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

* * * * *

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

§ 1071.32 Other reports.

* * * * *

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

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

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

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

3. Section 1071.61 is revised as follows:

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

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows: (1) Combine into one total the values computed pursuant to § 1071.60 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.71 and 1071.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1071.76;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund; (1) * * *

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations: (1) The total hundredweight of producer milk; and (2) The total hundredweight for which a value is computed pursuant to § 1071.60(f).

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

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

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

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

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

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

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

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

§ 1071.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

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

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

§ 1071.71 [Amended]

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

§ 1071.71(a)(2)(ii) is amended by changing the words “uniform price” to “weighted average price.”

§ 1071.73 Payments to producers and to cooperative associations.

§ 1071.74 [Amended]

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

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

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

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

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

11. A new center head "Base-Excess Plan" and five new sections (§§1071.80 through 1071.94) are added immediately following §1071.86 as follows:

BASE-EXCESS PLAN

§1071.90 Base milk.

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

§1071.91 Excess milk.

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

§1071.92 Computation of base for each producer.

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

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

§1071.93 Base rules.

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

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

§1071.94 Announcement of established bases.

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

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

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

§1073.31 Payroll reports.

(a) * * *

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

* * * * *

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

* * * * *

2. Section 1073.32 is revised as follows:

§1073.32 Other reports.

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

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

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

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

3. Section 1073.61 is revised as follows:

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

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

(1) Combine into one total the values computed pursuant to §1073.60 for all handlers who filled the reports prescribed by §1073.30 for the month and who made the payments pursuant to §1073.31 for the preceding month;

(2) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to §1073.76;

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

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 8 cents;

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

(a) The total hundredweight of producer milk; and

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

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

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

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

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

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

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


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

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

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

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

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

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

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

§1097.31 Payroll reports.

(a) ... (3) The total pounds of milk received from each producer and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each fluid milk (pool) plant and diverted to each plant that is not a fluid milk (pool) plant under any of the orders specified in §1097.95;

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

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

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

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

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

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract, for each handler, an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in §1097.91(c) and

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

3. Section 1097.75 is revised as follows:

§1097.75 Plant location adjustments for producers.

In making payment pursuant to §1097.75, for milk received the uniform price and the uniform price for base milk shall be adjusted according to the location of the fluid milk plant where such milk was received at the rate provided pursuant to §1097.52.

4. Section 1097.90 is revised as follows:

§1097.90 Base milk.

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

5. Section 1097.91 is revised as follows:

§1097.91 Excess milk.

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

6. Section 1097.92 is revised as follows:

§1097.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark; Central Arkansas; Texas; Lubbock-Plainview, Tex; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1108, 1106, 1206, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days’ production represented by such producer milk or by 90, whichever is greater.

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

7. Section 1097.93 is revised as follows:

1097.93 Base rules.

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

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

8. Section 1097.94 is revised as follows:

§1097.94 Announcement of established bases.

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

§1097.95 [Revoked]

9. Section 1097.95 is revoked.

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

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

§1102.31 Announcements of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.
§ 1102.32 Payroll reports.

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

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

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

§ 1102.32 Other reports.

(2) The total pounds of milk and butterfat and the pounds of base milk of such producer delivered to each approved (pool) plant (and diverted to each plant that is not an approved plant (pool) plant) and to each other plant that is not in excess of the producer’s base milk under all of the orders specified in § 1102.92, the amount of such producer’s base milk received by the handler under this order at each plant location shall be determined by multiplying the producer’s total base milk by the percentage of his total deliveries of producer milk under all orders specified in § 1102.92 that is delivered under this order at each respective plant location.

§ 1102.32 Plant location adjustments for producers.

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

5. Section 1102.50 is revised as follows:

§ 1102.50 Base milk.

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

6. Section 1102.91 is revised as follows:

§ 1102.91 Excess milk.

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

7. Section 1102.92 is revised as follows:

§ 1102.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley, Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn., Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1108, 1097, 1102, 1128, 1108, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days’ production represented by such producer milk or by 90, whichever is greater.

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

8. Section 1102.93 is revised as follows:

§ 1102.93 Base rules.

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

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

9. Section 1102.94 is revised as follows:

§ 1102.94 Announcement of established bases.

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

§ 1102.95 Revoked.

10. Section 1102.95 is revoked.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

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

§ 1104.31 Payroll reports.

(a) **

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

- **

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

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

§1104.32 Other reports.

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

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

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

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

3. Section 1104.61 is revised as follows:

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

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

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

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

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

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

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

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

Subtract not less than 4 cents nor more than 5 cents.

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

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

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

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

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

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

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

4. Section 1104.62 is revised as follows:

§1104.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

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

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

§1104.71 [Amended]

5. Section 1104.71(a)(3)(i) is amended by changing the word “price” to “prices.”

6. Section 1104.71(a)(3)(ii) is amended by changing the words “uniform prices” to “weighted average price.”

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

§1104.73 Payments to producers and to cooperative associations.

(a) * * *

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

(b) * * *

(1) * * *

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

(3) * * *

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

§1104.74 [Amended]

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

9. Section 1104.75 is revised as follows:

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

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

(b) For the purpose of computations pursuant to §§1104.71 and 1104.73, the weighted average price plus 5 cents shall be adjusted at the rate set forth in §1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

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

§1104.76 [Amended]

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

11. A new section head “Base-Excess Plan” and five new sections (§§1104.80
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§ 1104.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1104.92 in each of the months of March through July that is in excess of the producer's base milk multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1101.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1104.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1104.92 that is delivered under this order at each respective plant location.

§ 1104.91 Excess milk.

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

§ 1104.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received by the producer's terminal handler for each month, and shall be based on the number of calendar days in the month. The base thus determined for each producer shall include all the producer milk of a producer for whom no base can be computed pursuant to §§ 1104.90 and 1104.91.

§ 1104.93 Base rules.

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

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

§ 1101.94 Announcement of established bases.

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

§ 1104.121 [Amended] 3

12. Section 1104.121(b) is amended by changing all references to "§ 1104.91(c)" to read "§ 1104.81(a)(4)."

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

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

§ 1106.31 Payroll reports.

(a) * * *

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

* * * * *

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

* * * * *

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

§ 1106.32 Other reports.

* * * * *

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

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

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

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1105.92.

3. Section 1106.61 is revised as follows:

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

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

(1) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.72 for the preceding month.

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

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

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

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

(i) The total hundredweight of producer milk; and

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

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

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

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

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

2. Compute the uniform price for base milk as follows:

   (i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(6)(i) of this section by the weighted average price;

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

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

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

4. Section 1106.52 is revised as follows:

   §1106.52 Announcement of uniform prices and butterfat differential.

   The market administrator shall announce publicly on or before:

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

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

§1106.71 [Amended]

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

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

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

   §1106.73 Payments to producers and to cooperative associations.

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

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

   (c) 

§1106.74 [Amended]

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

9. Section 1106.75 is revised as follows:

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

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

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

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

§1106.76 [Amended]

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

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

   **Base-Excess Plan**

   §1106.90 Base milk.

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

§1106.91 Excess milk.

“Excess milk” means the producer milk of a producer under any of the orders specified in paragraph (a) of this section in excess of the producer’s base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to §1106.92.

§1106.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1074, 1075, 1076, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1120, 1121, 1122, 1123, and 1132, respectively, of this chapter) during the immediately preceding period of September through December by the number of days’ production represented by such producer milk or by 90, whichever is greater.

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

§1106.93 Base rules.

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

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

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

§1106.94 Announcement of established bases.

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

§1106.121 [Amended]

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

PART 1102—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

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

§1108.31 Payroll reports.

(a) • • • •

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

• • • •

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

• • • •

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

§1108.32 Other reports.

(a) • • • •

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

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

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

• • • • •

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

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

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of March through August for the market, including weighted average price and base and excess prices, as follows:

• • • • •

3. Subtract not less than 4 cents nor more than 5 cents.

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

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

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

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) and (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(3)(i) of this section by the weighted average price;

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

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

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

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

• • • • •

5. Section 1108.80 is revised as follows:

§1108.90 Base milk.

"Base milk:" means the producer milk of a producer under all of the orders specified in §1103.92 in each of the months of March through July that is not in excess of the producer's base milk multiplied by the number of days in the month. If milk is received as producer milk: (as defined under any other order specified in §1103.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in §1103.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in §1103.92 that is delivered under this order at each respective plant location.

6. Section 1108.911 is revised as follows:

§1108.91 Excess milk.

"Excess milk:" means the producer milk of a producer under all of the orders specified in §1103.92 in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to §1108.92.

7. Section 1108.92 is revised as follows:

§1108.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk: (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley, Wichita, Kans.; Red River Valley, Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1139, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

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

8. Section 1108.93 is revised as follows:

§1108.93 Base rules.

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

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

9. Section 1108.94 is revised as follows:

§1108.94 Announcement of established bases.

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

§§1108.95 and 1108.96 [Revoked].

10. Sections 1108.95 and 1108.96 are revoked.

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

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

§1120.31 Payroll reports.

(a) * * *

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

* * *

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

* * *

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

§1120.32 Other reports.

* * *

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

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

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

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

3. Section 1120.61 is revised as follows:

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

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

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

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

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

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

* * *

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

(i) The total hundredweight of producer milk and

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

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

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

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

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

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(2) of this section by the weighted average price;

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

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

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

4. Section 1120.62 is revised as follows:

§1120.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

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

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

§1120.71 [Amended]

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

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

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

§1120.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day after the end of each month for milk (or base milk and excess milk) received during such month, an amount computed at not less than the uniform price(s) per hundredweight pursuant
to §1120.61 as adjusted pursuant to §1120.74; and less

(d) **

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

§1120.74 [Amended]

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

9. Section 1120.75 is revised as follows:

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

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

(b) For purposes of computations pursuant to §§1120.71 and 1120.72 the weighted average price plus 5 cents shall be adjusted at the rates set forth in §1120.82 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the class III price).

§1120.76 [Amended]

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

11. A new center head "Base-Excess Plan" and five new sections (§§1120.99 through 1120.94) are added immediately following §1120.68 as follows:

**BASE-EXCESS PLAN**

§1120.90 Base milk.

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

§1120.91 Excess milk.

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

§1120.92 Computation of base for each producer.

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

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

§1120.93 Base rules.

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

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

§1120.94 Announcement of established bases.

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

§1120.121 [Amended]

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

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In §1126.32 paragraph (b)(3) is revised as follows:

§1126.32 Other reports.

(a) **

(b) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in §1126.52;

2. Section 1126.61 is revised as follows:

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

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

(1) Combine into one total the values computed pursuant to §1126.60 for all handlers who filed the reports prescribed in §1120.50 for the month and who made the payments pursuant to §1120.71 for the preceding month.
(2) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

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

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

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

(i) The total hundredweight of producer milk; and

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

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

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

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

§1126.70 payments to producers and to cooperative associations.

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 10th day after the end of each month for milk (or base milk and excess milk) for which payment pursuant to §1126.71(b) has been received by the market administrator or offset pursuant to §1126.71(d). Such payment shall be at the applicable uniform price for the month, subject to the following adjustments:

• • • •

(d) • • •

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

• • •

§1126.74 [Amended]

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

7. Section 1126.75 is revised as follows:

§1126.75 Plant location adjustments for producers and nonpool milk.

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

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

§1126.76 [Amended]

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

9. A new heading "Base-Excess Plan" and five new sections (§§ 1126.90 through 1126.94) are added immediately following §1126.60 as follows:

BASE-EXCESS PLAN

§1126.90 Base milk.

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

§1126.91 Excess milk.

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

§1126.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders during the entire base-forming period. The base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an
b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base received by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

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

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

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

§ 1132.31 Payroll reports.
(a) * * *
(2) The total pounds of milk received from such producer and during the month of March through July the pounds of base milk;

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

* * * * *

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

§ 1132.32 Other reports.
* * * * *

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

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 10th day after the end of each of the months of March through July the following information:

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

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

3. Section 1132.61 is revised as follows:

§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).
(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk for milk of 3.5 percent butterfat content, f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(1) Compute the uniform price for producer milk included pursuant to paragraph (a)(1) of this section by dividing the resulting amount by 5;

(2) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.78;

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

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

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

1) The total hundredweight of producer milk; and

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

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

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

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

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

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(3)(d) of this section by the weighted average price;

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

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

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

4. Section 1132.62 is revised as follows:

§ 1132.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

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

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

§ 1132.73 (Amended)
5. Section 1132.73(a)(2)(F) is amended by changing the word “price” to “prices.”

6. Section 1132.73(a)(2)(H) is amended by changing the word “uniform price” to “weighted average price.”

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

§ 1132.73 Payments to producers and to cooperative associations.
* * * * *

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

* * * * *

(c) * * *

(3) Each handler who receives milk from a cooperative association which collects payments for its members pursuant to paragraph (e)(1) of this section shall, on or before the 20th of each month, furnish such association information showing the daily and total pounds of milk received from each of the association’s member producers for the first 15 days of such
month, on or before the fifth day after the end of each month, such information for the 16th through the end of such month and, for the months of March through July, on or before the seventh day after the end of each month, the pounds of base milk.

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

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

§ 1132.74 Amended
8. Section 1132.74 is amended by changing the words “uniform price” to “uniform prices.”

9. Section 1132.75 is revised as follows:

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

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

<table>
<thead>
<tr>
<th>Distance from the Amarillo City Hall (miles)</th>
<th>Rate per hundredweight (cents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 but less than 110</td>
<td>15.0</td>
</tr>
<tr>
<td>For each additional 10 miles of or fraction thereof an additional</td>
<td>1.5</td>
</tr>
</tbody>
</table>

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1132.53 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the class III price.)

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

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

**BASE-EXCESS PLAN**

§ 1132.90 Base milk.

“Base milk” means the producer milk of a producer under all of the orders specified in § 1132.92 in each of the months of March through July that is in excess of the producer’s base milk as determined under this order and by a handler fully regulated under any other order specified in § 1132.92.

§ 1132.91 Excess milk.

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

§ 1132.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas, Lubbock-Plainview, Tex.; Texas Panhandle and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1152, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

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

§ 1132.93 Base rules.

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

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

§ 1132.94 Announcement of established bases.

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

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

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

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

§ 1138.31 Payroll reports.

(a) * * *

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

* * * * *

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

* * * * *

2. Section 1138.32 is revised to read as follows:
(a) Each handler who receives milk from producers shall report to the market administrator on or before the 8th day after the end of each of the months of March through July the following information:

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

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

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

3. Section 1138.61 is revised as follows:

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

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

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

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

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

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

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

(i) The total hundredweight of producer milk; and

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

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

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

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

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

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

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

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

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

4. Section 1138.62 is revised as follows:

§1138.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

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

(b) The 15th day after the end of each month the applicable uniform prices for such month.

§1138.71 [Amended]

5. Section 1138.71(a)(2)(I) is amended by changing the word "price" to "prices." §1138.71 is revised as follows:

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

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

§1138.73 Payments to producers and to cooperative associations.

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

(d) * * * * *

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

(e) * * * * *

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

(f) * * * * *

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

§1138.74 [Amended]

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

9. Section 1138.75 is revised as follows:

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

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

(b) For purposes of computations pursuant to §§1138.74 and 1138.72, the weighted average price shall be adjusted at the rates set forth in §1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§1138.76 [Amended]

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

11. A new center head “Base-Excess Plan” and five new sections (§§1138.90 through 1138.94) are added immediately following §1138.88 as follows:

**BASE-EXCESS PLAN**

§1138.90 Base milk.

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

§1138.91 Excess milk.

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

§1138.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1107, 1102, 1106, 1129, 1130, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 80, whichever is greater.

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

§1138.93 Base rules.

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

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

§1138.94 Announcement of established bases.

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

§1138.121 [Amended]

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

Effective date: September 1, 1979.

P. R. "Bobby" Smith, Assistant Secretary for Marketing Services.

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

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

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:


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

§355.12 Charge for service.

... ... ... ... ...

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

... ... ... ... ...

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

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


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

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

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
For further information, contact the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. In accordance with the Freedom of Information Act, the Board provides for public inspection and copying a current index and makes available for public inspection and copying identifying information for the public subject to certain limitations stated in 12 CFR Part 261.5.

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

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

EC-0012

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


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

The principal changes in the loan application and the only ones having any significance in relation to ECOA and Regulation B are the revision of the section formerly headed "Voluntary Information For Government Monitoring Purposes" and the creation of a monitoring inserts form. The language previously contained in the monitoring information section and the word "Voluntary" in the caption have been deleted because identical monitoring requirements no longer apply to all lenders, for example, banks.

The Federal Home Loan Bank Board has adopted substitute monitoring programs that apply to the financial institutions that they regulate (43 Fed. Reg. 11563 (March 20, 1978) and 43 Fed. Reg. 11566 (May 25, 1978), respectively). The Comptroller also intends to adopt a substitute monitoring program for national banks. Furthermore, although State authorities and Federal agencies that do not have administrative enforcement authority under ECOA may not substitute different monitoring programs for those imposed pursuant to §202.13 of Regulation B, they may require supplementary use of the procedures as permitted by §202.5(b)(2).

To accommodate these different monitoring programs, the revised FHLMC-FNMA application and supplemental forms contain language approved by other enforcement agencies that are implementing the monitoring programs in a supplemental form (FHLMC 65A/FNMA 1003B 8/78) incorporating the language previously contained in the monitoring information section and that in addition contains language approved by FDIC and FHLLB for lenders with their respective monitoring programs. If any other ECOA enforcement agency adopts different requirements, appropriate additional language will be added to the supplement. Lenders are reminded that they also are responsible for compliance with applicable State monitoring requirements.

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

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

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

Sincerely,

JANET HART,
Director.

Federal Register, Vol. 43, No. 172—Tuesday, September 5, 1978
**RULES AND REGULATIONS**

The statement and any necessary supporting schedules may be completed jointly by both married or unmarried co-borrowers. If the assets and liabilities are sufficiently listed so that the statement can be meaningfully and fairly presented on a combined basis, separate schedules will be required.

Please note that if the co-borrower section was completed about a recent, this statement and supporting schedules must be completed about that borrower alone.

**ASSETS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cash &amp; Market Value</th>
<th>Description</th>
<th>Cash &amp; Market Value</th>
<th>Description</th>
<th>Cash &amp; Market Value</th>
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<tbody>
<tr>
<td>Cash Deposits Held By</td>
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<td>Checking and Savings Accounts (Show Number of Institution/Account)</td>
<td></td>
<td>Stocks and Bonds (If/Description)</td>
<td></td>
</tr>
<tr>
<td>Checking and Savings Accounts (Show Number of Institution/Account)</td>
<td></td>
<td>Life Insurance Net Cash Value (If/Description)</td>
<td></td>
<td>Stocks and Bonds (If/Description)</td>
<td></td>
</tr>
<tr>
<td>Life Insurance Net Cash Value (If/Description)</td>
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<td>Other Debts Including Stock Purchase</td>
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<td>Other Debts Including Stock Purchase</td>
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<td>Other Debts Including Stock Purchase</td>
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<tr>
<td>Total Liquid Assets</td>
<td></td>
<td>Real Estate Owned (Fair Market Value)</td>
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<td>Real Estate Owned (Fair Market Value)</td>
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<td>Financial Statements</td>
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<td>Autos Welshed or Yanked</td>
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<td>Furniture and Personal Property</td>
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<td>Other Assets (If/Description)</td>
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<td><strong>TOTAL ASSETS</strong></td>
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</tr>
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</table>

**LIABILITIES AND PLEDGED ASSETS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. Name of Pledge Owner</th>
<th>Description</th>
<th>Acct. Name of Pledge Owner</th>
<th>Description</th>
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<tr>
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<td>Mortgages</td>
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</tr>
</tbody>
</table>

**FINANCIAL STATEMENT**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount of Accounts &amp; Loans</th>
<th>Description</th>
<th>Amount of Accounts &amp; Loans</th>
<th>Description</th>
<th>Amount of Accounts &amp; Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Receipts</td>
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<td>Gross Receipts</td>
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<td>Gross Receipts</td>
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<td>Gross Receipts</td>
<td></td>
</tr>
</tbody>
</table>

**SCHEDULE OF REAL ESTATE OWNED**

<table>
<thead>
<tr>
<th>Description</th>
<th>Address of Real Estate Owned</th>
<th>Description</th>
<th>Address of Real Estate Owned</th>
<th>Description</th>
<th>Address of Real Estate Owned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
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<td></td>
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</tr>
</tbody>
</table>

**LIST PREVIOUS CREDIT REFERENCES**

<table>
<thead>
<tr>
<th>Description</th>
<th>Account Number</th>
<th>Description</th>
<th>Account Number</th>
<th>Description</th>
<th>Account Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
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<td>Description</td>
<td></td>
<td>Description</td>
<td></td>
</tr>
</tbody>
</table>

**INFORMATION FOR GOVERNMENT MONITORING PURPOSES**

<table>
<thead>
<tr>
<th>Description</th>
<th>Date</th>
<th>Description</th>
<th>Date</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
<td></td>
<td>Description</td>
<td></td>
<td>Description</td>
<td></td>
</tr>
</tbody>
</table>

**FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978**
## STATEMENT OF ASSETS AND LIABILITIES

(Supplement to Residential Loan Application)

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

**Property Street Address:**

**Legal Description:**

### ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>Cash or Market Value</th>
<th>Creditors name, Address and Account Number</th>
<th>Acc', Name if Not Borrower</th>
<th>Mes, and Sec., Left to Pay</th>
<th>Unpaid Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Checking and Savings Accounts (Show Name of Institution/Account No.)</td>
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<tr>
<td>Stocks and Bonds (Describe)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Life Insurance Net Cash Value</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL LIQUID ASSETS $**

- **Real Estate Owned (Enter Market Value from Schedule of Real Estate Owned)**

**Total Net Worth of Business Owned (ATTACH FINANCIAL STATEMENTS)**

**Stocks and Bonds (Describe)**

**Life Insurance Net Cash Value**

**Other Assets**

**TOTAL ASSETS**

**NET WORTH (Amount) $**

**TOTAL LIABILITIES $**

### SCHEDULE OF REAL ESTATE OWNED

<table>
<thead>
<tr>
<th>Address of Property</th>
<th>Type of Property</th>
<th>Market Value</th>
<th>Amount of Mortgage &amp; Loan</th>
<th>Gross Income</th>
<th>Mortgage Payments</th>
<th>Tax, INS.</th>
<th>LIABILITY</th>
<th>TOTAL NET WORTH</th>
</tr>
</thead>
</table>

**TOTAL NET WORTH $**

List any additional names under which credit has previously been extended.

I have fully understood that if a false statement is made or omitted, or both, to knowingly make any false statement or omission hereunder is punishable under the provisions of Title 18, United States Code, Section 1014.

**NOTE:** The signatures of all parties must be signed in the presence of an officer of the state or county.

**FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978**
INFORMATION FOR GOVERNMENT MONITORING PURPOSES - INSERTS

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

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

INSERT FOR FHLLB OR FDIC REGULATED LENDERS

The following information is requested by the Federal Government if this loan is related to a dwelling in order to monitor the lender's compliance with Equal Credit Opportunity and Fair Housing Laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may neither discriminate on the basis of this information, nor on whether or not it is furnished. Furnishing this information is optional. If you do not wish to furnish the above information, please initial below.

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

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

INSERT FOR LENDERS SUBJECT ONLY TO FEDERAL RESERVE SYSTEM REGULATION B

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

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

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

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


GRIFFITH L. GAYWOOD,
Deputy Secretary of the Board.

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

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

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

PART 39—AIRWORTHINESS DIRECTIVES

Bendix

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT:
A. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, 8 F.K. International Airport, Jamaica, N.Y. 11430; telephone, 212-955-2894.

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

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

ADOPTION OF THE AMENDMENT

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

1. Revoking AD 77-17-07.
2. Issuing the following new airworthiness directive:

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

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

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

(1) Red nameplate magnetos exhibiting four hex head socket cap screws as shown in Service Bulletin No. 590A, figure 1, having S/N 5145 thru 11744, not prefixed by the letter "A" or "B".

(2) Blue nameplate magnetos exhibiting four hex head socket cap screws as shown in Service Bulletin figure 1, having S/N 701001 or below, not prefixed by the letter "A" or "B".

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

(1) Red nameplate magnetos, S/N 3001 thru 17069 (including those identified by an "A" or "B" preceding the serial number) not exhibiting the letter "B" stamped approximately in the center of the bottom line of the nameplate.

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

(3) Blue nameplate (Bendix remanufactured) magnetos, having S/N below 800001, not exhibiting the letter "B" stamped approximately in the center of the bottom line of the nameplate.

(c) Capacitor Malfunction. Within the next 25 hours in service for red nameplate magnetos below S/N 11744, accomplish parts I and II of Service Bulletin No. 587 or an approved equivalent unless the stamped letter "G" appears on the nameplate in or near the lower right corner. On four cylinder versions, S/N 8918 thru 9223 and on six cylinder versions, S/N 7544 thru 9528, also accomplish part III, or an approved equivalent.

(d) Coil Retainer Flag Migration. Within the next 25 hours in service for red nameplate magnetos below S/N 4400, accomplish the instructions of part 1 "detailed inspection procedure for threaded tapered plug, 10-38,44, paragraph Nos. 1 and 2, of Service Bulletin No. 584B or an approved equivalent.

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

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

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

The Installation Bendix Coll Securing Kit, P/N 10-382399 per Service Bulletin No. 584B, part No. 2, "detailed housing modification procedure" or part No. 3, "detailed disassembly and detailed reassembly instructions", as specified in Part Nos. 2 or 3 "general instructions", or an approved equivalent.

EQUIVALENT INSPECTIONS AND PROCEDURES

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

As permitted by FAR 21.107 aircraft may be flown to a base where maintenance required by this airworthiness directive can be accomplished.

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

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1341(a), 1421, and 1423); 1970, Department of Transportation Act (49 U.S.C. 1554(c)); and 14 CFR 118.3.

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

L. J. CARDINHAL, Acting Director, Eastern Region

[FR Doc. 78-2490 Filed 9-1-78; 8:45 am]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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


FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
RULES AND REGULATIONS

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

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
The manufacturer, Fairchild submitted Service Bulletins No. 55-11(F-27) and 55-12(F-27) for modifications which strengthen the horizontal stabilizer. Shortly thereafter, the alterations were determined by FAA to be stronger than those required by AD 66-27-5. Allegheny was granted an extension of the inspection period, from 150 hours to 350 hours in service. As a result of Allegheny’s experience, it appears that the AD should be amended to permit access to the extension upon incorporation of the service bulletins. Further, experience permits extension of the repetitive inspection from 60 to 150 hours. Since the amendment is relaxatory, notice or public procedure hereon are unnecessary and good cause exists for making the rule effective in less than 30 days.

DRIFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

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

Amend AD 66-27-5 as follows: (1) Re- letter present paragraph (f) to (g) and add a new paragraph (f) to read as follows:

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

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

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

(See. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423; sec. 601, Department of Transporta- tion Act, (49 U.S.C. 1656(c)); and 14 CFR 313(a)).

Not.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11221, as amended by Executive Order 11949, and OMB Circular A-107.

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

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

[81FR Doc. 78-24692 Filed 9-1-78; 8:45 am]

[4910-13]

(Docket No. 78-EA-40, Amdt. 39-3391)

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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


ADDRESSES: Fairchild Service Bulle- tins may be acquired from the manu- facturer at Fairchild Industries, Inc., Fairchild Republic Co., Hagerstown, Md. 21740.

FOR FURTHER INFORMATION CONTACT:

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

DRIFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

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

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

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

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

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

(See. 313(a), 601, 605, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423; sec. 601, Department of Transporta- tion Act (49 U.S.C. 1656(c)); and 14 CFR 313(a)).

Not.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11221, as amended by Executive Order 11949, and OMB Circular A-107.

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

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

[81FR Doc. 78-24692 Filed 9-1-78; 8:45 am]

[4910-13]

(Docket No. 78-EA-40, Amdt. 39-3391)

PART 39—AIRWORTHINESS DIRECTIVES

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement, if necessary, of P/N 560-2408 drive shaft assemblies installed in the Soloy/Hiller UH-12D/E helicopters. This AD is necessary to require removal of service from those drive shafts which were installed without having been internally cadmium plated. Internal corrosion of these assemblies could lead to shaft failure with resultant control system damage.

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

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

FOR FURTHER INFORMATION CONTACT:
Daniel I. Cheney, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

[4910-13]

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and replacement, if necessary, of P/N 560-2408 drive shaft assemblies was published in the Federal Register at 43 FR 24848. The proposal was prompted by the FAA's determination that corrosion of the P/N 560-2408 engine to-transmission drive shafts, which were installed without having been internally cadmium plated, could lead to shaft failure and resultant extensive helicopter structural and control system damage. Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

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

ADOPTION OF THE AMENDMENT

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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

ADDRESS: The applicable maintenance information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: Director, Publications and Training, CT-759 (54-00).

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

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

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

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

ADOPTION OF THE AMENDMENT

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

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

Compliance required as indicated.

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

(a) Within the next 24 hours time in service after the effective date of this AD; unless already completed within the last 60 days:

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

(1) Visually inspect the right and left elevator upper cables and cable fittings for possible interference with the control head frame and channel located just aft of the control column assembly at fuselage station (FS) 63 on the DC-3 series and at FS 24 on the super DC-3. The elevator cable and/or cable fitting must have 7/8 inch minimum clearance relative to the bottom of the cutout hole and both legs of the channel, throughout full cable travel. Pay particular attention to clearance when the elevator horn of the control column is rotated to the lowest point of its movement.

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

(b) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the inspections required by paragraph (a)(1), trim out the elevator control system, due to cable interference accomplish the following.

(1) Visually inspect the right and left elevator upper cables and cable fittings for possible interference with the control head frame and channel located just aft of the control column assembly at fuselage station (FS) 63 on the DC-3 series and at FS 24 on the super DC-3. The elevator cable and/or cable fitting must have 7/8 inch minimum clearance relative to the bottom of the cutout hole and both legs of the channel, throughout full cable travel. Pay particular attention to clearance when the elevator horn of the control column is rotated to the lowest point of its movement.

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

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

This amendment becomes effective September 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1391(a), 1421, 1422); 60.6 Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

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

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

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

[Airspace Docket No. 75-ASW-21]

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

Designation of Transition Area: Boise City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

HISTORY

On June 6, 1978, a notice of proposed rulemaking was published in the Federal Register (43 FR 28585) stating that the Federal Aviation Administration proposed to designate the Boise City, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Responses were received with one commenter objecting to the proposal.

DISCUSSION OF COMMENTS

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

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

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

The Rule

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

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

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

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

Boise City, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Boise City Airport, Boise City, Okla.;
SUPPLEMENTARY INFORMATION: On Tuesday, May 30, 1978, there was published in the Federal Register, 43 FR 22988, a proposed consent agreement with analysis in the matter of United Builders, Inc., a corporation, and Paul Denillo, individually and as officers of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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


The Commission has directed parties to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

NOTE.—The acting secretary.

JAMES A. TOTHIN,
Acting Secretary.

[FR Doc. 78-24886 Filed 9-1-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Levamisole Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Cyanamid Agricultural de Puerto Rico, Inc., providing for use of a 4x supplement in manufacturing a complete swine feed, use of the feed in treating certain helminth infections including swine kidney worms, and a waiver of the requirements of section 512(a)(1) of the act for the manufacture of complete swine feeds from certain supplements.


FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc., P.O. Box 243, Manati, P.R. 00701, filed a supplemental NADA (45-4565V) which provides for the manufacture of a 0.32 percent swine feed supplement, a waiver of the requirements of section 512(a)(1) of the act for the manufacture of a complete swine feed
from the 0.32 percent supplement, and use of the feed in treating swine kidneyworm infections.

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

1. The feeding of a 1.5x to 2x level of the product does not have an impact on the tissue residue picture, i.e. an impact of an existing withdrawal period or a tolerance.
2. The product is not a known carcinogen or is not classed with a family of known carcinogens.
3. Appropriate documentation of existing residue is on file. This provision will not require additional generation of data because this documentation is part of the NADA.
4. The margin of safety to the animal and to the consumer is such that the product label does not have to contain a statement such as "use as the sole source of..."
5. Data are on file to demonstrate that the product is efficacious over the approved range. These data should generally satisfy current standards for the demonstration of efficacy.
6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available drug experience reports.

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

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

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

In accordance with the freedom of information regulations and §514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5500 Fisher Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(1), 82 Stat. 347 (21 U.S.C. 350b(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), §558.315 is amended by redesignating the existing paragraph (f) as paragraph (g), adding a new paragraph (i), and revising newly designated paragraph (g)(2) (ii) and (iii) as follows:

§558.315 Levamisole hydrochloride (equivalent).

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

(g) * * *

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

(iii) Limitations. It is recommended that pigs be dosed overnight and worming feed administered the following morning; dilute supplement with nonmedicated feed as directed; feed the equivalent of 1 lb. of 0.08 percent worming per 100 lbs. of body weight of pigs to be treated; may be fed as sole feed or thoroughly mixed with 1 to 2 parts of regular feed prior to feeding; when medicated feed is consumed, resume normal feeding; pigs maintained under conditions of constant worm exposure may require retreatment within 4 to 5 weeks after the first treatment due to reinfestation; do not slaughter for food within 24 hours of treatment; the label shall bear the caution, "Excessive salivation or mucus foam may be observed. This reaction is occasionally seen and will disappear in a short time after medication. If pigs are infected with mature lungworms, coughing and vomiting may be observed soon after medicated feed is consumed. This reaction is due to the expulsion of worms from the lungs and will be over in several hours."

Effective date. This regulation is effective September 5, 1978.

(See Sec. 512(1), 82 Stat. 347 (21 U.S.C. 350b(1)))


Lester M. Crawford,
Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-24096 Filed 9-1-78; 3:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

(Public Law 96-342; 94 Stat. 1230; 42 U.S.C. 4011 et seq.)

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Tuscaloosa, Tuscaloosa County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Tuscaloosa, Tuscaloosa County, Ala. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Tuscaloosa Ala.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Tuscaloosa, Tuscaloosa County, Ala., are available for review at City Hall, 201 University Boulevard, Tuscaloosa, Ala.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krumm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Tuscaloosa, Ala.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 92-323), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Big Creek</td>
<td>River Rd</td>
<td>215</td>
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<tr>
<td>Black Warrior</td>
<td>Illinois Central Gulf Rd</td>
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<tr>
<td>River</td>
<td>U.S. 82</td>
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<td>Twin Oaks Rd</td>
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<td>Black Warrior</td>
<td>Rice Mine Rd</td>
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<td>Dirt road</td>
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<tr>
<td>Big Creek</td>
<td>4th Ave. East</td>
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FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Buena Park, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Buena Park, Orange County, Calif. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Buena Park, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Buena Park, Orange County, Calif., are available for review at City Clerk's Office, City Hall, 6550 Beach Boulevard, Buena Park, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krumm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5551 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Buena Park, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 92-323), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Creek</td>
<td>Dale St., between Brea Blvd. &amp; Fullerton</td>
<td>34</td>
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<td>River</td>
<td>Fullerton Creek</td>
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<td>Big Creek</td>
<td>University Blvd.</td>
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<td>Big Creek</td>
<td>4th Ave. East</td>
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</tbody>
</table>

[4210-01] (Docket No. FR-4120)
SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Adams County, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 890, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

<table>
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<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>national vertical datum</th>
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<td>Big Dry Creek</td>
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<td>Interstate 25</td>
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<td>York St</td>
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<tr>
<td>Comanche Creek</td>
<td>U.S. Highway 36</td>
<td>5.262</td>
<td></td>
</tr>
<tr>
<td>Little Comanche Creek</td>
<td>U.S. Highway 36</td>
<td>5.262</td>
<td></td>
</tr>
<tr>
<td>Box Elder Creek</td>
<td>U.S. Highway 30 and 40</td>
<td>5.230</td>
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<tr>
<td>South Platte</td>
<td>Intestate Rd</td>
<td>5.163</td>
<td></td>
</tr>
<tr>
<td>River</td>
<td>McKay Rd</td>
<td>5.063</td>
<td></td>
</tr>
<tr>
<td>Henderson Rd, East</td>
<td>5.063</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Base Line Rd</td>
<td>4.553</td>
<td></td>
<td></td>
</tr>
<tr>
<td>River Creek</td>
<td>North Washington St</td>
<td>5.203</td>
<td></td>
</tr>
<tr>
<td>Devon St</td>
<td>5.101</td>
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</tr>
<tr>
<td>Explorer Circle</td>
<td>5.163</td>
<td></td>
<td></td>
</tr>
<tr>
<td>York St</td>
<td>5.143</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steele St</td>
<td>5.117</td>
<td></td>
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</tr>
<tr>
<td>Northfield Creek</td>
<td>CB Ave</td>
<td>5.183</td>
<td></td>
</tr>
<tr>
<td>Rainbow Ave</td>
<td>5.175</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Title XIII of Housing and Urban Development Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

FEDERAL REGISTER, Vol. 43, No. 172—TUESDAY, SEPTEMBER 5, 1978
**RULES AND REGULATIONS**

The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Left Hand Creek</td>
<td>North Foote Hills Highway</td>
<td>5571</td>
</tr>
<tr>
<td></td>
<td>North 44th St.</td>
<td>5516</td>
</tr>
<tr>
<td></td>
<td>North 38th St.</td>
<td>5161</td>
</tr>
<tr>
<td></td>
<td>Nimbus Rd.</td>
<td>5110</td>
</tr>
<tr>
<td></td>
<td>North 73rd St.</td>
<td>5078</td>
</tr>
<tr>
<td></td>
<td>North 67th St.</td>
<td>5032</td>
</tr>
<tr>
<td></td>
<td>Colorado Highway 119</td>
<td>5014</td>
</tr>
<tr>
<td></td>
<td>Hover Rd.</td>
<td>4990</td>
</tr>
<tr>
<td>Boulder Creek</td>
<td>Colorado and Southern</td>
<td>5227</td>
</tr>
<tr>
<td></td>
<td>RR (upstream side).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>South Boulder Creek</td>
<td>5197</td>
</tr>
<tr>
<td></td>
<td>North 61st St.</td>
<td>5168</td>
</tr>
<tr>
<td></td>
<td>North 75th St.</td>
<td>5111</td>
</tr>
<tr>
<td></td>
<td>North 55th St.</td>
<td>5052</td>
</tr>
<tr>
<td></td>
<td>North 19th St.</td>
<td>5011</td>
</tr>
<tr>
<td></td>
<td>Colorado Highway 93</td>
<td>5462</td>
</tr>
<tr>
<td></td>
<td>South Boulder Rd.</td>
<td>5328</td>
</tr>
<tr>
<td></td>
<td>Colorado and Southern</td>
<td>5229</td>
</tr>
<tr>
<td></td>
<td>RR, Vail Rd.</td>
<td>5197</td>
</tr>
</tbody>
</table>

(Federal Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-1218); and Secretary’s delegation of authority to Federal Insurance Administrator, 42 FR 7171.)

Issued: June 2, 1978.

**FOR FURTHER INFORMATION CONTACT:**


**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Estes Park, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 980, which added section 113 to the National Flood Insurance Act of 1968, (Title XIII of the Housing and Urban Development Act of 1968; Pub. L. 90-448, 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The Federal Insurance Administrator has determined the final flood plain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance map (FIRM), showing base (100-year) flood elevations, for the town of Estes Park, Colo.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Estes Park, Colo., are available for review at Town Hall, 755 Third Street, Nunn, Colo.
FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5370, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5881 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Nunn, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-442), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring Creek tributary</td>
<td>Weld County Rd. No. 58</td>
<td>1165</td>
<td>120</td>
</tr>
<tr>
<td>Western flow path to Spring Creek tributary</td>
<td>Roosevelt Ave.</td>
<td>187</td>
<td>120</td>
</tr>
</tbody>
</table>

(Federal Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17894, November 28, 1968), as amended (42 U.S.C. 4001-4128; and Secretary’s delegation of authority to Federal Insurance Administrator, 43 FR 7719.)


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Seaford, Sussex County, Del.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Seaford, Sussex County, Del. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Seaford, Sussex County, Del., is [insert date].

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Seaford, Sussex County, Del., are available for review at: [insert address and phone number].

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5370, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5881 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Seaford, Sussex County, Del.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-442), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seaford Ave.</td>
<td>7190.4</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>Roosevelt Ave.</td>
<td>7190.4</td>
<td>12</td>
<td></td>
</tr>
</tbody>
</table>


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Palm Beach County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Palm Beach County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Palm Beach County, Fla., is [insert date].

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Palm Beach County, Fla., are available for review at Palm Beach County Courthouse, West Palm Beach, Fla.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5370, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5881 or toll-free line 800-424-8872.
This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 950, which added section 1325 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 U.S.C. 1784; November 28, 1968), as amended (42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of Flooding</th>
<th>Location</th>
<th>Depth, in feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Okeechobee.</td>
<td>Herbert Hoover Dike</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>and Hooper Highway.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ritta Island.</td>
<td>24</td>
</tr>
<tr>
<td>Loxahatchee River.</td>
<td>West end of North Dr.</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Woodridge Ter. and 6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Center St.</td>
<td>6</td>
</tr>
<tr>
<td>Hillsboro Canal.</td>
<td>Confluence of Canal E-3</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>and Hillsboro Canal.</td>
<td></td>
</tr>
<tr>
<td>Atlantic Ocean.</td>
<td>Shoreline from</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>corporate limit to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>corporate limit.</td>
<td></td>
</tr>
<tr>
<td>Intracoastal</td>
<td>Turner Rd. and Karen</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Waterway. Dr.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ardel Dr. and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Palmswood Rd.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dixie Highway and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Indian Town Rd.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State Route 766 and 7</td>
<td></td>
</tr>
<tr>
<td>Lake Worth to</td>
<td>Little Lake</td>
<td></td>
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<tr>
<td></td>
<td>Linding Pk.</td>
<td></td>
</tr>
<tr>
<td>C-17 Canal .......</td>
<td>12th St. and Palm Rd...</td>
<td>10</td>
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<tr>
<td></td>
<td>East end of Upthegrove</td>
<td></td>
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<tr>
<td></td>
<td>Lane.</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Burroughs Ave. and</td>
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<tr>
<td></td>
<td>Garden Ave.</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>William St.</td>
<td>12</td>
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<tr>
<td>C-51 Canal .......</td>
<td>North end of Sun Court.</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Prairie Rd. and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Washington Rd.</td>
<td>12</td>
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<tr>
<td></td>
<td>West Lakeview Rd. and</td>
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<tr>
<td></td>
<td>Yoyance Dr.</td>
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<tr>
<td>C-10 Canal .......</td>
<td>Gulf Rd. and Congress Ave.</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>North end of Kingston Dr.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>North West 22d Ave. and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Congress Ave.</td>
<td></td>
</tr>
<tr>
<td>Rainfall* .........</td>
<td>East end of Laurel Lane.</td>
<td>7</td>
</tr>
</tbody>
</table>

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 950, which added section 1325 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 U.S.C. 1784; November 28, 1968), as amended (42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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<table>
<thead>
<tr>
<th>Source of Flooding</th>
<th>Location</th>
<th>Elevation in feet.</th>
<th>Vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oconee River.</td>
<td>Barnett Shoals Rd*</td>
<td>533</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Confluence with North</td>
<td>541</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oconee and Middle</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oconee River.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle Oconee River.</td>
<td>Central of Georgia Rd..</td>
<td>544</td>
<td></td>
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<tr>
<td></td>
<td>Old Lexington Rd.</td>
<td>550</td>
<td></td>
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<tr>
<td></td>
<td>U.S. Hwy 341 and 129; Georgia Highway 15;</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mitchell Bridge Rd..</td>
<td>504</td>
<td></td>
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<tr>
<td>McNutt Creek.</td>
<td>Seaboard Coastline Rd..</td>
<td>503</td>
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<tr>
<td></td>
<td>Georgia Highway 330</td>
<td>504</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Enns Bridge Rd*</td>
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<td>U.S. Highway 75</td>
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<tr>
<td>Malcolm Branch.</td>
<td>U.S. Highway 75*</td>
<td>523</td>
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<tr>
<td></td>
<td>Big Bear Creek.</td>
<td>518</td>
<td></td>
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<tr>
<td></td>
<td>Big Bear Rd.</td>
<td>529</td>
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<td></td>
<td>Turkey Creek.</td>
<td>510</td>
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<tr>
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<td>Tallahassee Rd*</td>
<td>519</td>
<td></td>
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<tr>
<td></td>
<td>Lavender Rd*</td>
<td>555</td>
<td></td>
</tr>
<tr>
<td>North Oconee River.</td>
<td>Whitetail Rd..</td>
<td>542</td>
<td></td>
</tr>
<tr>
<td></td>
<td>College Station Rd*</td>
<td>522</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Southern Rd.</td>
<td>521</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Newton Bridge Rd..</td>
<td>505</td>
<td></td>
</tr>
<tr>
<td>Big Creek.</td>
<td>Old Lexington Rd.</td>
<td>505</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tributary H.</td>
<td>557</td>
<td></td>
</tr>
<tr>
<td></td>
<td>U.S. Highway 341 and Georgia Highway 10.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoal Creek.</td>
<td>Barnett Shoals Rd*</td>
<td>541</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Belmont Rd</td>
<td>504</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lexington Rd.</td>
<td>504</td>
<td></td>
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<tr>
<td></td>
<td>U.S. Highway 75.</td>
<td>504</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Beaver Dam Rd*</td>
<td>502</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cherokee Rd*</td>
<td>503</td>
<td></td>
</tr>
<tr>
<td>Tributary J.</td>
<td>Wainsville corporate limits.</td>
<td>735</td>
<td></td>
</tr>
<tr>
<td>Cedar Creek.</td>
<td>Barnett Shoals Rd.</td>
<td>515</td>
<td></td>
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<tr>
<td></td>
<td>Old Lexington Rd.</td>
<td>516</td>
<td></td>
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<tr>
<td></td>
<td>Gentry Drive*</td>
<td>514</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cedar Creek Drive.</td>
<td>512</td>
<td></td>
</tr>
<tr>
<td>Carrs Creek.</td>
<td>At the confluence with</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td></td>
<td>the Oconee River.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tributary G.</td>
<td>Barnett Shoals Rd.</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td></td>
<td>U.S. Highway 78.</td>
<td>720</td>
<td></td>
</tr>
<tr>
<td>Tributary K.</td>
<td>College Station Rd.</td>
<td>690</td>
<td></td>
</tr>
<tr>
<td></td>
<td>River Rd.</td>
<td>690</td>
<td></td>
</tr>
<tr>
<td>Trail Creek.</td>
<td>At the confluence with</td>
<td>643</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East and West Fork Trail Creek.</td>
<td>711</td>
<td></td>
</tr>
<tr>
<td>East Fork Trail Creek.</td>
<td>Joyce Rd.</td>
<td>711</td>
<td></td>
</tr>
<tr>
<td>Tributary E.</td>
<td>At the confluence with</td>
<td>663</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Fork Trail Creek.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Fork Trail Creek.</td>
<td>Seaboard Coastline Rd.</td>
<td>656</td>
<td></td>
</tr>
<tr>
<td></td>
<td>New Hill Rd.</td>
<td>674</td>
<td></td>
</tr>
<tr>
<td>Sandy Creek.</td>
<td>U.S. Highway 41.</td>
<td>621</td>
<td></td>
</tr>
<tr>
<td>East Sandy Creek.</td>
<td>Northern Rd.</td>
<td>614</td>
<td></td>
</tr>
</tbody>
</table>

For further information contact:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 461 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

Supplementary Information:
The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Clarke County, Ga.

<table>
<thead>
<tr>
<th>Source of Flooding</th>
<th>Location</th>
<th>Depth, in feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rainfall* .........</td>
<td>Palmetto Circle and Tolida Rd.</td>
<td>1</td>
</tr>
</tbody>
</table>
SUMMARY: This document corrects a final rule on base (100-year) flood elevations that appeared on page 16759 of the Federal Register, of vol. 43 on April 20, 1978.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Delete:

Source of flooding Location Elevation in feet, national geodetic vertical datum
-------------- -------------- ---------------
Du Page River Corporate limits upstream of Route 53 628

Add:

Source of flooding Location Elevation in feet, national geodetic vertical datum
-------------- -------------- ---------------
Du Page River County Line 618

(Rule 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:
Kawkawlin, Bay County, Mich. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Kawkawlin, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Kawkawlin, Bay County, Mich., are available for review at Township Hall, 1379 East Beaver Road, Kawkawlin, Mich.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:


Issued: July 26, 1978.

GLORIA M. JIMÉNEZ,
Federal Insurance Administrator.

[FR Doc. 78-24230 Filed 9-1-78; 8:45 am]

[4210-01]

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Portsmouth, Bay County, Mich.

Final Flood Elevation Determination for the Township of Portsmouth, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Portsmouth, Bay County, Mich. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Portsmouth, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Portsmouth, Bay County, Mich., are available for review at Township Hall, 310 Sheridan Court, Bay City, Mich.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

[4210-01]
SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Grenada, Grenada County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**RULES AND REGULATIONS**

**Source of flooding** | **Location** | **Elevation in feet** | **Natural vertical datum**
--- | --- | --- | ---
Yalobusha River | Illinois Central Gulf RR | 153 | 167
| Tributary IA | Pearl St | 167 | 167
| | Cherry St | 104 | 104
| | South St | 105 | 105
| | Foran St | 159 | 159
Yalobusha River | Tributary IB | 500 ft from mouth | 209 | 209
| | 1,603 ft from mouth | 209 | 209
Baptist Bridge | State Highway 8 | 167 | 167
| | State Highway 8 | 167 | 167
Baptist Bridge | Tributary L | Franklin Street | 143 | 143
Brown Creek | State Highway 8 | 103 | 103
| | State Highway 8 | 103 | 103
Brown Creek | Precinct Rd | 194 | 194
| | Illinois Central Gulf RR | 153 | 153
Brown Creek | Fairground Rd | 203 | 203
| | U.S. Highway 81 | 204 | 204
Brown Creek | Tributary | Green St | 212 | 212
| | 6th St | 159 | 159
Perry Creek | Vanzant St | 209 | 209
| | Illinois Central Gulf RR | 152 | 152
| | Jackson St | 163 | 163

*Downstream side.
*Upstream side.


**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the final determinations of flood elevations in the city of Grenada, Miss.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 889, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management plans in flood-prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations in Grenada, Miss., are available for review at City Hall, Grenada, Miss.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance Program, Federal Insurance Administration, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-786-5861 or toll-free line 800-424-8872.

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the City of Independence, Jackson and Clay Counties, Mo.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Independence, Jackson and Clay Counties, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978**
PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Bow, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in town of Bow, Merrimack County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Bow, Merrimack County, N.H.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Bow, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Bow are available for review at the town office, Bow, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Kriem, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Canterbury, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Canterbury are available for review at the town offices, Canterbury, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Kriem, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation in feet</th>
<th>National vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merrimack River</td>
<td>254</td>
<td>Positive</td>
</tr>
<tr>
<td>Just upstream west end</td>
<td>250</td>
<td>bridge</td>
</tr>
<tr>
<td>West corporate limit</td>
<td>255</td>
<td></td>
</tr>
</tbody>
</table>


Gloria M. Jimenez, Federal Insurance Administrator.

(FR Doc. 78-24235 Filed 9-1-78; 8:45 am)

43010-02

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 54—PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

Final Rule


AGENCY: Bureau of Indian Affairs, Interior Department.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs publishes final regulations which provide procedures for acknowledging that certain American Indian tribes exist. Various Indian groups throughout the United States have requested that the Secretary of the Interior officially acknowledge them as Indian tribes. Heretofore, the limited number of such requests permitted an acknowledgment of the group's status on a case-by-case basis at the discretion of the Secretary. The recent increase in the number of such requests before the Department necessitates the development of procedures to enable the Department to take a uniform approach in their evaluation.

EFFECTIVE DATE: October 2, 1978.

FURTHER INFORMATION CONTACT:

Mr. John A. Shepard, Jr., Division of Tribal Government Services, Branch of Tribal Relations, telephone, 202-343-4045, principal author, Mr. John A. Shepard, Jr.

SUPPLEMENTARY INFORMATION:

Various Indian groups throughout the United States have requested that the Secretary of the Interior officially acknowledge them as Indian tribes. Heretofore, the limited number of such requests permitted an acknowledgment of the group's status on a case-by-case basis at the discretion of the Secretary. The recent increase in the number of such requests before the Department necessitates the development of procedures to enable the Department to take a uniform approach in their evaluation.

Proposed regulations were published on June 16, 1977. Revised proposed regulations were published on June 1, 1978 (43 FR 23743). The period for public comment closed on July 3. Throughout this period, from June 16, 1977, the amount of consultation and discussion with tribes and other groups on Federal acknowledgment has been unprecedented. Since June 16, 1977, our records show a total of 400 meetings, discussions, and conversations about Federal acknowledgment with other Federal agencies, State government officials, tribal representatives, petitioners, congressional staff members, and legal representatives of petitioning groups; 60 written comments on the initial proposed regulations of June 16, 1977; a national conference on Federal acknowledgment attended by approximately 350 representatives of Indian tribes and organizations; and 34 comments on the revised proposed regulations, published on June 1, 1978.

This is a project in which the Congress, the administration, the national Indian organizations, and many tribal groups are cooperating to find an equitable solution to a longstanding and very difficult problem. Most of the changes made in the final regulations from the revised proposed regulations were for clarification. The one concept which has been more strongly emphasized in these final regulations is found in §§ 54.8 and 54.9. In these two sections, provision is made for a wider and more thorough notice of receipt of petition. Provision is also made for parties, other than the petitioner, to present evidence supporting or challenging the evidence presented in the petition or in the proposed findings.

This inclusion is in response to numerous requests from the public in the comments on both the initial and the revised regulations. Further, it is a continuation of the policy of open and candid communication with all parties concerned with the Federal acknowledgment project. We, therefore, have included measures which will keep all known concerned parties fully informed.

Persons interested in obtaining information about a petition or comments made in support of or in opposition to a petition should so request in writing. These records will be available on the same basis as other records within the Bureau.

A number of other comments were submitted by the public on the revised proposed regulations which bear a specific response. It must be emphasized that the Department is not attempting to resolve administratively problems which were not resolved by Congress when the Indian Reorganization Act was passed.

There will be groups which will not meet the standards required by these regulations. Failure to be acknowledged pursuant to these regulations does not deny that the group is Indian. It means these groups do not have the characteristics necessary for the Secretary to acknowledge them as existing as an Indian tribe and entitled to rights and services as such.

Groups in Alaska are entitled to petition on the same basis as groups in the lower 48 States. These regulations, however, are not intended to apply to groups, villages, or associations which are eligible to organize under the Alaskan Amendment of the Indian Reorganization Act (25 U.S.C. 473a) or which did not exist prior to 1938.

It must again be emphasized that terminated groups, bands, or tribes are not entitled to acknowledgment under these regulations. Even though many of these groups would be able to easily meet the criteria, the Department cannot administratively reverse legislation enacted by Congress.

It should also be noted that recognition by State government officials or legislatures is not conclusive evidence that the group meets the criteria set forth herein.

The Department received a number of comments concerning § 54.9(f). Some felt that the Assistant Secretary should be required to notify the petitioner of his decision within a specified time after receipt of the petition. Because of the large backlog of petitions presently on file, the size of the staff and other research considerations, the time requirement was considered impractical. We strongly feel the fairest and most practical approach is the one taken in the regulations.

The Department must be assured of the tribal character of the petitioner before the group is acknowledged. Although petitioners must be American Indians, groups of descendants will not be acknowledged solely on a racial basis. Maintenance of tribal rela-
means an individual who is recognized collectively by those persons comprising the tribal governing body, and has continuously maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

(1) "Historically", "historical" or "history" means dating back to the earliest documented contact between the aboriginal tribe from which the petitioners descended and citizens or officials of the United States, colonial or territorial governments, or if relevant, citizens and officials of foreign governments from which the United States acquired territory.

(2) "Indigenous" means native to the continental United States in that its aboriginal range extended into what is now the continental United States.

(3) "Community" or "specific area" means any people living within such a reasonable proximity as to allow group interaction and a maintenance of tribal relations.

(4) "Other party" means any person or organization, other than the petitioner who submits comments or evidence in support of or in opposition to a petition.

The purpose of this part is to establish a departmental procedure and policy for acknowledging that certain American Indian tribes exist. Such acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits from the Federal Government available to Indian tribes. Such acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes as well as the responsibilities and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§ 54.4 Who may file.

Any Indian group in the continental United States which believes it should be acknowledged as an Indian tribe and can satisfy the criteria in section 54.7, may submit a petition requesting that the Secretary acknowledge the group's existence as an Indian tribe.

§ 54.5 Where to file.

A petition requesting the acknowledgment that an Indian tribe exists as an Indian tribe shall be filed with the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and "C" Streets NW., Washington, D.C. 20245.

§ 54.6 Duties of the Department.

(a) The Department shall assume the responsibility to contact, within a twelve-month period following the enactment of these regulations, all Indian groups known to the Department in the continental United States whose existence has not been previously acknowledged by the Department. Included specifically shall be those listed in chapter 11 of the American Indian Policy Review Commission final report, volume one, May 17, 1977. The Department shall inform all such groups of the opportunity to petition for an acknowledgment of tribal existence by the Federal Government.

(b) The Secretary shall publish in the Federal Register within 90 days after effective date of these regulations, a list of all Indian tribes which are recognized and receiving services from the Bureau of Indian Affairs, as such and are receiving services from the Bureau of Indian Affairs.

(c) This part is not intended to apply to associations, organizations, corporations, or groups of any character formed in recent times; provided that a group which meets the criteria in § 54.7(a)-(g) has recently incorporated or otherwise formalized its existing autonomous process will have no bearing on the Assistant Secretary's final decision.

(d) Nor is this part intended to apply to splinter groups, political factions, communities or groups of any character which separate from the main body of a tribe currently acknowledged as being an Indian tribe by the Department, unless it can be clearly established that the group has functioned throughout history under the present as an autonomous Indian tribal entity.

(e) Further, this part does not apply to groups which are, or the members of which are, subject to congressional legislation or groups denying the Federal relationship.

Authority: 5 U.S.C. 301; and sections 463 and 465 of the revised statutes of 1871 and 1872, and 220 DM 1 and 2.

§ 54.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Assistant Secretary" means the Assistant Secretary—Indian Affairs, or his authorized representative.

(c) "Department" means the Department of the Interior.

(d) "Bureau" means the Bureau of Indian Affairs.

(e) "Area Office" means the Bureau of Indian Affairs Area Office.

(f) "Indian tribe," also referred to herein as "tribe," means any Indian group within the continental United States that the Secretary of Interior acknowledges to be an Indian tribe.

(g) "Indian group" or "group" means any Indian aggregation within the continental United States that the Secretary of Interior acknowledges to be an Indian tribe.

(h) "Petitioner" means any entity which has submitted a petition to the Secretary requesting acknowledgement that certain American Indian tribes exist. Such acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits from the Federal Government available to Indian tribes. Such acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes as well as the responsibilities and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§ 54.2 Purpose.

The purpose of this part is to establish a departmental procedure and policy for acknowledging that certain American Indian tribes exist. Such acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits from the Federal Government available to Indian tribes. Such acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes as well as the responsibilities and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§ 54.3 Scope.

(a) This part is intended to cover only those American Indian groups indigenous to the continental United States which are ethnically and culturally identifiable, but which are not currently acknowledged as Indian tribes by the Department. It is intended to apply to groups which can establish a substantially continuous tribal existence and which have functioned as autonomous entities throughout history until the present.

(b) This part does not apply to Indian tribes, organized bands, pueblos or communities which are already acknowledged as such and are receiving services from the Bureau of Indian Affairs.

(c) This part is not intended to apply to associations, organizations, corporations, or groups of any character formed in recent times; provided that a group which meets the criteria in § 54.7(a)-(g) has recently incorporated or otherwise formalized its existing autonomous process will have no bearing on the Assistant Secretary's final decision.

(d) Nor is this part intended to apply to splinter groups, political factions, communities or groups of any character which separate from the main body of a tribe currently acknowledged as being an Indian tribe by the Department, unless it can be clearly established that the group has functioned throughout history under the present as an autonomous Indian tribal entity.

(e) Further, this part does not apply to groups which are, or the members of which are, subject to congressional legislation or groups denying the Federal relationship.
§ 54.7 Form and content of the petition.

The petition may be in any readable form which indicates to the Department of the Interior that it is a petition requesting the Secretary to acknowledge tribal existence. All the criteria in paragraphs (a)-(g) of this section are mandatory in order for tribal existence to be acknowledged and must be included in the petition.

(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as "American Indian" or "aboriginal." A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of tribal activity during various years. Evidence to be relied upon includes the use of any other format.

(b) Longstanding relationships with State governments based on identification of Indian.

(c) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant and a member of the petitioning group.

(d) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity.

(e) Other records or evidence identifying present members or ancestors of present members as being an Indian descendant and a member of the petitioning group.

(f) The membership of the petitioning group is comprised principally of persons who are not members of any other North American Indian tribe.

(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

§ 54.8 Notice of receipt of petition.

(a) Within 30 days after receiving a petition, the Assistant Secretary shall send an acknowledgment of receipt, in writing, to the petitioner, and shall have published in the Federal Register a notice of such receipt including the name and location, and mailing address of the petitioner and other such information that will identify the entity submitting the petition and the date it was received. The notice shall also indicate where a copy of the petition may be examined.

(b) The Department shall, upon request, provide suggestions and advice to researchers representing a petitioner for their research into the petitioner's historical background and Indian identification. The Department shall not be responsible for the actual research on behalf of the petitioner.

(c) The Assistant Secretary shall also notify, in writing, the Governor and attorney general of any State in which a petition is on file.

§ 54.9 Processing the petition.

(a) Upon receipt of a petition, the Assistant Secretary shall cause a review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe. The review shall include consideration of the petition and supporting evidence, and the factual statements contained therein. The Assistant Secretary may also initiate other research by his staff, for any purpose relative to analyzing the petition and obtaining additional information about the petitioner's status, and may consider any evidence which may be submitted by others.

(b) Prior to actual consideration of the petition, the Assistant Secretary shall notify the petitioner of any obvious deficiencies, or significant omissions, that are apparent upon an initial review, and provide the petitioner with an opportunity to withdraw the petition for further work or to submit additional information or a clarification.

Petitions shall be considered on a first come, first serve basis determined by the date of original filing with the Department. The Federal acknowledge
edgment project staff shall establish a priority register including those petitions already pending before the Department.

(d) The petitioner and other parties submitting comments on the petition shall be notified when the petition comes under consideration. They shall also be notified who is the primary Bureau staff member reviewing the petition, his backup, and supervisor. Such notice shall also include the office address and telephone number of the primary staff assistant.

(e) A petitioning group may, at its option and upon written request, withdraw its petition prior to publication by the Assistant Secretary of his finding in the Federal Register and, may if it so desires, file an entirely new petition. Such petitioners shall not lose their priority date by withdrawing and resubmitting their petitions later, provided the time periods in paragraph (f) of this section shall begin upon active consideration of the resubmitted petition.

(f) Within 1 year after notifying the petitioner that active consideration of the petition has begun, the Assistant Secretary shall publish his proposed findings in the Federal Register. The Assistant Secretary may extend that period up to an additional 180 days upon a showing of due cause to the petitioner. In addition to the proposed findings, the Assistant Secretary shall prepare a report which shall summarize the evidence for the proposed decision. Copies of such report shall be available for the petitioner and other parties upon written request.

(g) Upon publication of the proposed findings, any individual or organization wishing to challenge the proposed findings shall have the right to submit written arguments and evidence rebutting the proposed findings. The Assistant Secretary shall make a determination regarding the petitioner's status, a summary of which shall be published in the Federal Register within 60 days from the expiration of the response period. The determination will become effective in 60 days from publication unless earlier withdrawn pursuant to § 54.10.

(h) After consideration of the written arguments and evidence rebutting the proposed findings, the Assistant Secretary shall make a determination concerning the existence of the petitioner as an Indian tribe when it is determined that the group satisfies the criteria in § 54.7.

(i) The Assistant Secretary shall make a determination concerning the eligibility of the petitioning group as Indian tribe when it is determined that the group satisfies the criteria in § 54.7.

(j) The Assistant Secretary shall refuse to acknowledge that a petitioner is an Indian tribe if it fails to satisfy the criteria in § 54.7. In the event the Assistant Secretary refuses to acknowledge the eligibility of a petitioning group, he shall analyze and forward to the petitioner other options, if any, under which application for services and other benefits may be made.

§ 54.10 Reconsideration and final action.

(a) The Assistant Secretary's decision shall be final for the Department unless it is the determination that the group satisfies the criteria in § 54.7.

(b) The Secretary in his consideration of the Assistant Secretary's decision may review any information available to him, whether formally part of the record or not; where reliance is placed on information not of record, such information shall be identified as to source and nature, and inserted in the record.

(c) The Secretary may request reconsideration of any decision by the Assistant Secretary but shall request reconsideration of any decision, which in his opinion would be changed by significant new evidence which he has received subsequent to the publication of the decision; or

(d) A substantial portion of the evidence relied on was unreliable or of little probative value; or

(e) The petitioner's or the Bureau's research appears inadequate or incomplete in some material respect.

(f) Any notice which by the terms of these regulations must be published in the Federal Register, shall also be mailed to the petitioner, the Governor and attorney generals of the States involved, and to other parties which have commented on the proposed findings.

§ 54.11 Implementation of decisions.

(a) Upon final determination that the petitioner is an Indian tribe, the tribe shall be eligible for services and benefits from the Federal Government available to other federally recognized tribes and entitled to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States as well as having the responsibilities and obligations of such tribes. Acknowledgment shall subject such Indian tribes to the same authority of Congress and the United States to which other federally acknowledged tribes are subject.

(b) The newly recognized tribe shall be eligible for benefits and services, acknowledgment of tribal existence will not create an immediate entitlement to existing Bureau of Indian Affairs programs. Such programs shall become available upon appropriation of funds by Congress. Requests for appropriations shall follow a determination of the needs of the newly recognized tribe.

(c) Within 6 months after acknowledgment that the petitioner exists as an Indian tribe, the appropriate Area Office shall conduct and develop in cooperation with the group, and forward to the Assistant Secretary, a determination of needs and a recommended budget. The recommended budget will be considered along with other recommendations by the Assistant Secretary in the usual budget request process.

GEORGE V. GOODWIN,
Deputy Assistant Secretary—
Indian Affairs.

[FDR Doc. 78-24674 Filed 8-1-78, 8:45 a.m.]

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

Authority to Issue Subpoenas

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment delegates subpoena authority to the General Counsel and the Deputy General Counsel and redesignates positions already exercising subpoena authority to reflect the recent implementation of the Office of the Inspector General and the Veterans Administration. While the exercise of this authority within the Office of the General Counsel is expected to be infrequent, a need has been experienced in connection with the conduct of certain investigations and cases by that office. In addition minor editorial changes have been made.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On page 12892 of the Federal Register of March 28, 1978, there was published notice of proposed regulatory development to amend § 2.1 relating to delegation of authority to employees to issue subpoenas.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Public Comment: Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. Two written comments were received. One comment was accepted, insofar as the need to provide citation to the legal basis for making the revision (38 U.S.C. 3311). The citation has been inserted at the end of the amended regulation. No useful purpose can be seen in revising and republishing the changes for additional public comment.

The other comment suggested that the amended regulation clearly state that the subpoena power is effective not only for title 38, United States Code matters, but also for any other matter being lawfully investigated by the agency. We do not believe that the regulation should be amended to include specific mention of subject areas, as suggested. The regulation is based on 38 U.S.C. 3311, and the subpoena authority delegated in this regulation cannot be greater than that found in the statute. It is our opinion that the regulation is designed solely for delegation of authority purposes and that it would be inappropriate to attempt to delineate the bounds of the subpoena power in the regulations. Accordingly, the proposed regulation is amended as set forth below.


By direction of the Administrator.

Rufus H. Wilson, Deputy Administrator.

Section 2.1 is revised to read as follows:

§2.1 Delegation of authority to employees to issue subpoenas, etc.

(a) Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for compelling the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Discretion will be used in the exercise of this power which will not be used except when necessary or when the evidence cannot be obtained efficiently in any other way.

(b) Designated positions: Inspector General, Deputy Inspector General, Assistant Inspector General for Investigation, Deputy Assistant Inspector General for Investigation, General Counsel, Deputy General Counsel, Heads of regional offices and centers having insurance activities, regional office activities, or both.

(c) Any person required by such subpoenas to attend as a witness shall be allowed and paid the same for and mileage as are paid witnesses in the district courts of the United States. In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the violation is brought to its attention may, on motion in case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or any other person, issue an order requiring such corporation or other person to appear and, or give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. (38 U.S.C. 3311)

[FR Doc. 78-24549 Filed 9-1-78; 8:45 am]

[8320-01]

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Procedure Where Violation of Penal Statutes is Involved

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment is intended to make clear an already existing regulation that sets forth the procedures to be followed when submitting a matter involving a violation of the penal provisions of the penal laws of the States to the United States Attorney, Federal Bureau of Investigation, or Department of Justice.


FOR FURTHER INFORMATION CONTACT:

Neal C. Lawson, Assistant General Counsel, Veterans Administration, Washington, D.C. 20420, 202-335-3294.

SUPPLEMENTARY INFORMATION: On page 12893 of the Federal Register of March 28, 1978, there was published a notice of proposed regulatory development to amend §14.569 relating to procedures followed by the Veterans Administration where violations of penal statutes are involved. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. One written comment was received. The comment requests that appropriate citations of authority, establishing the legal basis upon which the changes are based should have appeared in the issuance, as required by 38 U.S.C. 210(c)(1). It is our opinion that the appropriate citation of authority for the changes to the regulation is 38 U.S.C. 210(c)(1) which gives the Administrator the authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the agency. The changes are not substantive, but are designed to clarify and simplify procedures already in existence for making such referrals.

Accordingly, the proposed regulation is amended as set forth below.


By direction of the Administrator.

Rufus H. Wilson, Deputy Administrator.

Section 14.569 is revised to read as follows:

§14.569 Procedure where violation of penal statutes is involved.

(a) The submission to the appropriate U.S. Attorney or FBI, according to local practice, of a violation or suspected violation of the penal provisions of the penal laws of the United States, including those offenses coming within the purview of the Assimilative Crimes Act (18 U.S.C. 13), will be made by the District Counsel within whose jurisdiction the alleged offense has been committed. Where the file or record which contains evidence of a penal offense is maintained in a field facility, it will be referred to the appropriate District Counsel in whose area the offense was committed, for referral. Where the file or record is located in or has been forwarded to Central Office, the matter will be referred to the General Counsel for development and transmittal to the appropriate District Counsel or to the General Counsel where violations of penal laws of the States to the United States Attorney, Federal Bureau of Investigation, or Department of Justice.

(b) In the Central Office, reports of the Office of Inspector General evidencing any criminal acts committed by the General Counsel to the appropriate District Counsel for referral or, in the discretion of the General Counsel, the matter may be referred directly to the Department of Justice. Investigations conducted by the Office of Inspector General are administrative in nature and development of criminal aspects of a case should only be incidental to the investigation of administrative irregularities. If evidence of administrative irregularities, as set forth in §1.455 of this chapter, is brought to the attention of a District Counsel, he or she will recommend referral to the Inspector General, VA central Office through appropriate office and department heads. If there is evidence of violation of the law, as well as administrative irregularities, referrals may be made simultaneously to law enforcement authorities and administrative irregularities.

Accordingly, the proposed regulation is amended as set forth below.


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(b) In the Central Office, reports of the Office of Inspector General evidencing any criminal acts committed by the General Counsel to the appropriate District Counsel for referral or, in the discretion of the General Counsel, the matter may be referred directly to the Department of Justice. Investigations conducted by the Office of Inspector General are administrative in nature and development of criminal aspects of a case should only be incidental to the investigation of administrative irregularities. If evidence of administrative irregularities, as set forth in §1.455 of this chapter, is brought to the attention of a District Counsel, he or she will recommend referral to the Office of Inspector General, VA central Office through appropriate office and department heads. If there is evidence of violation of the law, as well as administrative irregularities, referrals may be made simultaneously to law enforcement authorities and administrative irregularities.

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(b) In the Central Office, reports of the Office of Inspector General evidencing any criminal acts committed by the General Counsel to the appropriate District Counsel for referral or, in the discretion of the General Counsel, the matter may be referred directly to the Department of Justice. Investigations conducted by the Office of Inspector General are administrative in nature and development of criminal aspects of a case should only be incidental to the investigation of administrative irregularities. If evidence of administrative irregularities, as set forth in §1.455 of this chapter, is brought to the attention of a District Counsel, he or she will recommend referral to the Office of Inspector General, VA central Office through appropriate office and department heads. If there is evidence of violation of the law, as well as administrative irregularities, referrals may be made simultaneously to law enforcement authorities and administrative irregularities.

Accordingly, the proposed regulation is amended as set forth below.


By direction of the Administrator.

Rufus H. Wilson, Deputy Administrator.
tractive investigation by the Office of Inspector General, the investigator will notify the appropriate District Counsel of any referral to the U.S. Attorney or FBI, and, in addition, furnish him or her a copy of any written submission. (38 U.S.C. 210(c)(1))

(c)) The Department of Justice, or the U.S. Attorneys, are charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence in any case is sufficient to warrant prosecution is a matter solely for their determination. No judgments will be made, either at the General Counsel level, or at the District Counsel level, as to whether or not a case should be referred, based on the strength or value of the evidence or nature of the violation alleged. If the Department of Justice or U.S. Attorney decides to prosecute, the District Counsel will cooperate as may be requested. The District Counsel will bring to the attention of the General Counsel any case wherein he or she is of the opinion that criminal or civil action should be initiated, not-likely, or notoriety will be reported. Likewise, the District Counsel will notify the appropriate District Counsel of any referral to the Inspector General, the investigator, or the FBI, and, in addition, furnish him or her a copy of any written submission. (38 U.S.C. 210(c)(1))

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

[6550-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

(PFR/942-1)

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Disapproval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia submitted to EPA regulations controlling hydrocarbon emissions resulting from gasoline storage tanks. These regulations require the recovery of vapor emissions with an average monthly through-put of under 20,000 gallons, but whose tank capacities are larger than the minimum specified sizes in the federal-ly promulgated regulations. This notice also announces the Administrator's decision to withdraw from further consider-ation any final action on the Vir-ginia regulation governing vapor re-cov-ery—stage II pending EPA's ex-pected promulgation of a revised federal vapor recovery—stage II regu-lation.


ADDRESSES: Copies of the amend-ments submitted by the Common-wealth of Virginia, along with accom-panying support material, are availa-ble for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Va. 23219.

Attn: Mr. John Daniel, P.E.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

On December 6, 1973 (38 FR 33716), the Administrator of the Environmen-tal Protection Agency promulgated a transportation control plan (TCP) for the Virginia portion of the National Capital Interstate AQCR. This plan, which to the maximum extent practicable reflected the control strategies preferred by the Commonwealth of Virginia, included measures to reduce hydrocarbon emissions, a major con-trIBUTING factor in the formation of photochemical oxidants. These measures consist of mass transit controls, vehicle emission inspection programs, and additional stationary source controls. Concurrently, the Commonwealth promulgated vapor recovery—stage I and stage II regulations for the Virginia portion of the National Capital Inter-state AQCR. The main provision of the vapor recovery—stage I regulation was the recovery of 90 percent (by weight) of the hydrocarbon vapors from all gasoline storage tanks with a capacity greater than 250 gallons with three exceptions:

1. Stationary containers with a ca-pacity of less than 550 gallons and used exclusively for the fueling of im-plements of husbandry.

2. Any container with a capacity of less than 2,000 gallons, therefore not wrinkles of the Federal vapor recovery—stage I regulation.

3. Gasoline transfers from storage tanks equipped with floating roofs or their equivalent.

The Commonwealth of Virginia sub-mitted to EPA, amendments to the Commonwealth regulations for the control and abatement of air pollution hydrocarbon emissions in State region 7 (the Virginia portion of the National Capital Inter-state AQCR). The Commonwealth request-ed that these amendments, submitted on April 16, 1974, and revised on June 16, 1976, be reviewed and processed as a revision of the Virginia State Imple-mentation plan (SIP) for the attainment and maintenance of national ambien-t air quality standards.

The amendments consist of addi-tions to part IV, rule 4.52(f) (former section 4.705.03), Subsection 4.52(e) (4.705.03(c)) refers to control of vapor loss during the transfer of gasoline from delivery trucks to un-grounder storage tanks (vapor recov-ery—stage I). Subsection 4.52(f) (4.705.03(f)) refers to control of vapor loss during the transfer of gasoline from gasoline pumps to individual automobile, truck, or other vehicle tanks (vapor recovery—stage II). Both regulations require 90 percent control (by weight) of evaporative losses. All facilities whose total average gasoline throughput is less than 20,000 gallons per month based on a 12-month average of bulk receipts are exempt from the above provisions. The provisions of subsection 4.52(e) became effective June 11, 1976. The provisions of sub-section 4.52(f) became effective 18 months after the State air pollution control board approves such systems designed to recover the evaporative...
losses during vehicular tank filling operations. The alternative systems consist of a vapor return line from the fill nozzle-filler neck interface to either the dispensing tank or to an absorption, adsorption, incineration, refrigeration-condensation system, or the equivalent.

The Commonwealth of Virginia provided documentation demonstrating the effectiveness of the provisions of subsection 4.52(c) in reducing evaporative hydrocarbon emissions, as well as proof that public hearings with regard to these amendments were held on September 19, 1973; November 26, 1973, and March 22, 1976, in Richmond; and September 21, 1973, and March 22, 1976, in Fairfax.

On October 1, 1974 (39 FR 35589), the Regional Administrator acknowledged receipt of the amendments, proposed them as revisions of the Virginia SIP and provided for a 30-day comment period ending October 31, 1974. Subsequent amendments to these provisions were received from the Commonwealth of Virginia and were proposed by EPA as revisions of the Virginia SIP on February 5, 1977 (42 FR 7889), with public comments requested by March 10, 1977. During the combined public comment periods, EPA received comments from the Virginia Petroleum Industries, the Virginia Farm Bureau Federation, and two private citizens. The first two commentors recommended approval of these proposed SIP revisions, while the private citizens recommended disapproval, based on the fact that the requirements of subsection 4.52(e) do not coincide with those of the Federal regulation.

EPA has determined that the amended State vapor recovery—stage I regulation varies from the regulation promulgated by the Administrator for the Commonwealth of Virginia (40 CFR Section 52.2438). Although the 20,000-gallon-per-month throughput exemption limitation is an improvement over the original State regulation, which allowed exemptions to facilities with an average monthly throughput of less than 20,000 gallons, it would still permit hydrocarbon emission levels in excess of those levels permitted by the exemptions set forth in 40 CFR 52.2438 (these exemptions being based on the tank size). Data submitted by the Commonwealth of Virginia indicate that an exclusion based on a 20,000-gallon-per-month throughput limitation would result in the exemption of approximately 10 percent of gasoline sales (and therefore 10 percent of vapor emissions) that would be covered by the Federal regulation. According to EPA policy governing nonattainment areas (Virginia region 7 is a nonattainment area for photochemical oxidants) a regulation which deviates from the EPA-proposed vapor recovery—stage I regulation (e.g., a regulation based on throughput rather than tank size) is considered "equivalent" when the difference in total allowable emissions is less than 5 percent. Apart from this aspect of hydrocarbon emission control, subsection 4.52(e) meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51.

Therefore, the Administrator approves this State regulation, submitted on April 16, 1974, and amended on June 16, 1976, as a revision of the Virginia State implementation plan. However, because the reduction of evaporative hydrocarbon emissions expected under the requirements of subsection 4.52(e) is less than the "equivalent" emission reduction expected under the requirements of 40 CFR Section 52.2438, this latter regulation remains in force for current implementability of different State and Federal regulations. It is recognized that Virginia's vapor recovery—stage I regulation may exempt sources subject to control under section 52.2438 of this part.

In §52.2432, paragraph (d) is added and reads as follows:

§52.2432 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified

(24) Amendment to subsection 4.52(c) (former section 4.705.63) of the Virginia regulations for the control and abatement of air pollution submitted on April 16, 1974, as amended June 16, 1976, by the secretary of commerce and resources.

2. In §52.2431, subsection (d) is added and reads as follows:

§52.2431 Control strategy: Carbon monoxide and photochemical oxidants.

3. In §52.2433, subsection (d) is amended by adding a new paragraph (d)(4) to read as follows:

§52.2433 Gasoline transfer vapor control.

(d) * * *

4. Any stationary container at any facility where the average monthly throughput (one-twelfth of the total throughput for the preceding 12 months) equals or exceeds 20,000 gallons per month and which is subject to Virginia Regulation 4.52(c).

[FR Doc. 78-24004 Filed 9-1-78; 0:45 am]

[6560-01]

IFR-031-01

PART 609—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Calculation and Test Procedures for 1979 and Later Model Year Light Trucks

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action promulgates a regulation originally published as an interim rulemaking on September 13, 1977 (42 FR 45521). These rules set out procedures for determining corporate average fuel economies (CAFEs) for the manufacturers of light trucks (formerly referred to as "nonpassenger automobiles"). These regulations were initially published as final rules for the 1979 model year and as a proposal for 1980 and later model years. This final rulemaking extends the procedures previously issued for passenger cars to apply to light trucks. This includes pickup trucks and vans and other vehicles included in the class by the Secretary of Transportation. The CAFEs generated under
these procedures will be used by the Secretary for determining compliance with light truck fuel economy standards that he has established.

DATE: This rulemaking is effective October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
Specifically, section 503 of the Motor Vehicle Information and Cost Savings Act (the "Act") requires the Environmental Protection Agency to develop testing and calculation procedures by which the corporate average fuel economy (CAFE) of a manufacturer's passenger cars and light trucks, either by a single procedure for all, or by separate procedures for passenger cars and light trucks, will be determined each model year, beginning in model years 1978 and 1979, respectively. In addition, EPA is required to perform, or to cause to be performed, the fuel economy testing and calculation that is necessary for determining a manufacturer's CAFE and for fuel economy labeling pursuant to section 506.

The manufacturer's CAFE calculated by EPA will be used by the Secretary of Transportation to determine compliance with the applicable fuel economy standards and to assess penalties or credits, as appropriate, under sections 507 and 508 of the Act. (The Secretary has delegated his functions to the National Highway Traffic Safety Administration (NHTSA).)

Section 502 establishes average fuel economy standards for model years 1978-80 and thereafter.

That same section requires the Secretary to establish fuel economy standards for 1981-84 passenger automobiles and for model year 1979 and later light trucks, based on technical, economic, and energy-related considerations. NHTSA is also responsible for defining which vehicles are to be considered automobiles for the purposes of the Act and, of those vehicles, which are passenger automobiles and which are light trucks.

Because of concerns expressed by NHTSA about the procedures used to select light trucks for the CAFE determination, EPA and NHTSA, considered the regulation promulgated hereunder to be an interim action which is to remain in effect until further rulemaking can be undertaken to improve the vehicle selection process.

(Further discussion of this subject is found below under the heading "Model Years After 1980").

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PUBLICATION WITHOUT FORMAL PUBLIC COMMENT PERIOD

When published on September 13, 1977, the interim rules established procedures for the testing and calculation of a manufacturer's average fuel economy for model year 1979 and later light trucks. The rules were final for the 1979 model year and comments were requested on the action to be considered with respect to model year 1980 and later. A notice of proposed rulemaking (NPRM) was not previously issued.

In developing the testing and calculation scheme for passenger automobiles testing and calculation scheme was significantly affected by these consultations, and the resulting rule has been favorably received by all parties. (Background information pertinent to public participation in developing the passenger automobiles rules is available on the public docket.) Because the majority of the provisions for the testing and calculation of a manufacturer's light truck CAFE contained in the interim rules are substantially the same as those established for passenger automobiles, EPA expected that those rules would be favorably received by all interested parties. In addition, EPA provided interested parties the opportunity to comment informally on drafts of the interim rules. The responses received were generally favorable, as were the formal comments on the interim and proposed rules.

BACKGROUND: FUEL ECONOMY REGULATIONS CURRENTLY IN EFFECT

To a large extent, the provisions of the regulation previously published EPA regulations (September 10, 1976, 41 FR 38874 and September 12, 1977, 42 FR 45451). Those regulations establish fuel economy testing and calculation procedures to be used in generating automobile CAFE values for all automobiles (i.e., passenger automobiles and light trucks) under section 506 of the Act, as well as a procedure for calculating the passenger automobile CAFE value to be used by NHTSA in enforcing the applicable passenger automobile fuel economy standards. (Additional provisions that pertain specifically to fuel economy labeling under section 506 are contained in the November 10, 1976 Federal Register (41 FR 49752), September 12, 1977, (42 FR 43668) and May 17, 1978 (43 FR 21412).)

A detailed discussion of the issues involved and the alternatives evaluated in developing the vehicle selection, testing, and calculation procedures established previously is contained in the preambles to the earlier notices.

In consultation with DOT, the EPA has determined that a majority of the provisions of the existing regulations can be extended to apply to the calculation of light truck average fuel economy, since the legal, technical, and administrative considerations are generally the same with respect to both classes of automobiles. In both cases, the statute requires that fuel economy testing be conducted in conjunction with emissions testing to the extent practicable and provides for a civil penalty of $5 per automobile for each 0.1 mpg that the manufacturer's average fuel economy is below the standard. Thus, the test vehicle selection scheme for both passenger automobiles and light trucks should permit average fuel economy calculations to be made with the same degree of accuracy, constrained by the same considerations such as the costs of testing (to both government and industry). Therefore, the provisions of the existing regulations on passenger automobile CAFE calculations are extended by this rule to light trucks except where modifications are necessary to account for inherent differences between passenger automobiles and light trucks or to maintain consistency with actions taken by NHTSA pursuant to its responsibilities under the Act.

It should also be noted that this regulation provides use of the same procedures for test vehicle selection, for the measurement of a test vehicle's fuel consumption, and for sale-weighting test results to yield a single value for a model type established for fuel economy labeling purposes (published in final on September 12, 1977). Although there is no explicit statutory requirement that EPA procedures for calculating a manufacturer's light truck CAFE as are used in labeling, it is clearly most reasonable to do so, since it minimizes costs to both industry and government without affecting the program adversely.

This regulation will require an increase in the number of fuel economy tests that must be performed by the industry over that required for labeling purposes early in the model year. For model year 1979, the increase will not be significant. For the 1980 model year the impact is more significant since the CAFE standards set by NHTSA dictate separate standards for two-wheel drive and four-wheel drive light trucks.

In addition, there may be an increase in the number of fuel economy tests required to account for running changes during the model year. A running change is a design modification made by a manufacturer during the model year, usually to correct an un-
expected problem occurring in the field, to optimize fuel economy or performance, or to reduce costs. The provisions that currently apply to running change testing of passenger automobiles for fuel economy purposes are extended by this regulation to light trucks as noted previously. As discussed in the preamble to the passenger car regulations, exemptions from running change testing will be granted if the manufacturer's preliminary average fuel economy calculation exceeds the applicable fuel economy standard by a safety margin. For the 1978 model year this margin was 1.0 mile per gallon. That argument was considered to be of sufficient magnitude to ensure that the manufacturer would remain in compliance during the model year irrespective of the effect of running changes. This margin is not expected to change for 1979 model year passenger automobiles, and a similar margin is anticipated for 1979 model year light trucks. For 1980 and later model years the Agency is examining the possibility of setting the margin equal to the difference between the current model year's standard and the standard for the subsequent model year.

ADAPTATIONS OF THE PASSENGER AUTO PROCEEDURES

It was necessary to modify several aspects of the passenger automobile CAFE calculation procedure in establishing a procedure for light trucks to account for inherent differences between passenger automobiles and light trucks as well as to maintain consistency with actions taken by NHTSA. These modifications are discussed below.

1. Test vehicle selection. Rather than requiring the testing of every one of the combination of standard and optional equipment that a manufacturer includes in his model line, the sampling approach used by EPA for picking test vehicles stratifies the product line by grouping together those vehicles which have the same basic engine, transmission and weight, the design elements that have the greatest effect on fuel economy. These groupings are called “base levels.” Manufacturers are required to provide test data on at least one configuration within each base level. This is the same for light trucks as it is for passenger cars. However, this regulation contains a provision granting the EPA Administrator authority to select additional test vehicles in those light truck base levels for which he determines that the level of testing under the general vehicle selection rules (§ 600.207 and § 600.506) would not be sufficiently representative of that base level. (In many cases, only one vehicle configuration is tested within a base level.)

This could occur if the vehicle configurations comprising that light truck base level exhibit a wide range in magnitude for a specific parameter. It is expected that EPA will invoke this authority for nearly all configurations. Only a few combinations of vehicles based on the existence of a wide range of axle ratios among vehicle configurations in a light truck base level. EPA has determined that a reasonable standard of 0.75 (found in some passenger automobile base levels) can result in relatively high variability within a base level. In fact, EPA explored the possibility of including axle ratio as a determinant of base level during the development of the passenger automobile regulation. However, the examination showed that this would trigger substantial cost increases (in terms of fuel economy and product line procedures) that were not justified by the benefits. Consequently, it is desirable to permit the Administrator to isolate those cases where additional testing is necessary to ensure that the test fleet adequately represents the overall fleet. EPA will establish guidelines (such as axle ratio bands) to define where additional testing might be required.

2. Two categories of light trucks with distinct standards (1979 model year). On March 14, 1977, NHTSA published a regulation under section 502 that established two categories of light trucks and fuel economy standards applicable to each effective in model year 1979 (42 FR 13807). These standards were again published by NHTSA on March 23, 1978 (43 FR 11695) and on April 17, 1979 (43 FR 16181). The two categories are “4-wheel drive general utility vehicles” and “all other light trucks” and the fuel economy standards are 15.8 mpg and 17.2 mpg, respectively. In some cases, vehicles that are produced both with and without four-wheel drive. The four-wheel drive version of the Ramcharger (a car line) is produced with both with and without four-wheel drive. The four-wheel drive version of the Ramcharger is a 4-wheel drive general utility vehicle under the “all other light trucks” category and the four-wheel drive Ramcharger is not. For the purpose of calculating average fuel economy in the case of vehicles that fall into the same car line but different light truck categories, separate model type fuel economy values will be calculated for the vehicles in each category. However, separate base level and vehicle configuration calculations will not be performed for two-wheel drive and four-wheel drive vehicles for the 1979 model year.

3. Five categories of light trucks with distinct standards (1980 and 1981 model years). On March 23, 1978 (43 FR 11995) and April 17, 1978 (43 FR 16181) NHTSA published the fuel economy standards for 1980 and 1981 model year light trucks. In addition to the numerical differences, these standards abolished the two light truck categories used in 1979 and the optional procedures that were available to the manufacturers for complying with the 1979 model year standards. For the 1980 and 1981 model years there will be five categories of light trucks: two-wheel drive light trucks, two-wheel
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Drive captive import light trucks, four-wheel drive light trucks, four-wheel drive captive import light trucks, and limited product line light trucks. Each category has a distinct fuel economy standard and separate vehicle emission testing procedures. The calculation of a manufacturer's import light truck be calculated on a separate basis. In 1980 and later model years, the entire imported light truck fleet will be treated as if produced by a separate manufacturer as noted above.

The Act specifically mandates this approach for passenger automobiles but does not provide similar guidance with respect to imported light trucks. However, the NHTSA rulemaking does not set distinct fuel economy standards for these vehicles until the 1980 model year.

This regulation provides for the calculation of the CAFE value for the import component of a manufacturer's total light truck fleet. That import fuel economy value is then treated as a model type fuel economy value in the calculation of a 1979 manufacturer's average fuel economy. The approach is identical to that used for passenger automobiles in model year's 1978 and 1979, except that the production-weighting factor of the import fuel economy value is not limited. The approach reflects the methodology used by NHTSA in establishing the 1979 light truck fuel economy standards as discussed in detail in the March 14, 1977, Federal Register (42 FR 13807).

OTHER ISSUES

NHTSA published a regulation (July 28, 1977, 42 FR 38362) under section 501(d)(1) of the Act establishing which vehicles are to be considered automobiles for the purposes of the Act and, of those vehicles, which are passenger automobiles and which are light trucks. The light truck class, for the 1979 model year includes vehicles which are certified by EPA as light-duty trucks for emission purposes and have a gross vehicle weight rating (GVWR) of no greater than 6,000 lbs., plus vehicles such as the Chevrolet El Camino and the Ford Ranchero. For the 1980 and later model years, the light truck category is expanded to include vehicles with GVWR's no greater than 8,500 pounds (42 FR 38363).

EPA tests the El Camino and Ranchero under the light-duty vehicle emissions testing procedures. The Chevrolet El Camino and Ford Ranchero are classified as light-duty vehicles by EPA for emissions purposes since those vehicles are derivatives of passenger cars and, as such, passenger car emission control systems may be applied. Under the Act, vehicles must be classified based on design intent. NHTSA has classified those vehicles as light trucks based on their similarity to pickup trucks in view of the open bed configurations.

As a result the calculation of a manufacturer's CAFE for light trucks will be based on data generated under different test procedures. The Agency has determined that this will not affect the validity of the calculation, since the fuel economy of the test vehicles are appropriately measured under the respective procedures and the classifications are appropriate with respect to statutory requirements and intent.

It should also be noted that DOT published a regulation (July 28, 1977, 42 FR 38369) that assigns the responsibility for emission control to DOE, not NHTSA. These regulations were originally published as interim-final rules on September 13, 1977. Comments were requested, and a comment period was published in the Federal Register (42 FR 13807).

Comments Received

These regulations were originally published as interim-final rules on September 13, 1977. Comments were requested, and a comment period was published in the Federal Register (42 FR 13807).

Comments Received

These regulations were originally published as interim-final rules on September 13, 1977. Comments were requested, and a comment period was published in the Federal Register (42 FR 13807).
CALCULATION OF FUEL ECONOMY VALUES FOR TWO-WHEEL AND FOUR-WHEEL DRIVE VEHICLES

Chrysler has commented that in order to calculate the necessary model type values for two-wheel and four-wheel drive vehicles, three options were available:

(a) Performance of separate tests for two-wheel and four-wheel drive vehicles (i.e., at the vehicle configuration level).

(b) Separate after vehicle configuration calculation are performed (i.e., at the level of the base level).

(c) Separate after base level calculations have been performed (i.e., at the model type level). Chrysler recommended that the second option be adopted because Chrysler suggested that it gave the highest degree of accuracy without entailing expensive additional testing.

The Agency has examined the available options and determines not suggested by Chrysler. However, the three Chrysler proposals do seem to have the most merit of any available possibilities. After study of the options, EPA has decided to promulgate a plan which would completely separate two-wheel and four-wheel drive vehicles and tests (approximately Chrysler's first proposal). The motivation behind this decision is that if two-wheel and four-wheel drive tests are used together in calculating vehicle configuration fuel economy values, the poorer fuel economy performance of a four-wheel drive vehicle could unjustly jeopardize the chances of a two-wheel drive vehicle passing the standard, while the presence of two-wheel drive data in the data base used to calculate the 4-wheel drive CAFE could artificially boost the four-wheel drive average. EPA realizes that this approach is marginally more costly than Chrysler's recommendation. However, it is expected that in many cases the two-wheel drive and four-wheel drive vehicles would be close enough in design and in test parameters that test data from one source could be applied to meet the testing requirements of the other. This administrative procedure would allow avoidance of what would have been duplicate testing which would preserve the technical integrity of separating vehicles in cases where two-wheel drive and four-wheel drive vehicles are truly different.

Also, beginning in the 1980 model year, the calculation procedures call for sales-weighting by road load horsepower setting and test weight within a vehicle configuration. This total separation will insure that two-wheel and four-wheel drive sales are properly assigned within a configuration. It should be noted that EPA does not intend to actually test 4-wheel drive vehicles in the four-wheel drive mode. The vehicle will be tested in a normal two-wheel drive mode. The fuel economy differences addressed above are then attributable to the vehicle characteristics that differ between two-wheel and four-wheel vehicles, such as:

1. The four-wheel drive vehicles' increased weight, larger frontal area and resulting larger road load horsepower requirements, and the availability and common usage of high (numerical) drive ratios and oversize tires on four-wheel drives. The actual testing of four-wheel drive vehicles in the four-wheel drive mode was considered; however, the technical difficulties and costs associated with this testing are unacceptable.

2. Although no test volume impact is expected, car line definitions must be divided into distinct truck lines. This would cause model types to be divided into two-wheel drive and four-wheel drive and trucks to be divided into distinct truck lines. This would cause model types to be divided into two-wheel drive and four-wheel drive. EPA realizes that this approach is marginally more costly than Chrysler's recommendation. However, it is expected that in many cases the two-wheel drive and four-wheel drive vehicles would be close enough in design and in test parameters that test data from one source could be applied to meet the testing requirements of the other. This administrative procedure would allow avoidance of what would have been duplicate testing which would preserve the technical integrity of separating vehicles in cases where two-wheel drive and four-wheel drive vehicles are truly different.

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light-duty trucks. (Please note that the Chevrolet El Camino, GMC Caballero, and Ford Ranchero will be referred to as car lines under part 86 and truck lines under part 606.) This rulemaking is only updating those areas which would normally be published for reasons of describing the light truck compliance program. Part 86 of the regulations, and other parts of part 606 which are not being republished will be updated as they are republished.

**Model Years After 1980**

In light of the lack of concern expressed by the manufacturers of light trucks in their comments on this rulemaking, it appears that these vehicle selection procedures are adequate from the industry's perspective, i.e., a reasonable balance has been struck between the size of the test fleet and the risk of corporate average fuel economies being understated. However, at the urging of NHTSA, EPA will be pursuing alternative procedures for selecting vehicles for determination of CAFe values for light trucks for model years after 1980. NHTSA and EPA remain somewhat concerned that the procedures in this regulation may not yet yield results which are as accurate as possible, given the need to limit the test fleet size to feasible levels. Of particular concern is the potential for overstatement of CAFe's.

The reason for the inaccuracy is the excessive range of fuel economy values which would be characterized by the calculation of a single base level value. This range is caused both by items which are quantified within a base level, such as axle ratio, and items which are not, such as the vehicular differences between various classes of light trucks. As noted earlier in this preamble both this rulemaking, and procedures attendant to, but not included in, this rulemaking are attempting to cover these deficiencies. The Administrator's option to conduct supplementary tests within a base level allows the Agency to cover the quantifiable parameters, while the revised procedures for the "truck line" definition will have a major impact on the assessment of the impact of the vehicular differences. However, the concern remains that these measures will be inadequate to completely answer the accuracy questions.

For these reasons, as mentioned above in the SUMMARY section of this preamble, EPA and NHTSA have agreed that this rulemaking is to be considered an interim action until such time as vehicle selection procedures that will ameliorate these concerns are developed by NHTSA and EPA. At that time the new selection criteria and methodologies will be opened to public comment through the rulemaking process.

As noted earlier, no comments were received on the calculation procedure itself, with the exception of a proposal from Ford which is not likely to understate CAFe, and the inability of any other interested parties to absorb, test, and analyze the procedure to determine the risk of overstating CAFe's. Therefore the impetus for a reevaluation of the procedures comes from within the Government.

At this time no specific proposals have been developed for modification of the procedures, and the procedures promulgated in this rulemaking will be effective from the 1980 model year until amended. In the event that the Agency does construct a new procedure, a notice of proposed rulemaking will be issued prior to the promulgation of final amendments to the procedures.

Note.—The Environmental Protection Agency has determined that this document is not a "significant" regulation and does not require preparation of a regulatory impact analysis under Executive Order 12044.


**Douglas M. Costle,** Administrator.

Part 600 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. Section 600.002-79 is revised to read as follows:

§ 600.002-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.002-78 remain effective except that definition number (14) is hereby superseded, definition numbers (41) and (42) are added. All terms used in this subpart that are not defined herein shall have the meaning given them in the Act.


(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 6,000 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal emission test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in part 86 for the respective model year, which are used to derive fleet average emission data.

(8) "Federal highway fuel economy test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in subpart B of this part and which are used to derive highway fuel economy data.

(9) "Fuel" means gasoline and diesel fuel.

(10) "Fuel economy" means the average number of miles traveled by an automobile or group of automobiles per gallon of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207.

(11) "City fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal fuel economy test procedure.

(12) "Highway fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal highway fuel economy test procedure.

(13) "Combined fuel economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

(15) "Certification vehicle" means a vehicle which is selected under § 600.775(b)(1) and used to determine compliance under § 86.077-30 for issuance of an original certificate of conformity.

(16) "Fuel economy data vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with subpart D of this part.
(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats, or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars. When applied to light trucks, the term "truck lines" will be used.

(21) "Basic engine" means a unique combination of manufacturer, engine displacement (number of cylinders), fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

(22) "Transmission class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semiautomatic), number of forward speeds (e.g., manual, four speed, three speed automatic, two speed semiautomatic), and other characteristics determined to be significant by the Administrator (e.g., "creep" first gear, overdrive final drive, brand of transmission unit) considering factors such as the manufacturer's recommendation for use and/or the numerical gear ratios.

(23) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

(25) "Engine code" means a unique combination, within an engine-system combination (as defined in part 86 of this chapter), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

(26) "Inertia weight" means the inertia weight class into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of part 86 of this chapter.

(27) "Transmission configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary emission control device (AECID)" means an element of design as defined in part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "round off method" specified in ASTM E 29-67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version or application of a component or component assembly capable of functionally describing its operation over its working range.

(32) "Production volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, the number of vehicle units of a particular model imported into the United States.

(33) "Body style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e., front seat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup truck" means a light truck which has a passenger compartment and an open cargo bed.

(36) "Station wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tallgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross vehicle weight rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

(39) "Van" means any light truck having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no subdivide a transmission configuration. for light trucks only, two-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches and that has a body shape similar to the 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser.

2. Section 600.002-80 is amended by revising definitions (4), (14), (23), and (24) and by adding new definitions (39), (40), and (41), reading as follows:

§ 600.002-80 Definitions.

(a) * * *

(4) "Automobile" means any four-wheel vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 8,500 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(b) * * *

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that is subject to average fuel economy standards.

(c) * * *

(23) "Base level" means a unique combination of basic engine, inertia weight, and transmission class (and, for light trucks only, two-wheel drive and four-wheel drive).

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio (and, for light trucks only, two-wheel drive and four-wheel drive) within a base level.

(d) * * *

(39) "Van" means any light truck having an integral enclosure fully enclosing the driver compartment and load-carrying device, and having no
body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line:

(41) "Light truck" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 42 CFR 523.5.

3. The title of Subpart F is revised to read as follows:

Subpart F—Fuel Economy Regulations for Model Year 1978 Passenger Automobiles and for 1979 and Later Model Year Automobiles (Light Trucks and Passenger Automobiles)—Procedures for Determining Manufacturer's Average Fuel Economy -

4. A new § 600.501-79 is added reading as follows:

§ 600.501-79 General applicability.

The provisions of this subpart are applicable to 1979 and later model year automobiles (passenger automobiles and light trucks).

5. A new § 600.502-79 is added reading as follows:

§ 600.502-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.502-78 remain effective except that provision (a)(2)(ii) is hereby superseded. The definitions in § 600.002 also apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or, with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a carline shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such carline as computerized from official dealer price lists effective during the course of a model year, and

(ii) The number of automobiles within the carline produced during the part of the model year that the price list was in effect.

6. A new § 600.506-79 is added reading as follows:

§ 600.506-79 Preliminary determination of manufacturer's average fuel economy.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the initial range of fuel economy values of comparable automobiles (ref. § 600.314(d)(1)) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.610 except that:

(i) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(ii) Fuel economy data from all vehicles tested for running changes appearing in § 600.510 will be used.

(iii) Fuel economy data required by paragraph (d), and

(iv) Other fuel economy data accepted by the Administrator under subpart A of this part.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level). The sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001) of projected sales of passenger automobiles (where projected sales are calculated according to § 600.511, light trucks, or category of light trucks (as appropriate), except that projected sales are used in place of production values).

(d) For each significant base level identified in paragraph (c) of this section the manufacturer shall submit to the Administrator a determination of his preliminary fuel economy value for those vehicle configurations, taken in order decreasing sales (according to the projection submitted in paragraph (b)(1) of this section) whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in subpart B or an approved analytical method as permitted under § 600.006(e); and

(2) Be accepted by the Administrator under the requirements of subpart A.

(f) For light trucks, the Administrator may require additional testing to be conducted in a light truck base level if he determines that the vehicle configurations comprising that base level can reasonably be expected to exhibit an unacceptably large range in combined fuel economy. The Administrator will set that determination based upon the data submitted at the time of the preliminary calculation.

7. A new § 600.510-79 is added following § 600.510-78 which retains the provisions of § 600.510-78 except that the entire paragraphs (b) and (e) are hereby revised and paragraphs (a)(3) and (d) are added reading as follows:

§ 600.510-79 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured plus the includable imports as defined in § 600.510(c)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.510(c)(2).

(3) An average fuel economy calculation will be made either for all light trucks or for each category of light trucks (four-wheel drive, general utility vehicles and all other light trucks) in accordance with the preference indicated by the manufacturer in § 600.512.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base
levels associated with carlines that are:

(A) Domestically produced and
(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg.

(v) High altitude test data will be included; and

(vi) If a model type is comprised both of vehicles that are four-wheel drive, general utility vehicles and vehicles that are not, as defined at 49 CFR 533.4 by the Secretary of Transportation, and the manufacturer has indicated as provided in §600.512(c)(3) that average fuel economy will be calculated separately for four-wheel drive, general utility vehicles, then separate model-type calculations will be made for those vehicles that are four-wheel drive, general utility vehicles and those that are not.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to §600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with carlines that are:

(A) Domestically produced and
(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) For passenger automobiles, average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in §600.511(d)(1), divide:

(i) The total domestic production volume plus the includable import volume, as determined in §600.511, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of light trucks which are not domestically produced and are imported, by the average light truck fuel economy value determined in paragraph (c)(2) of this section.

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type in that category and is a fraction determined in accordance with paragraph (c)(2) of this section.

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type in that category and is a fraction determined in accordance with paragraph (c)(2) of this section.

(2) The average fuel economy for the category of automobiles defined in §600.511(d)(2) is the value calculated in accordance with paragraph (c) of this section.

(d) For light trucks, average fuel economy will be calculated as follows:

(1) In the case where a manufacturer elects to calculate a single average fuel economy for all light trucks, divide:

(i) The total number of domestically produced light trucks plus the total number of light trucks which are not domestically produced and are imported by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of light trucks which are not domestically produced and are imported, by the average light truck fuel economy value determined in paragraph (c) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type in that category and is a fraction determined in accordance with paragraph (c)(2) of this section.

(2) An average fuel economy calculated for each category of light trucks (four-wheel drive, general utility vehicles and all other light trucks), for each category divide:

(i) The total number of domestically produced light trucks in that category plus the total number of light trucks in that category which are not domestically produced and are imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of light trucks in that category which are not domestically produced and are imported, by the average light truck fuel economy value for that model type calculated in accordance with paragraph (c)(2) of this section.

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type in that category and is a fraction determined in accordance with paragraph (c)(2) of this section.

(e) An average fuel economy value will be calculated for the domestically produced-but-not-imported component of each category of automobile identified in §600.510(a) as specified below.

(1) Divide the total production volume of the automobiles which are not domestically produced and are imported in each of the categories identified in paragraph (a) of this section, as appropriate, by

(f) A sum of terms, each of which corresponds to a model type that is not domestically produced and is imported and is a fraction determined by dividing:

(i) The number of automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

(2) Section 600.510-80 is amended by deleting paragraphs (d) and (e) and revising paragraphs (a)(1) through (a)(7), (b), and (c) to read as follows:

§600.510-80 Calculation of average fuel economy.

(a) • • •

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured as defined in §600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in §600.511(d)(2).

(3) An average fuel economy calculation will be made for the category of light trucks which are defined in §600.511(e)(1) and have two-wheel drive.

(4) An average fuel economy calculation will be made for the category of light trucks which are defined in §600.511(e)(1) and have four-wheel drive.

(5) An average fuel economy calculation will be made for the category of light trucks which are defined in §600.511(e)(2) and have two-wheel drive.

(6) An average fuel economy calculation will be made for the category of light trucks which are defined in §600.511(e)(2) and have four-wheel drive.

(7) An average fuel economy calculation will be made for the category of light trucks which are limited production line light trucks, as defined by the Secretary of Transportation at 49 CFR 533.4.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under §600.512 must be used.

(2) Fuel economy will be calculated for each model type according to §600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with carlines that are:

(A) Domestically produced, and
(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;
(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;
(iv) The fuel economy value will be rounded to the nearest 0.1 mpg; and
(v) High altitude test data will be included; and
(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to §600.506 except that:
(i) Separate fuel economy values will be calculated for vehicle configurations associated with carlines that are:
(A) Domestically produced, and
(B) Nondomestically produced and imported;
(ii) Model year production data, as required by this subpart will be used instead of sales projections; and
(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.
(c) For each category identified in §600.510(a), average fuel economy will be calculated individually as follows:
(1) The number of automobiles of that model type produced by the manufacturer in the model year by
(2) A sum of terms, each of which corresponds to a model type within that category of automobiles and is a fraction determined by dividing
(i) The number of automobiles of that model type produced by the manufacturer in the model year by
(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section
(d) (Reserved).
(e) (Reserved).
9. Section 600.511-80 is amended by adding a new paragraph (e) reading as follows:
§600.511-80 Determination of domestic production.

... (Reserved).
(e) In calculating average fuel economy under §600.510(c), the Administrator will separate the total number of light trucks produced by a manufacturer into the following two categories:
(1) Light trucks which are domestically produced by the manufacturer.
(2) Light trucks which are not domestically produced and which are imported by the manufacturer.

... (Reserved).

10. A new §600.512-79 is added following §600.512-78 that retains the provisions of §600.512-78 except that paragraphs (b)(5) and (c)(8) are added reading as follows:
§600.512-79 Model year report.
(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.
(b) (1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in §60.078-37 for the final production quarter.
(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient for the manufacturer to provide all additional data required as determined in either §§600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.
(c) Separate reports shall be submitted for each category of passenger automobiles and light trucks (as identified in §600.510).
(d) The model year report must include the following information:
(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§600.506, 600.507, or 600.508.
(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph §60.078-33.
(e) Any additional fuel economy data submitted by the manufacturer under §600.509.
(f) A fuel economy value for each model type of the manufacturer's product line calculated according to §600.510.
(g) The manufacturer's average fuel economy value calculated according to §600.510.
(h) A listing of both domestically and nondomestically produced car lines as determined in §600.511 and the cost information upon which the determination was made.
(i) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the chief executive officer.
(j) A statement that indicates the manner in which four-wheel drive, general utility vehicles will be included in the average fuel economy calculation for light trucks in accordance with the options established by the Secretary of Transportation at 42 CFR 553.5.
(k) A new §600.512-80 is added following §600.512-79 that retains the provisions of §600.512-79 except for paragraph (c)(8). Paragraph (c)(8) is deleted, as follows:
§600.512-80 Model year report.
(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.
(b) (1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in §600.078-37 for the final production quarter.
(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient for the manufacturer to provide all additional data required as determined in either §§600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.
(c) Separate reports shall be submitted for passenger automobiles and light trucks (as identified in §600.510).
(d) The model year report must include the following information:
(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§600.506, 600.507, or 600.508.
(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph §60.078-33.
(e) Any additional fuel economy data submitted by the manufacturer under §600.509.
(f) A fuel economy value for each model type of the manufacturer's product line calculated according to §600.510.
(g) The manufacturer's average fuel economy value calculated according to §600.510.
(h) A listing of both domestically and nondomestically produced car lines as determined in §600.511 and the cost information upon which the determination was made.
(i) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the chief executive officer.
[FR Doc. 78-24905 Filed 9-1-78; 8:45 am]
CHAPTER 14—DEPARTMENT OF THE INTERIOR

MISCELLANEOUS CHANGES

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous changes to the Interior Department procurement regulations. These changes are necessary to recognize and incorporate recent organizational changes made within the Department; implement recent amendments to the Federal procurement regulations and regulations issued by other Federal agencies; and update several sections of the existing regulations.

EFFECTIVE DATE: This amendment takes effect on October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202-343-5914.

Note—The Department of the Interior has determined that this document does not contain a major rule requiring publication for comment in the Federal Register.

The changes to be made are as follows:

a. Section 14-1.352 is amended by changing the heading and expanding the section to add a requirement for review of certain procurement actions.

b. Paragraphs (a) and (b) of §14-1.402 are revised to incorporate changes in redeclarations of authority by the Secretary under order No. 3005 dated July 8, 1977.

c. Sections 14-1.602, 14-1.603, 14-1.604, 14-1.604-1, 14-1.605-1, 14-1.605-4, and paragraph (a) of §14-1.606 are amended to correct typographical errors and to change organizational designations.

d. Paragraph (a) of §14-2.407-1 is revised to incorporate changes made in the reorganization of Secretarial congressional and legislative functions by the Secretary under order No. 3001 dated April 8, 1977.

e. New subpart 14-4.11 and §14.1150 are added to reference the requirements for departmental approval of certain automated data processing equipment procurements.

f. New subparts 14-7.2 and 14-7.4 are added to prescribe the use of the clause under §1-7.203-15 of this title and to modify the optional clause under §1-7.204-5 of this title to comply with the legal authorities of the Department.

g. The contents of §14-18.705-10 are transferred to a new §14-12.150 since its requirements include other contracts in addition to those for construction. Section 14-18.703 is amended to reference the requirements of new §14-12.150.

h. Subpart 14-18.1 is reestablished and new §14-18.150 is added to implement the requirements of 24 CFR Part 35 which prohibits the use of lead based paint in Federal or federally assisted construction or rehabilitation of residential structures.

i. Section 14-30.406-50 is amended by adding a new paragraph (d) to provide that the Bureau of Indian Affairs may use advance payments in those circumstances authorized in the annual Interior Appropriation Act.

j. Paragraph (a) of §14-15.103 is revised to clarify the elements to be considered in determinations concerning contracts for services.

k. Paragraph (b) of §14-15.104 is revised to clarify the requirements for requesting departmental approval of certain types of contracts for services.


RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

Accordingly, pursuant to the authority of the Secretary with respect to all matters relating to procurement of personal property and nonpersonal services (including construction) has been delegated to the Assistant Secretaries under part 205, chapter 11 of the departmental manual (205 DM 11).

The Assistant Secretaries have redelegated their procurement authority to the heads of bureaus and other departmental offices, subject to limitations prescribed in part 200 of the departmental manual. Relegation of authority to other contracting officer positions by the heads of bureaus and other departmental offices is subject to any limitations prescribed in part 200 of the departmental manual, the requirements of subpart 1-1.4 of this title, and the requirements of this subpart 14-1.4.

§14-1.352 Review and approval of procurement actions.

§14-1.352-1 Review and approval of procurement actions by the Assistant Secretaries.

All reviews and approvals required for procurement actions of a bureau or other Departmental office by an Assistant Secretary under part 200 of the departmental manual shall be obtained before requesting any other reviews or approvals required by this chapter.

§14-1.352-2 Legal review of procurement actions.

Subpart 14-1.4—Procurement Responsibility and Authority

3. Section 14-1.402 is amended by revising paragraphs (a) and (b) to read as follows:

§14-1.402 Authority of contracting officers.

(a) The authority of the Secretary with respect to all matters relating to procurement of personal property and nonpersonal services (including construction) has been delegated to the Assistant Secretaries under part 205, chapter 11 of the departmental manual (205 DM 11).

(b) The Assistant Secretaries have redelegated their procurement authority to the heads of bureaus and other departmental offices, subject to limitations prescribed in part 200 of the departmental manual. Redegregation of authority to other contracting officer positions by the heads of bureaus and other departmental offices is subject to any limitations prescribed in part 200 of the departmental manual, the requirements of subpart 1-1.4 of this title, and the requirements of this subpart 14-1.4.

Subpart 14-1.6—Debarred, Suspended and Ineligible Bidders

4. Sections 14-1.602, 14-1.603, 14-1.604, 14-1.604-1, 14-1.605-1, 14-1.605-4, and paragraph (a) of §14-1.606, are revised to read as follows:

Subpart 14-1.6—Debarred, Suspended and Ineligible Bidders

§14-1.602 Establishment and maintenance of a list of firms or individuals debarred, suspended, or declared ineligible.

The Division of Procurement and Grants, Office of Administrative and Management Policy, shall maintain a
consolidated list of firms and individuals debarred or suspended as required by §1-1.602 of this title. The list and all corresponding evidence relating thereto are not to be disclosed to the public. The list will show the authority for and terms of the debarment or suspension.

§14-1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

(a) Administration of current contracts in all phases may be continued, and payment of funds due may be made, notwithstanding the listing of a contractor, unless otherwise directed by the Assistant Secretary—Policy, Budget and Administration. The Assistant Secretary—Policy, Budget and Administration, when he considers it in the public interest, may approve the award of a contract to a firm or individual debarred or suspended when such approval is requested by the head of a bureau or office.

(b) Contracting Officers may, in their discretion, solicit bids or proposals from and award contracts to firms or individuals found to be ineligible under the Walsh-Healey Act, as provided in §1-1.603(d) of this title.

§14-1.604 Causes and conditions applicable to determination of debarment by an executive agency.

(a) Debarment for any of the causes set forth in §1-1.604(a) of this title shall be made only by the Assistant Secretary—Policy, Budget and Administration. Whenever cause for debarment becomes known to the head of a bureau or office or a contracting officer thereof, the matter shall be submitted to the recommendations of the head of the bureau of office to the Assistant Secretary—Policy, Budget and Administration for appropriate action.

(b) The removal or extension of a debarment as set forth in §1-1.604(e) of this title shall be made only by the Assistant Secretary—Policy, Budget and Administration.

§14-1.604-1 Procedural requirements relating to the imposition of debarment.

(a) The Assistant Secretary—Policy, Budget and Administration, in seeking to debar a firm or individual (or any affiliate thereof) for a cause, shall furnish that party with a written notice of intent to debar, sent by registered mail:

(1) Setting forth the reasons for the proposed debarment;
(2) Giving the party an opportunity to submit evidence, within thirty (30) calendar days after receipt of the notice of intent to debar; and
(3) Advising the party that the debarment action will be made and that the information furnished will be considered in determining whether debarment is justified. If no response is received to the notice of intent to debar within the time specified, a determination on the debarment action will be made on the information available. Where a reply is received to the notice of intent to debar and evidence to refute debarment action is furnished but no hearing is requested, the information furnished will be considered in determining the action to be taken.

(b) If a hearing is requested, it shall be conducted by the Assistant Secretary—Policy, Budget and Administration, or his designee. The hearing will be held at a location convenient to the parties concerned as determined by the Assistant Secretary—Policy, Budget and Administration and on a date and at a time stated. Subject to the provisions of 43 CFR part 1, the firm or individual against whom the debarment action is taken may be represented by a duly authorized representative. Witnesses may be called to testify by the party. The hearing shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the hearing. A transcript of the hearing will be made and one copy will be furnished free to the party sought to be debarred. From the record established by the hearing, or if no hearing is held, upon the information submitted by the parties, the Assistant Secretary—Policy, Budget and Administration shall determine whether debarment should be effected or the matter dismissed. The Assistant Secretary—Policy, Budget and Administration shall advise the firm or individual in writing of this final decision within a reasonable time after the hearing is concluded. The notice imposing debarment will be sent by certified mail, return receipt requested. It will set forth the scope and period of the debarment together with the reasons for the debarment. The imposition of debarment upon a firm or an individual shall be final and conclusive except that the party debarred may seek relief in a court of competent jurisdiction.

§14-1.605 Suspension of bidders.

§14-1.605-1 Causes and conditions under which executive agencies may suspend contractors.

(a) All actions required by §1-1.605-1 of this title shall be taken by the Assistant Secretary—Policy, Budget and Administration.

§14-1.605-4 Notice of suspension.

(a) All actions required by §1-1.605-4 of this title shall be taken by the Assistant Secretary—Policy, Budget and Administration.

Subpart 14-2.4—Opening of Bids and Award of Contract

5. Section 14-2.407-1 is amended by revising paragraph (a) to read as follows:

§14-2.407 Award.

§14-2.407-1 General.

(a) At least 48 hours prior to award of a contract between $10,000 and $1,000,000, and at least 72 hours prior to award of a contract in excess of $1,000,000, and prior to any other announcement regarding the proposed date of contract award, the following information shall be furnished simultaneously to the Assistant Secretary having jurisdiction over the bureau or office making the award, and to the Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs:

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

6. The Table of Contents for part 14-4 is amended by adding new entries as follows:


Sec.
14-4.1150 Requirements for Departmental approval.

7. New subpart 14-4.11 and §14-4.1150 are added as follows:


§14-4.1150 Requirements for departmental approval.

Departmental approval requirements and procedures for the procurement of automated data processing equipment, software, maintenance services, and supplies are contained in part 306 of the departmental manual.
PART 14-7—CONTRACT CLAUSES

§ 14-7.403 Clauses to be used when applicable.
§ 14-7.403-5 Interest.
Whenever amounts due to the Government under a contract are to bear interest, the clause set forth under § 14-7.203-15 of this title shall be used.

Subpart 14-7.4—Cost-Reimbursement Type Research and Development Contracts

§ 14-7.403 Clauses to be used when applicable.
§ 14-7.403-5 Interest.
The clause set forth under § 14-7.203-15 of this title as prescribed by § 14-7.403-25 of this title shall be used under the conditions set forth under § 14-7.209-15 of this chapter.

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§ 14-7.404 Additional clauses.

PART 14-12—LABOR

11. The table of contents for part 14-12 is amended by reestablishing subpart 14-12.1 and adding a new entry as follows:

Subpart 14-12.1—Basic Labor Policies

Sec. 14-12.150 Labor standards enforcement report.

12. New section 14-12.150 is added as follows:

Subpart 14-12.1—Basic Labor Policies

§ 14-12.150 Labor standards enforcement report.

(a) The reports required by § 14-18.06—10 of this title shall be prepared by each procuring activity and forwarded to the Chief, Division of Procurement and Grants, Office of Administrative and Management Policy, within 25 days after the close of the reporting period. Within the next 5 days a report will be submitted by the Office of Administrative and Management Policy to the U.S. Department of Labor, Employment Standards Administration, 1714 Street NW., Washington, D.C. 20210.

(b) The required information shall be listed separately, as applicable, in two columns. One column shall report construction work subject to the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, and the other column shall report nonconstruction work subject to the Contract Work Hours and Safety Standards Act. The report shall contain the following information:

(1) Period covered;
(2) Number of contracts awarded;
(3) Total dollar amount of prime contracts awarded;
(4) Number of contractors and subcontractors against whom claims were received;
(5) Number of investigations completed;
(6) Number of contractors and subcontractors found in violations;
(7) Amount of wage restitution found due:
   (i) Davis-Bacon and Related Acts; and
   (ii) Contract Work Hours and Safety Standards Act;
(8) Number of employees due wage restitution under the Davis-Bacon and Related Acts, and the Contract Work Hours and Safety Standards Act;
(9) Amount of liquidated damages assessed under the Contract Work and Safety Standards Act;
(10) Name, title, agency, procuring activity, and telephone number of person submitting the report; and
(11) Remarks.

PART 14-18—PROCUREMENT OF CONSTRUCTION

13. The Table of Contents for part 14-18 is amended by reestablishing subpart 14-18.1 and adding a new entry as follows:

Subpart 14-18.1—General Provisions

§ 14-18.150 Prohibition against use of lead-based paint.

(a) Policy. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831), as amended by the National Consumer Health Information and Education Promotion Act of 1976 (Sec. 204, Pub. L. 94-317 (42 U.S.C. 4831)), prohibits the use of lead-based paint, Federal or federally-assisted construction or rehabilitation of residential structures. Implementing regulations of the Secretary of Housing and Urban Development under 24 CFR. Part 35 requires agencies to include appropriate provisions in contracts or subcontracts for construction or rehabilitation of residential structures.

(b) Definitions. As used in this section, "residential structure" means any house, apartment or structure intended for human habitation including any institutional structure where persons reside such as orphanage, boarding school dormitory, day care center, or extended care facility.

(c) Procedures. The following provision shall be included in all solicitations and contracts awarded for construction or rehabilitation of residential structures:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT"

No lead-based paint containing more than .05 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, shall be used in the construction or rehabilitation...
shall be considered in determining whether an improper supervisory relationship exists or would be created under a contract for services, the absence of any one or a number of the elements does not mean that an improper relationship does not exist but that there is less likelihood of its existence. The elements to be considered are as follows: ***

§ 14-55.104 Requirements for Departmental approved.

(b) Requests for approval shall include

(1) A complete justification, an estimate of cost, information as to whether the services are recurring or nonrecurring, and whether the services are to accomplish a peak load requirement for which it would not be in the public interest to hire additional staff.

SUPPLEMENTARY INFORMATION:
The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, is amending Subpart 8 to 42 CFR Part 57, entitled “Special Health Career Opportunity Grants,” and renaming it “Educational Assistance to Individuals from Disadvantaged Backgrounds.” The purpose of this revision is to establish regulations for the Health Professional Education Assistance Act of 1978 (Pub. L. 95-231).

§ 707 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and other public or private nonprofit health or educational entities to assist them in meeting the costs of conducting health career opportunity programs designed to carry out any of the following purposes: (1) To identify, recruit, and select individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession; (2) to facilitate the entry of these individuals into health professions schools; (3) to provide counseling or other services designed to assist disadvantaged individuals to complete successfully their education at a health professions school; (4) to provide for a period prior to the entry of these individuals into the regular course of education at a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at the school, or to refer these individuals to institutions providing this preliminary education; and (5) to publicize existing sources of financial aid available to students in the educational program of a health professions school or individuals who are undertaking training necessary to qualify them to enroll in this program. Section 707 authorizes the Secretary to award grants to schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist them in meeting the costs of conducting health career opportunity programs.
designed to carry out any of the purposes listed above for disadvantaged individuals who have a potential for education or training in the allied health professions.

The following is a brief summary of the major features of the regulations:

1. Section 57.1803 sets forth the criteria for determining, for purposes of the program, whether individuals are from disadvantaged backgrounds.

2. Under §57.1803, public or nonprofit private health or educational entities such as community and professional organizations, colleges and universities, and health professions schools are eligible applicants.

3. Section 57.1803 specifies the purposes for which programs may be funded under this subpart. To be eligible for Federal funds, the applicant must conduct programs directed toward the achievement of at least two of these purposes. However, Federal funds may be made available for only one of the purposes if the applicant has an independently funded program designed to achieve at least one of the other purposes. This requirement insures a continuity of preparation for individuals in these programs.

4. Under §57.1803, eligible projects may include those which provide preliminary education to assist disadvantaged individuals to successfully complete studies at a health professions school, or which refer disadvantaged individuals to institutions which provide preliminary education. However, the preliminary education may not be offered to students before they start the senior year of high school.

5. With respect to allied health training, §57.1805 requires that the standards and guidelines for training meet those established by accrediting bodies recognized by the Commissioner of Education, or by Federal or State agencies.

Timely implementation is essential if eligible applicants are to have adequate lead time to comply with the requirements of the statute and this subpart so that grants can be made early in the summer. Therefore, the Secretary has determined pursuant to 5 U.S.C. 533 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations at the address given above. All relevant materials received no later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978. Accordingly, Subpart S to Part 57 of Title 42 of the Code of Federal Regulations is revised as set forth below.


JULIUS B. RICHARDS, Assistant Secretary for Health.


HAE CHAMPION, Acting Secretary.

Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds

Sec. 57.1801 Applicability.

57.1802 Definitions.

57.1803 Eligibility.

57.1804 Application.

57.1805 Project requirements.

57.1806 Evaluation of applications.

57.1807 Grant award.

57.1808 Conditions.

57.1809 Expenditure of grant funds.

57.1810 Non-discrimination.

57.1811 Grantee accountability.

57.1812 Publications and copyright.

57.1813 Appropriability of 45 CFR part 74.

57.1814 Records, audit, and inspection.

57.1815 Additional conditions.


Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds

§ 57.1801 Applicability.

The regulations in this subpart set forth the requirements for support of health career opportunity programs under sections 767 and 788 of the Public Health Service Act.

§ 57.1802 Definitions.

As used in this subpart:

“Act” means the Public Health Service Act, as amended.

“Allied health professions” means professions which support, complement, or supplement the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or assist environmental engineers and other personnel in environmental health control and preventive medicine activities.

“Budget period” means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

“Council” means the National Advisory Council on Health Professions Education established by section 702 of the act.

“Health or educational entity” means an organization, agency or combination thereof which has the provision of health or educational programs as one of its major functions.

“Health professions” means the professions of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, and public health.

“Health professions schools” means schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine or public health as defined in section 701(4) of the act.

“Nonprofit” as applied to any private entity means that no part of the net earnings of the entity accrues or may lawfully accrue to the benefit of any private shareholders or individuals.

“Project period” means the total time for which support for a project has been approved including any extensions.

“School of allied health” means a school which provides as one of its major functions training in the allied health professions.

“State” means in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1803 Eligibility

(a) Eligible applicants. (1) Health professions schools and public or nonprofit private health or educational entities located in a State may apply for a grant under section 787 of the act.

(2) Schools of allied health, State and local educational agencies, and public or private nonprofit entities located in a State may apply for a grant under section 798 of the act.

(b) Eligible projects. (1) Grants under section 787 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (3) of this paragraph, to undertake education to enter a health profession may be made to meet the costs of carrying out any of the following purposes:

(i) To identify, recruit, and select individuals from disadvantaged backgrounds for education and training in a health profession.

(ii) To facilitate the entry of these individuals into a health professions school.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at a health professions school.
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(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at a health professions school, or to refer these individuals to institutions providing this preliminary education. Participation in this program may not be offered to students before they start the senior year of high school.

(v) To publicize existing sources of financial aid available to students in the education programs of health professions schools or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(2) Grants under section 798 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (v) of paragraph (a) of this section, who are undertaking training necessary to qualify them to enroll in the allied health professions.

(ii) To facilitate the entry of these individuals into a school of allied health, State or local educational agency, or other public or private nonprofit entity.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at these schools, agencies, or entities.

(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of these schools, agencies, or entities, preliminary education designed to assist them to complete successfully the regular course of education at these schools, agencies, or entities, or to refer these individuals to institutions providing this preliminary education. Preliminary education may not be offered to students before they start the senior year of high school.

(v) To publicize sources of financial aid available to persons enrolled in the education programs of these schools, agencies, or entities or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(3) For purposes of this subpart, an individual will be determined to come from a disadvantaged background where the individual:

(i) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health professions, or

(ii) Comes from a family with an annual income below a level based on low income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs. The Secretary periodically will publish these income levels in the Federal Register. For purposes of health career opportunity grants made under section 798, veterans of the Armed Forces with military training or experience in the health field are individuals with disadvantaged backgrounds.

§ 57.1804 Application.

(a) Each applicant desiring a grant under this subpart must submit an application in the form and at the time which the Secretary may prescribe.

(b) The application shall be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A detailed description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of section 787 or section 798 of the Act, as applicable, and this subpart, and in particular, the requirements of § 57.1805. This description must include a budget for the proposed project and a justification for the amount of grant funds requested.

(2) A detailed description of the applicant's plan, if any, to continue the health career opportunity program after the termination of grant support under this subpart.

§ 57.1804 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with the requirements of sections 787 and 798, as applicable, of this subpart, the approved application, and the terms and conditions of the grant award.

(b) The project must be conducted under the direction of the project director. If the project director becomes unable to function in this capacity, the Secretary must be notified as soon as possible.

(c) With respect to section 798, the education or training in the allied health professions must meet relevant standards and guidelines established by appropriate accrediting bodies recognized by the Commissioner of Education, or

(2) Federal or State agencies.

(d) The grantee must have a systematic plan for evaluating its health career opportunity program.

§ 57.1806 Evaluation of applications.

The Secretary, after consultation with the Council, will approve or disapprove all applications filed in accordance with § 57.1804, taking into consideration among other pertinent factors:

(a) The potential effectiveness of the project in carrying out the requirements set forth in § 57.1805.

(b) The number and types of individuals who can be expected to benefit from the project.

(c) The administrative and managerial ability of the applicant to carry out the project supported under this subpart.

(d) The soundness of the fiscal plan for assuming the effective utilization of grant funds.

(e) The potential of the project after the period of grant support has ended, to continue meeting the purposes of section 787 or section 798 without Federal assistance.

§ 57.1807 Grant award.

(a) General. (1) Within the limits of funds available, the Secretary may award grants to those applicants whose projects will, in his judgment, best promote the purposes of sections 787 and 798 of the Act, as determined in accordance with § 57.1805. In making these awards, the Secretary will attempt to fund applications which cover all the health professions.

(2) All grant awards will be in writing and will set forth the amount of grant funds granted under this subpart for which these funds will be available for obligations by the grantee. The maximum period for which a project may receive grant support under this subpart is 3 years.

(3) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to all or any part of an approved project. For continuation support, grantees must make separate application at the time and in the form as the Secretary may prescribe.

(b) Determination of grant amount. The Secretary will determine the

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amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any. The Secretary will make this determination on the basis of either (1) his or her estimate of the actual indirect costs of the project, or (2) a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of this percentage will not exceed the approximate actual indirect costs. The award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items.

(c) Noncompeting continuation awards. If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if, on the basis of progress and accounting records as may be required, the Secretary finds that the project’s activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he or she will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide for financial support for the orderly phase-out of the supported project, if he or she determines that this support is necessary.

§57.1808 Grant payments.

The Secretary will from time to time make payments to the grantee of all or part of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he or she determines that these payments are necessary to promote prompt initiation and advancement of the approved project.

§57.1809 Expenditure of grant funds.

(a) Any funds granted under this subpart may be expended solely for carrying out the approved project in accordance with sections 789 and 798 of the Act, the regulations of this subpart, and the terms and conditions of the award.

(b) Grant funds may be used to provide support to individual participants in the health career opportunity programs only when a determination has been made that:

(1) No noncompeting Federal financial assistance program is authorized to provide this support, and

(2) That this support is needed by the individual in order to participate in the health career opportunity program.

(c) Grant funds may be used to provide one round trip for each individual participant in the program between his or her place of residence and the training site.

(d) Grant funds may not be expended for tuition and fees, the training of any program staff, or the retraining of health professionals.

(e) Funds granted under this subpart may not be expended for sectarian instruction or for any religious purpose.

(f) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§57.1810 Nondiscrimination.

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).


(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§57.1811 Grantee accountability.

(a) Accounting for grant award payments. The grantee must record all payments made by the Secretary in accounting records separate from the records of all other sources of support. With respect to each approved project, the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart. When the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of the predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) Accounting for royalties. The policies of 45 CFR Part 74.44 apply to grants made under this subpart.

(c) Grant closeout.—(1) Date of final accounting. A grantee must submit with respect to each approved project, a full account as of the determination of grant support. The Secretary may require other special and periodic accounting.

(2) Final settlement. The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for under paragraphs (a) and (b) of this section; and

(ii) Any other amounts due under Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. The total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other lawful action.

§57.1812 Publications and copyright.

The policies of 45 CFR 74.140 apply to grants made under this subpart.

§57.1813 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as these terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:
A General.
B Cash Depositories.
PART 58--GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for implementing the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning.

DATES: These regulations are effective September 5, 1978. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before November 6, 1978.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (except holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Merrill DeLong, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Room 5-27 at the above address (telephone, 301-436-6824).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, has approved the addition of a new Subpart D entitled "Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions, Other Than Schools of Public Health" to Part 58 of Title 42, Code of Federal Regulations.

Section 749 of the Public Health Service Act (42; Code of Federal Regulations.) provides that the Secretary may make grants to public or nonprofit private educational entities (including graduate schools of social work, but excluding schools of public health) to provide traineeships in the graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning. The purpose of this new subpart D is to establish regulations implementing this authority.

Particular attention is drawn to the following provisions of the regulations:

Section 58.223. Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis and planning? Section 749 of the act specifies that in order to be eligible to apply for a traineeship grant, an applicant's public or nonprofit private educational entity must offer a graduate educational program, which is accredited for the training of individuals for health administration, hospital administration, or health policy analysis and planning by a recognized body or bodies approved for this purpose by the Commissioner of Education. The Secretary has determined that the body currently recognized for this purpose by the Commissioner of Education is the Accrediting Commission on Education for Health Services Administration.

It should be noted that under these regulations, if another body were granted initial or expanded recognition by the Commissioner to accredit programs in these areas, institutions with programs accredited by that body would also become eligible for traineeship grants under this subpart. Section 58.224. How is application made for a grant? It should be noted that in accordance with the statute these regulations require under §58.224(e)(3) that eligible applicants provide assurance that in selecting individuals to receive traineeships, at least 80 percent of the grant funds received for any fiscal year will go to individuals pursuing a graduate program in health administration, hospital administration, or health policy analysis and planning, who have previously received a postbaccalaureate degree, or have 3 years of work experience in health services.

Timely implementation is essential if eligible applicants are to have adequate leadtime to comply with the requirements of the statute and this subpart so that grants can be made prior to June 30, 1978. Therefore, the Secretary has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978.

Accordingly Subpart D is added to Part 58 of Title 42 of the Code of Federal Regulations and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.


CHARLES MILLER, Acting Assistant Secretary for Health.


JOSEPH A. CALIFANO, Jr., Secretary.
Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

§ 58.221 To what educational institutions are these regulations applicable?

§ 58.222 Definitions.

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

§ 58.224 How is application made for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time the Secretary may require.

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award made under section 749 of the Act, including the regulations of this subpart.

(c) In addition to other pertinent information the Secretary may require, an application for a grant under this subpart must contain the following information:

(1) A description of the graduate programs offered by the applicant for which funds for traineeships are requested.

(2) A description of the qualifications and experience of the director of each graduate program for which funds for traineeships are requested.

(3) Assurance that at least 90 percent of the grant funds received will be awarded to individuals who have previously received a post-baccalaureate degree or have 3 years work experience in health services.

§ 58.225 What are the requirements for traineeships and the appointment of trainees?

(a) The grantee must appoint as trainees only individuals who meet the eligibility requirements of § 58.226 and must terminate trainees in accordance with § 58.227.

(b) The grantee must only offer traineeships to individuals enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning, which are accredited by a body or bodies approved for this purpose by the Commissioner of Education. These programs may not include more than 4 months of field training unless expressly approved by the Secretary.

(c) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The original copy must be submitted to the Secretary by the grantee as soon as it is completed. A copy of the statement must be retained by the grantee to be available for program and financial audits.

1Applications and instructions may be obtained from the Grants Management Office, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 4-20, 3300 East-West Highway, Hyattsville, Md. 20782.
(d) Full-time trainees must be required to sign a statement that, as a condition of their traineeship, they will not undertake employment during their traineeship which would interfere with their traineeship. They must complete in a timely fashion the training program in which they are enrolled, and the trainee must agree to respond to communications from the Secretary regarding the trainee's professional activities for a period of 10 years following completion of the training program for which the traineeship is awarded.

(e) Trainees may not be required, as a condition of their traineeships, to perform any work which is not an integral part of their training program and required of all students in the program. Trainees may not be required to perform services which detract from or prolong the training for which their traineeships are awarded.

(f) Where trainees are enrolled in a course of study requiring more than 12 months to complete, the grantee must advise these trainees that continued support from funds awarded under this subpart is contingent upon the continued availability of grant funds and the ability of the trainee to continue in attendance in accordance with the standards and practices of the institution at which the trainee is enrolled.

§58.226 Who is eligible for financial assistance as a trainee?

Trainees must meet the following criteria to be eligible for grant support:

(a) A trainee must be a national of the United States, a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) A trainee may be enrolled in a public or nonprofit private educational entity which has been awarded a grant under section 749 of the Act and enrolled in a graduate program that meets the requirements of §58.233.

(c) A trainee may not be receiving concurrent support from any other Federal source except education benefits under the Veterans Readjustment Benefits Act.

§58.227 Duration and termination of traineeship.

(a) A traineeship must be for a full academic year except that an appointment for less than a full academic year may be made to a student who will complete his or her program of study in a lesser time. A traineeship may not exceed 12 months in duration. However, consecutive traineeship appointments may be made on a year-to-year basis to students whose required program of study exceeds 12 months. Training for which a student receives a traineeship must begin during the period for which funds are made available, but may extend beyond that period.

(b) The grantee must terminate a traineeship at any time:

(1) Upon request of the trainee;

(2) If the trainee withdraws from the grantee institution; or

(3) Upon a determination by the grantee that—

(i) The trainee is no longer an enrolled student; or

(ii) Is not eligible or able to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled. In the event that a traineeship is terminated for any reason, the grantee must notify the Secretary as soon as possible.

§58.228 How will grant awards be made?

(a) The traineeship funds to be awarded under this subpart will be awarded on a formula basis among the educational entities whose applications have been approved by the Secretary.

(b) The amount of the grant to be awarded to each educational entity with an approved application will be determined in accordance with the formula:

\[ G = \frac{SS}{TS} \times AP \]

in which \( G \) is the amount of the grant award to be made; \( SS \) is the number of students enrolled in approved graduate programs in health administration, hospital administration, or health policy analysis and planning at a particular school with an approved application; \( TS \) is the total number of students in these programs at all schools with approved applications and \( AP \) is the amount of available funds authorized under section 749 of the Act for traineeships in a given fiscal year. In determining the number of students enrolled in these programs at any given school, \( SS \), the following formula will be used:

\[ SS = FTS + \frac{PTC}{9} \]

in which \( FTS \) is the number of full-time students enrolled in these programs and \( PTC \) is the number of credits for which part-time students enrolled in these programs are enrolled. The figure for \( \frac{PTC}{9} \) will be rounded upward, if necessary, to the next whole number. Students will be counted as of October 15 of the fiscal year in which the application is made. In no case will the amount of the grant exceed the amount requested by the applicant.

(c) All grant awards will be in writing and will specify the amount of funds granted and the period for which the funds will be available for obligation by the grantee.

(d) Neither the approval of any application or the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application. Only annual formula grants will be made under this subpart for which separate applications must be submitted at the time and in the form the Secretary may require.

§58.229 How will grant payments be made?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§58.230 For what purposes may grant funds be spent?

(a) Any funds granted under this subpart must be expended solely for providing traineeships to eligible individuals in accordance with section 749 of the Act (42 U.S.C. 294s), the regulations of this subpart, the approved application, and the terms and conditions of the award.

(b) Expenditures are limited to (1) payment of stipends within the limitations set forth in paragraphs (d) and (e) of this section, (2) tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary, and (3) transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) The grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site only in cases of extreme need.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to and from field training which is at a site beyond a reasonable commuting distance and which requires the trainee to establish a temporary new residence. No allowance shall be paid for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay the trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(c) Use of traineeship funds for dependency allowances or to meet indirect costs (overhead) of the training institution is not authorized.

(d) The grantee may pay each trainee whatever stipend and allowance the grantee determines is required to enable the trainee to pursue the training program in which the trainee is enrolled, except that the stipend amount may not exceed amounts awarded to each educational entity which has been awarded a grant under section 749 of the Act and enrolled in a graduate program that meets the requirements of §58.233.

§58.231 How will use of traineeship funds be determined?

The Secretary will, from time to time, determine the use of traineeship funds. The determinations will be made available, but may extend beyond that period.

§58.232 How will the use of traineeship funds be reported?

The grantee must submit reports periodically as determined by the Secretary that show the use of traineeship funds.
established by the Secretary for both predoctoral and postdoctoral trainees.

(e) A grantee may not give a stipend or allowance to a part-time trainee but may give a traineeship award to pay a part-time trainee's tuition and fees.

(f) A grantee may obligate traineeship funds awarded under this subpart at any time within the period specified in the grant award document. At the end of the period specified, any unobligated grant funds must be refunded to the Federal Government.

§ 58.231 What prohibitions against discrimination are applicable to these traineeship grants?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations, the following laws and regulations are applicable to the administration of these grant awards:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin);

(2) Title IX of the Educational Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 85 (prohibiting discrimination on the basis of sex in federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap);

(4) Section 704 of the act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in the admission of individuals to its training programs or in the award of traineeships).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs or in the award of traineeships.

§ 58.232 How must a grantee account for the grant funds it receives?

(a) Accounting for grant award payments. The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures meeting the requirements of this subpart.

(b) Grant closeout.—(1) Date of final accounting. The grantee must submit, with respect to each grant under this subpart, a full account, as provided in this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) Final settlement. The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraph (a) of this section and (ii) any other amounts due under subparts F and N of 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and may be recovered from the grantee or its successor or assignees by setoff or other lawful action.

§ 58.233 What record keeping, audit, and inspection requirement apply to these grants?

(a) Records. In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain records which the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to the grantee from other sources, and other records which will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) Audit. The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by, an independent certified public accountant utilizing generally accepted auditing standards. A report of the audit must be filed with the Secretary at the time and in the manner which the Secretary may require.

(c) Inspection. The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all these books, documents, paper, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon reasonable request.

§ 58.234 What provisions of 45 CFR Part 74 apply to these grants?

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart:

A. General
B. Cash Depositories
C. Bonding and Insurance
D. Retention and Custodial Requirements for Records
F. Grant-related Income
K. Grant Payment Requirements
L. Budget Revision Procedures
M. Grant Closeout, Suspension and Termination

§ 58.235 What additional conditions may apply to these grants?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his/her judgment such conditions are necessary to assure or protect advancement of the approved program, the interest of the public health, or the conservation of grant funds.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Beaverton, Mich., as that community's first FM broadcast station (Beaverton, Mich.), was granted on June 24, 1978, resulting in the assignment of channel 249A to the city's \textit{station WJEB}, and permittee of an FM station, Gladwin, Mich., and David C. Schaberg ("Schaberg") of Lansing, Mich. Reply comments were filed by petitioner.

2. Beaverton (pop. 945), in Gladwin County (pop. 15,471), is located approximately 64 kilometers (40 miles) northwest of Bay City, Mich. There is no local aural broadcast service in Beaverton.

3. Petitioner states that Beaverton is the second largest community in Gladwin County and, according to a recent Beaverton school survey, has had a substantial gain in population. It notes that Beaverton's present industries include plastic thermo-forming equipment, plastics manufacturing, precision cutting tools, lumbering, livestock, and dairy farming. Petitioner asserts that there is only one weekly newspaper serving the county and believes that there is a need for a broadcast facility to serve Beaverton and the surrounding communities.

4. WJEB claims, in opposition, that since Beaverton and Gladwin are located only 12 kilometers (6 miles) apart, WJEB will provide broadcast service to Beaverton when it commences operation of its Gladwin FM station. It believes that the public interest would be better served if the proposed channel were assigned to a larger community, where there is presently no FM service, rather than to Beaverton. Further, WJEB questions the good faith of the petitioner in applying for the proposed channel. It alleges that the Beaverton station would have to look to Gladwin for its economic support.

5. Schaberg, in opposing comments, raises the issue of fair distribution of broadcast facilities and whether the proposed channel assignment would serve the public interest. He also questions whether the community could support a station.

6. In reply comments, petitioner states, among other things, that with its commitment to programming and community service, it intends to serve Beaverton and the surrounding communities.

7. We have carefully considered the record in this proceeding and believe that channel 249A should be assigned to Beaverton, Mich., because of the need shown for a local aural broadcast service. Even if nearby stations were to provide broadcast coverage of Beaverton and offer some programming directed to Beaverton, this is not a basis for refusing to provide a community with an opportunity to acquire its own first broadcast outlet for local expression. An FM channel assignment here would provide for a local station which could broadcast programs directed to meeting special needs, interests and problems of Beaverton and the surrounding area. No station, owing its primary obligation to another locality, could be expected to provide the equivalent of such local service. As to the questions of fair distribution of broadcast facilities and whether the proposed channel assignment would serve the public interest, these matters are given full consideration in our decision. No other community has expressed interest in the channel which can be used at Beaverton to provide a first local service. Nor does the fact that such a station could also cover Gladwin raise a Berwick issue in light of its small size. The issue of the possible economic impact on other stations are matters which should be raised at the application stage when it would be possible to investigate and weigh the merits of various allegations rather than in a rulemaking proceeding.

8. In view of the foregoing: \textit{It is ordered,} That effective October 6, 1978, §73.202(b) of the Commission's rules, the FM table of assignments is amended to read as follows:

\textsl{City and Channel No.}

Beaverton, Mich., 249A.

9. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. \textit{It is further ordered,} That this proceeding is terminated.

\textbf{FEDERAL COMMUNICATIONS COMMISSION,}

\textbf{MARTIN I. LEVY,}

\textit{Acting Chief, Broadcast Bureau.}

[FR Doc. 78-24632 Filed 9-1-78; 8:45 am]
CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Corrosion Control Requirements

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous changes to MTB's corrosion control requirements for natural gas and other gas pipelines. The amendments update and clarify several of the existing regulations and modifies others to provide flexibility in conducting the required periodic operational and maintenance inspections. These changes are based on recommendations of the Technical Pipeline Safety Standards Committee after their review of the existing regulations.

EFFECTIVE DATE: This amendment becomes effective on September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

George Mocharko, 202-426-2082.

SUPPLEMENTARY INFORMATION:

In accordance with article 11 of the Department of Transportation (DOT) policy of improving Government regulations issued March 1, 1978 (43 FR 9582), the Materials Transportation Bureau (MTB) has initiated a program for reviewing its existing regulations and revoking or revising those regulations which it determines are not achieving their intended purpose. MTB initiated a systematic review of the existing pipeline safety regulations in 1977, with the aid of the Department's Technical Pipeline Safety Standards Committee (TPSSC). The first segment of the regulations chosen for review was subpart I. Requirements for Corrosion Control, since that segment had been the subject of more inquiries and interpretations than any other. On January 18, 1978, the TPSSC completed its review of the corrosion control regulations and recommended some changes.

In consideration of the TPSSC recommendations and other factors, MTB is by this document amending several of the corrosion control regulations as discussed and set forth hereafter.

Some of the other changes to the regulations suggested by the TPSSC were not adopted while one suggestion serves as the basis for a notice of proposed rulemaking to protect transmission lines published elsewhere in the Federal Register.

Because the amendments contained herein either clarify existing requirements or establish equivalent safety requirements, and because they add compliance burdens, MTB finds that notice and public procedure are unnecessary and good cause exists for making the amendments effective on less than 30 days' notice.

Section 192.485(b). By unanimous affirmative vote, the TPSSC proposed to require the inspection of each cathodic protection rectifier or other impressed current power source six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.485(c). By unanimous vote, the TPSSC proposed a revision to require an operator to check each reverse current switch, each diode, and each interference bond whose failure could jeopardize its structure six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.487(b). By a vote of 10 affirmative to 1 negative, the TPSSC proposed a change to provide that "one or more" insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control. The amendment to paragraph (b) therefore clarifies the intent of the rule and makes the language consistent with that of paragraph (a).

Evaluating the strength of corroded pipe to contain pressure is a complex problem which can be done in different ways. The ASME Guide for Gas Transmission and Distribution Piping Systems provides operators with suggested methods to evaluate the pressure strength of a corroded area of transmission pipelines. A report, "Summary of Research To Determine the Strength of Corroded Areas in Line Pipe," July 20, 1971, conducted by Battelle Columbus Laboratories for the American Gas Association line pipe research program also describes methods for predicting estimates of remaining pressure strength of corroded pipe based on the principles of fracture mechanics.

In addition to the above changes recommended by the TPSSC, MTB is amending several sections in subpart I by deleting effective dates that were codified to provide adequate leadtime available to comply with new or amended requirements. Now that these effective dates have passed, retaining them in a codified form is unnecessary.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

§192.451 [Amended]

1. In §192.451, paragraph (b) is deleted.
§ 192.467 [Amended]
2. In § 192.467, the following phrases and punctuation marks are deleted:
   In the first sentence of paragraph (a), delete "`, not later than August 1, 1974`,", and in the first sentence of paragraph (b), delete "`, not later than August 1, 1974`,".
3. In § 192.465, paragraphs (b) and (c) are amended to read as follows:
§ 192.465 External corrosion control: monitoring
   (b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to insure that it is operating.
   (c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structural protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.
4. Section 192.467(b) is amended to read as follows:
§ 192.467 External corrosion control: electrical isolation.
   (b) One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.
§ 192.473 [Amended]
5. In § 192.473(a), the following phrase is deleted: "After July 31, 1973."
§ 192.475 [Amended]
6. In § 192.475(a), the following phrase is deleted: "After July 31, 1973."
7. Section 192.477 is amended to read as follows:
§ 192.477 Internal corrosion control: monitoring.
   If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7½ months.
§ 192.479 [Amended]
8. In § 192.479(b), the following phrase is deleted: "Not later than August 1, 1974."
9. Section 192.481 is amended to read as follows:
§ 192.481 Atmospheric corrosion control: monitoring.
   After meeting the requirements of § 192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and at least once each calendar year, but with intervals not exceeding 15 months, for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.
10. Section 192.485(a) is amended to read as follows:
§ 192.485 Remedial measures: Transmission lines.
   (a) General corrosion. Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for the maximum allowable operating pressure of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on the actual remaining wall thickness. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.
§ 192.491 [Amended]
11. In § 192.491(a), the following phrase is deleted: "After July 31, 1972."

Note—MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.
L. D. Santman,
Acting Director, Materials Transportaion Bureau.
[FR Doc. 78-24843 Filed 9-1-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
pliance tests of the manufacturers' products.

In January 1975, a truck manufacturer petitioned for judicial review of the standard's promulgation in accordance with section 105 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1394). The petitioner was subsequently joined by a trade association of truck users and a trade association representing the small manufacturers that produce trucks by mounting the bodies on incomplete truck chassis. The three actions were consolidated for argument in the Ninth Circuit U.S. Court of Appeals.

The ninth circuit recently entered its order on the petition for review and remanded the standard to the agency for further proceedings (573 F. 2d 632). The Federal Government has since petitioned for review of two aspects of that order in the Supreme Court. The purpose of this notice is to set forth the agency's actions in fulfillment of the third aspect of the remand, which was not a subject of the Government's petition.

The procedural issues to the agency concerning the standard's test procedures, all of which are easily resolved by modifications in the standard's wording which do not affect the requirements for any person. The court stated that "the manufacturers are entitled to formal and reasonably specific testing criteria" in the area of frictional characteristics of the test track surface, duration of time intervals between repetitive road tests, duration of permissible wheel lockup during stopping distance tests, and the amount of curving in the test track.

Interpretation must be made of the court's remand on frictional characteristics of the test track. A first reading of the decision might suggest that a measurement technique (in the case, the "skid number" method of measuring road surface friction) may not be used in standards setting if it does not produce exact measurement results. It is known that the skid number measurement has an accuracy tolerance, and that the tolerance can vary from measurement to measurement for a variety of reasons.

The agency does not believe the court intended this literal a reading, because no measurement can be exact, as a matter of physical science. This exaggerated a reading of the decision would preclude all motor vehicle safety regulations, because all regulations involve measurement criteria and none is perfect. The agency's view is that the court objected only to reliance on a measurement technique that varies too widely in response to road surface conditions and that specified use of a no-longer-manufactured tire.

Because the tire specified is no longer manufactured, the NHTSA has already replaced the skid number measurement in all of its stopping distance standards other than 121. The only reason the technique was not replaced in standard No. 121 was to comply with the Ninth Circuit's wish that the standard be consistent with the Ninth Circuit's previous decision. (41 FR 24592; June 17, 1976.) Now that review of the standard by the Ninth Circuit is complete, the agency can and does make final its longstanding proposes to use the new measurement technique. Comments received with regard to standard No. 121 were discussed in conjunction with the June 1976 amendment.

The court also stated that the margin of variation in the measuring technique would not permit a manufacturer to conduct its tests by a means that insured its vehicles would meet the requirement set forth in the standard. While the agency has always taken the position that an exact value (such as "skid number 75") is the clear and unambiguous way to state a legal requirement so that manufacturers are best on notice of what performance is intended, it now intends only to duplicate the past requirement. Similarly, the court has stated that the skid number used will determine the interval between tests. A review of NHTSA compliance test results has shown that the performance of all complying vehicles tested to date has been within the requirement specified in this amendment. Adoption of these values therefore does not adversely affect any person subject to the standard, and they can be incorporated for the benefit of remand without the delay occasioned by notice and opportunity for comment.

The decision to revise the standard in this fashion has been evaluated in accordance with the requirements of Executive Order 12044 (43 FR 12860; March 24, 1978) and the corresponding review procedures within the Department of Transportation (43 FR 9482; March 8, 1978). It has been determined that this rulemaking is governed by short-term judicial considerations and that, despite its connection with standard No. 121, does not qualify as a rulemaking that raises issues of cost or controversy necessitating the level of review and comment contemplated by the two directives.

**EFFECTIVE DATE:** With regard to the establishment of a new test tire for pavement resistance measurement, because the older test tire is no longer manufactured, and because the amendment of the procedure and test tire is intended only to duplicate the existing procedure and tire, this amendment overlaps the current requirements for any person, and an immediate effective date is found to be in the public interest.

With regard to the modification of test procedures and conditions not
based on a proposal, the agency finds that they do not impose additional requirements on any person, and that delay of a proposal is unnecessary and would be contrary to the public interest in responding to the court’s remand as expediently as possible.

§ 571.121 [Amended]

In consideration of the foregoing, standard No. 121 (49 CFR 571.121) is amended as follows:

1. In section S4 (definitions), the definition of "Auto transporter" is relocated between the definitions of "Antilock system" and "Heavy hauler trailer", and a new definition is added to section S4 preceding the definition of "Load divider dolly" to read: "Initial brake temperature" means the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application.

2. In the definition of "Skid number" in section S4 the designation "E-274-65T" is amended to read "E-274-70 (as revised July 1974)" and the reference to "paragraph 7.1" is amended to read paragraphs S7.1 and S7.2.

3. References to "skid number of 30" and "Skid No. 30" in tables I and II are amended to read "skid number range 20-30," and "Skid No. 20-30," respectively.

4. References to "skid number of 75" and "Skid No. 75" in tables I and II are amended to read "skid number range 71-81" and "Skid No. 71-81," respectively.

5. Paragraph S5.3.1(a) is amended to read:

§ 571.121

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

6. Paragraph S5.3.2(a) is amended to read:

§ 571.121

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

7. Reference to "skid number of 30" in paragraphs S5.3.1 and S5.3.2.1 are amended to read "skid number in the range of 20 to 30, inclusive, chosen at the option of the manufacturer."

8. References to "skid number of 75" in paragraphs S5.3.1, S5.3.2.1, and S5.7.1 are amended to read "skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer."

9. The second sentence in section S6 is amended to read:

§ 571.121

Except as otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range.

10. Paragraph S6.1.7 is amended to read:

§ 571.121

Unless otherwise specified, stopping tests are conducted on a 12-foot wide level, straight roadway having a skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer. The vehicle is aligned in the center of the roadway at the beginning of the stop.

11. A new paragraph S6.1.15 is added to read:

§ 571.121

Initial brake temperature. The temperature of each brake is measured by a single plug-type thermocouple installed in the center of the lining surface of the most heavily loaded shoe or pad as shown in figure 2. The thermocouple is outside any center groove. With the exception of conditions specified for burnishing brakes in paragraph S6.1.8, repetitive test runs are separated by an interval of time sufficient to reach any initial brake temperature in the range of 150°F to 200°F. If the initial brake temperature for the first stop in a test procedure has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 to 10 mph at a deceleration not greater than 10 fps².

The program official and lawyer principally responsible for this document are Duane Perrin and Tad Herlihy, respectively.

(See Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)


JOAN CLAYBROOK, Administrator.
proposed rules

[3410–02]  DEPARTMENT OF AGRICULTURE  
Agricultural Marketing Service  
[7 CFR Part 981]  
HANDLING OF ALMONDS GROWN IN CALIFORNIA  
Administrative Rules and Regulations  
AGENCY: Agricultural Marketing Service, USDA.  
ACTION: Proposed rule.  
SUMMARY: This rule changes the procedure for inspecting inedible almonds to allow the inspection agency the same flexibility as it has on incoming receipts of unsorted almonds. The rule also removes the opportunity for handlers to waive part of their obligation to dispose of inedible almonds. Handlers apparently have no need for the provision.  
DATES: Written comments of this proposal must be received by September 22, 1978.  
ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the hearing clerk during regular business hours.  
FOR FURTHER INFORMATION CONTACT: Charles R. Brader, 202-447-6393.  
SUPPLEMENTARY INFORMATION: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.461) by revising §981.442. The subpart is issued under the marketing agreement, as amended and order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the “order”. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposals are based on a recommendation of the Almond Board of California. Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler’s expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered for disposal to the Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board will make such provisions for the purpose of inspecting inedible almonds. Among other requirements, it provides that the inspection agency or the Board shall sample each delivery of inedible material from such sources as blanching or manufacturing. Section 981.442 implements §981.42. Section 981.442(a)(5) details how each handler shall meet his disposition obligations. Among other requirements, it provides that the inspection agency or the Board shall sample each delivery of inedible material in satisfaction of the obligations, and the almond meat content, at the time of loading for delivery to the acceptable user, or at the user’s destination. The Board now believes, however, that the inspection agency should be given the same flexibility on outgoing inspection of inedible material as it has with regard to incoming receipts. Therefore, the proposal is to change the second sentence of §981.442(a)(5) to provide that for deliveries by handlers with mechanical sampling equipment, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other deliveries, samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the acceptable user’s destination. Section 981.442(a)(6) provides that any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this obligation and his disposition obligation. The paragraph details the circumstances when such a waiver may be approved by the Board. The Board, however, has found that handlers who do not generate inedible material from such sources as blanching or manufacturing have not sufficiently used this waiver provision, and thus there is no need for the provision. Therefore, the proposal is to delete §981.442(a)(5) and renumber the present subparagraph (7) as subparagraph (6). The proposals to amend Subpart—Administrative Rules and Regulations are as follows:  
1. Revise §981.442(a)(5) to read as follows:  
§981.442 Quality Control.  
(a) * * *  
(5) Eecting the disposition obligation. Each handler shall meet his disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes on record with the Board as Accepted Users. For disposi-

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
PROPOSED RULES

Milk Albuminate

Use in Certain Sausage Products; Withdrawal of Proposed Regulation

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: This notice withdraws a notice of proposed rulemaking which would have allowed the use of a product the Department referred to as "milk albuminate" in certain sausage products. The majority of comments received regarding the proposal opposed it on the basis that "milk albuminate" is a misnomer. Furthermore, the Food and Drug Administration recently ruled that, with regard to this product, "albumin/caseinate product" is a more accurate term than "milk albuminate." Therefore, the Administrator finds good cause to withdraw the proposal, in order to avoid confusion and to further consider whether any "albumin/caseinate product" can be used in sausage products.

In consideration of the foregoing, the proposal published in the Federal Register (42 FR 9182-9183) on February 15, 1977, is hereby withdrawn.

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

Done at Washington, D.C., on August 22, 1978.

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

[F.R. Doc. 78-24941 Filed 9-1-78; 8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 130]

SMALL ENERGY-ORIENTED FIRMS

Proposed Energy Loan Assistance Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is proposing to implement Pub. L. 95-315, the Small Business Energy Loan Act, approved on July 4, 1978. This proposal would establish a small business energy loan program which would assist small energy-oriented firms.

COMMENTS BY: November 6, 1978.

ADDRESS: Comments, in duplicate, may be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1411 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Evelyn Cherry, Chief, Special Projects Division, Office of Financing, Small Business Administration, telephone 202-653-6696.

SUPPLEMENTARY INFORMATION: On July 4, 1978, the President signed Pub. L. 95-315, 92 Stat. 377, the Small Business Energy Loan Act, which authorizes the Secretary of Energy to establish an energy loan program as described in the Act. SBA is proposing to amend 13 CFR 125.1, 130.3, and 138.2, to implement the above referenced section of the Act. These regulations were promulgated to implement Energy Policy and Conservation Act of 1978, 42 U.S.C. 6201 et seq. This new loan program is to provide financial assistance to small energy-oriented firms and small business enterprises engaged in the energy-oriented industries. Under the provisions of the Act, the Secretary is authorized to make loans and grants to small business enterprises to carry out projects which result in energy savings.

Federal departments and agencies. It is anticipated that during the comment period the DOE will define the terms in § 130.3 which are contained in the energy conservation measures list published by the Secretary of Energy (42 FR 37800, July 25, 1977). SBA and DOE will also establish procedures for determining the projected and actual energy savings resulting from each loan approved under this authority.

SBA encourages all knowledgeable persons and small firms to suggest definitions for the terms in § 130.3, methods of quantifying energy savings for each measure, and to comment on all other aspects of the proposed rule, since SBA does not have technical expertise in these energy matters.

The Small Business Administration (SBA) proposes its regulations based on the following analysis of the Act:

1. The principal elements of the loan program established by new section 7(a) are:
   (a) The basic purposes of loans are to finance plant facilities and the acquisition of equipment and supplies needed in specified energy measures, with a limited amount of the loan for research and development, and for working capital, as necessary and appropriate;
   (b) ceilings on loans are $850,000 for direct SBA loans and the SBA share of guaranteed participation loans, and $500,000 as the SBA share of guaranteed loans;
   (c) Non-Federal sources must be used prior to SBA loans or guarantees when available on reasonable terms;
   (d) SBA may make an immediate participation loan only when a deferred participation (guaranteed) loan cannot be obtained, and may make a direct loan only when an immediate participation is not available;
   (e) SBA may participate in a guaranteed loan only up to 80 percent of the outstanding balance;
   (f) Interest rates are to be the same as for section 7(a) business loans, which are set by the Agency from time to time and published in the Federal Register;
   (g) Energy loans may have a maximum maturity up to 15 years, including extensions and renewals;
   (h) Energy loans must be of such sound value as reasonable to assure repayment, and will be evaluated recognizing the greater risk involved in this field; and
   (i) The paperwork required of loan applicants will be kept to the minimum consistent with the Agency's need for information on which to base sound credit decisions.

2. The purposes of new section 7(d)(2) of the Act are:
   (a) Authorize SBA to hold seminars to inform loan applicants of this new...
and related Government assistance programs;
(b) Authorize SBA to make grants to qualified organizations for training seminars for small firms engaged or to be engaged in energy measures as cited in the Act; and
(c) Limits training grants to organizations which are not recipients of section 7(d) energy loans.

3. The respective sections of the Act make technical changes in existing legislation, authorize funding of the program, and require SBA reporting to the Congress.

In proposing the following regulation SBA considered and rejected the following options:

(1) Working capital. Although the new statute makes no provision for the inclusion of working capital in the loan amount, as section 7(a) of the Act does, SBA has determined that the "necessary and appropriate" language of the statute authorizes such inclusion, and that such inclusion furthers the purpose of the statute.

(2) Plant acquisition. While the statute speaks of plant construction, expansion, etc. "(including acquisition of land for such a plant)", and such language differs from the broader language in section 7(a) which does not contain the limiting words "for such a plant," SBA has determined that acquisition of an existing plant, including the land, is within the intent of the statute, since the acquisition of an existing plant may be less expensive and more expedient.

(3) Startup. The statute leaves the word "startup" undefined, but the legislative history indicates that Congress intended to assist the establishment of a new business or assisting such a business in becoming fully operational, or one that has been in operation for less than 2 years (H. Rept. 95-1071, p. 7). SBA's definition of "startup" adopts this legislative intent.

(4) Research and development. While the statute merely requires that loan proceeds "shall not be used primarily for research and development," SBA decided to allow as much as 30 percent of the proceeds to be so used where a business plan or a "product or service" is sufficiently advanced to support the conclusion that such additional research and development will warrant market acceptance, and therefore a finding of reasonable assurance of repayment. Congress intended that basic or initial research and development be supported by funds from the Department of Energy. See S. Rept. 95-228, pp. 10-11.

(5) Choice of programs. The statute allows loans under this program to be made under less stringent criteria of soundness and security than regular business loans. Accordingly, loans meeting the standards of section 7(a) of the Small Business Act, but serving the purposes of the new statute, could be made under section 7(a). SBA, however, has decided to make all eligible loans under the new provision, in order to fulfill an implicit, with section 6 of Pub. L. 95-315, which requires a special report item on energy loans under section 10(b) of the Act, to be transmitted annually to the President and the Congress.

(g) Administrative loan ceiling. While SBA imposes an administrative loan ceiling below the statutory limit, on regular business loans, in compliance with a congressional admonition to apply the full ceiling sparingly, SBA has decided not to impose such an administrative ceiling on energy loans, because such loans serve a national program objective. See addendum 2 to amendment 11, revision 3 of part 122, 43 FR 19849. On the other hand, SBA has retained the 75-percent limit on SBA's share of immediate participation. Participating loans, also, to be use in the regular business loan program, in order to encourage deferred participation (guaranteed) loans and the use of nonfederal funds which are the objectives of new section 7(d)(5).

In consideration of the foregoing, it is proposed to amend 13 CFR, chapter I, by inserting a new part, as follows:

PART 130—SMALL BUSINESS ENERGY LOANS

Sec.
130.1 Statutory provisions.
130.2 Program objectives.
130.3 Eligible energy measures.
130.4 Eligible applicants.
130.5 Eligible participants.
130.6 Use of proceeds.
130.7 Loan criteria.
130.8 Other financing.
130.9 Loan amount.
130.10 Interest rate.
130.11 Loan maturity and repayment terms.
130.12 Applicability of other SBA regulations.
130.13 SBA seminars.
130.14 Training grants.


§ 130.1 Statutory provisions.

The statutory provisions will be found at 5 U.S.C. § 638.

§ 130.2 Program objectives.

The objectives of this program are to provide a means for small business concerns to enter (startup, continue, expand) or expand in the fields of manufacturing, selling, installing, servicing, and developing, and for existing plants, to maintain, expand, and develop, through loans and loan guarantees, seminars, and training grants. Startup, for this purpose, means a small firm which, together with any predecessor or related concern, has been in existence for less than 2 years.

§ 130.3 Eligible energy measures.

Only the energy measures cited in the Act are eligible for assistance under this program. These measures are:
(a) Solar thermal energy equipment which is either of the active or passive type based upon mechanically forced energy transfer; or of the passive type based on convective, conductive, or radiative energy transfer or some combination of these types;
(b) Photovoltaic cells and related equipment;
(c) A product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the energy conservation measures list of the Secretary of Energy; or which the Administrator determines to be consistent with the Intent of subsection 7(d) of the Act;
(d) Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy;
(e) Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste;
(f) Hydroelectric power equipment;
(g) Wind energy conversion equipment;
(h) Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (a) through (g) of this section.

§ 130.4 Eligible applicants.

All applicants for these loans must be small business concerns as defined in §§ 121.3-121.10 of this chapter.

§ 130.5 Eligible participants.

Participating lenders must meet the definition of an eligible loan participant in § 130.4 of this chapter.

§ 130.6 Use of proceeds.

Loan funds can be used for vacant land, or other land immediately necessary for the construction of a plant, and for buildings, machinery, equipment, furniture, fixtures, facilities, supplies, or materials for an eligible loan measure. While the Act does not cite working capital as an eligible use of proceeds, SBA considers it necessary and appropriate to allow loan funds to be used for cash working capital up to (a) ten percent (10%) of the loan if the borrower is an existing business or (b) up to twenty-five percent (25%) of the loan if the borrower is a new (startup) business as defined in § 130.2 heretofore. It is the general policy that loan funds will not be used for research and development
which should be completed before the loan application. Where, however, development of a product or service may be completed under a business plan that provides reasonable assurance of repayment, or where the further development of a product or service already on the market is involved, a portion of the loan proceeds need not exceed 30 percent may be used for such purposes.

§ 130.7 Loan criteria.

The Act provides that all loans made under this authority shall be of such sound value as to ensure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field: Provided, That factors in determining sound value shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: And provided further, That such status need not be as sound as that required for business loans under part 122 of this chapter.

§ 130.8 Other financing.

No loan will be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-Federal sources. Also, an immediate participation will not be approved unless a guaranty (deferred) participation is not available, and a direct loan will not be approved unless an immediate participation is not available. The requirements of § 120.2(a)(1) and (2) except § 120.2(a)(2)(iv) of this chapter, relating to documentation of efforts to find other financing, shall apply to loans under this program. Any "energy" loan will be made under section 7(l) regardless of whether it might have qualified under section 7(a) of the Small Business Act.

§ 130.9 Loan amount.

The maximum combined loan exposure of SBA for any one small business concern, together with all its affiliates, under this program, the regular business program, economic opportunity program, handicapped assistance program, but excluding any disaster program authorized by section 7(b) or 7(g) of the Small Business Act, is $350,000 for SBA’s direct and immediate participation exposure, and $500,000 for SBA’s guaranty (deferred) exposure. SBA’s share of an immediate participation shall not exceed 75 percent and SBA’s share of a guaranty (deferred) participation shall not exceed 90 percent of the outstanding balance of an approved loan. The exception to the limitation on SBA’s share of an immediate participation in

§ 120.2(b)(2) of this chapter, also applies to this program.

§ 130.10 Interest rate.

The interest charged or permitted by SBA for these loans is the same as for regular business loans, as described in § 120.3(b)(2) of this chapter.

§ 130.11 Loan maturity and repayment terms.

The maturity of a small business energy loan will be established on the basis of the borrower’s ability to repay, up to the maximum maturity of fifteen (15) years, including extensions and renewals. Loans under this program will normally require level, monthly payments of principal and interest.

§ 130.12 Applicability of other SBA regulations.

All applicable provisions of parts 120, 121, and 122 of this chapter shall apply to energy loans except where other provision is made in this part.

§ 130.13 SBA seminars.

Under new section 7(d)(2) of the Act, SBA is authorized to hold seminars in order to form potential applicants for small business energy loans of the policies and procedures relating to such loans, as well as other related Government energy programs. SBA, together with representatives of the Department of Energy, will develop the agendas for such seminars to meet the needs of the audiences in the various parts of the country, and will issue appropriate public notice of such seminars.

§ 130.14 Training grants.

SBA is also authorized to make grants to qualified organizations to conduct seminars for small business in order to train them in practical and easily implemented methods of designing, manufacturing, installation, and servicing of equipment identified in § 130.3. Such grants may also be used for services to recipients of grants provided for in section 7(d)(1) of the Small Business Act. Grant recipients are limited to those organizations that have not received loans under the small business energy loan program. This portion of the legislation will be implemented at such time as funds are appropriated for the purpose.

(Catalog of Federal Domestic Assistance Program No. 50.026, Energy Loan Program.)


PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-24943 Filed 9-1-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978

PROPOSED RULES

[8010-01] SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

(Release No. IC-10371, File No. SF-691)

INVESTMENT COMPANY ANNUAL REPORTS

Revision of Regulations; Withdrawal of Proposed Rule Amendment

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rule amendment.

SUMMARY: The Securities and Exchange Commission is withdrawing the proposed revision of its regulations on the filing of investment company annual reports which would have required that such reports be filed within 90 days (rather than the current 60 days) after the end of the fiscal year. The proposed rule amendment is being withdrawn because investment companies are already subject to a substantial reporting burden at the end of their fiscal years.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission today is withdrawing a proposed amendment of rule 30a-1(a) (17 CFR 270.30a-1(a)) under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a et seq.) which would have reduced by 30 days the filing deadline for the annual report required by section 30(a) of the Act (15 U.S.C. 80a-29(a)). This reduction in the filing deadline was proposed to enable the staff of the Commission to use information furnished in form N-1R (17 CFR 274.101) in its review of annual amendments to the registration statements filed by management investment companies. It was also noted in Investment Company Act Rel. No. 9783 (May 31, 1977). (42 FR 20828, June 9, 1977) that this reduction in the filing time would make the deadline for filing form N-1R the same as the deadline for industrial companies filing annual reports with the Commission. However, the comments that were received by the Commission on this proposed rule change were uniformly adverse; many commentators cited the heavy reporting burden at the close of the fiscal year faced by investment companies from many sources, such as proxy filing require-
PROPOSED RULES

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ments, annual reports to shareholders required by rule 304-1 (17 CFR 270.304-1) under the 1940 Act, tax returns, and State law requirements. Other commentators questioned the appropriateness of the use of information contained in form N-1R, which is intended to be a compliance report, in examination of disclosure documents, such as registration statements. Furthermore, the commentators noted that the reporting burden on investment companies filing form N-1R is not wholly comparable to the reporting burden on industrial companies filing annual reports. In view of the substantial reporting requirements to which investment companies filing form N-1R are already subject, the Commission is withdrawing the proposed amendment to rule 30-a-1. However, the Commission has instructed the staff of the Division of Investment Management to examine how the filing of form N-1R fits into the integrated reporting system for management investment companies adopted today (see Securities Act Release No. 5964) and, after the integrated system has been in operation for a reasonable period of time, to reconsider whether the deadline for filing the form should be changed. Thus, the filing deadline for form N-1R will remain 120 days after the close of the fiscal year.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.


(FR Doc. 78-24855 Filed 9-1-78; 8:45 am)

[5550-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

(FRL 939-6)

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Bowling Green State University in Athens, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an Administrative Order to Bowling Green State University. The Order requires the university to bring air emissions from its boilerhouse in Bowling Green, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Because the university is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal Enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before October 5, 1978, and requests for a public hearing must be received on or before September 20, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 31 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael G. Smith, Enforcement Attorney at the above address, or telephone 312-353-2082.

SUPPLEMENTARY INFORMATION:

Bowling Green State University operates a boilerhouse at Bowling Green, Ohio. The proposed Order addresses emissions from coal-fired boilers at this facility, which are subject to Ohio Regulation AF-3-11. The regulation limits the emissions of particulate matter, and is part of the federally approved Ohio State Implementation Plan. The Order required final compliance with the regulation by July 1, 1979, and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish a final rule. The final rule will be the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14676 (April 2, 1979), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7471.)


VALER V. ADAMS,
Acting Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR, Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (2), and (4) of the Act.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of Bowling Green State University, Bowling Green, Ohio, Proceeding under section 113(d) Clean Air Act, as amended.

This following Order is issued this date pursuant to section 113(a) and (d) of the Clean Air Act, as amended, 42 U.S.C. 7411(a),(d), hereinafter referred to as “the Act”. The Order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring reporting requirements. Public notice, opportunity for a public hearing, and notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On September 28, 1976, the U.S. Environmental Protection Agency (hereinafter referred to as “U.S. EPA”) Issued Notice of Violation EPA-5-77-A-69, pursuant to section 113(d)(1) of the Act, to Bowling Green State University (hereinafter referred to as “the University”) upon a finding that the University's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11 as part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This Finding was based upon emissions data derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 28, 1976, Notice of Violation.

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3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the University, and on April 24, 1977, an enforcement conference was held.

4. It has been determined that the University is unable to immediately comply with the application plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this Order comply with section 113(d) of the Act. Therefore, it is hereby Ordered:

ORDER

I. That Bowling Green State University shall achieve compliance with Ohio Implementation Plan Regulation AP-3-11, by installation of an electrostatic precipitator (ESP) to control particulate emissions of all the University's coal-fired boilers, in accordance with the following schedule:

- Award contract to install ESP equipment—October 15, 1978.
- Delivery of ESP equipment—February 1, 1979.
- Commence installation—March 1, 1979.

Achieve final compliance with Ohio Implementation Plan Regulation AP-3-11—July 1, 1979.

Submit stack test results demonstrating final compliance by all boilers with Ohio Implementation Plan Regulation AP-3-11—December 31, 1979.

II. The foregoing schedule provides for final compliance with Ohio Implementation Plan Regulation AP-3-11 by July 1, 1979, as required by section 113(d)(1) of the Act.

Final compliance will occur on this date when uncontrolled operation of the boilers shall have ceased, and said boilers will not operate again until pollution controls have been installed.

III. Pursuant to section 113(d)(7) of the Act, during the period of this Order, until completion of the program set out in paragraph I herein, the University shall use the best practical systems of emission reduction, so as to minimize particulate emissions and shall further comply with the requirements of the applicable implementation plan insofar as it is able.

IV. That the University shall comply with the following emission monitoring the reporting requirements on or before the dates specified:

A. Emission monitoring:
   1. The University shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack.

B. Reporting requirements:
   1. No later than 5 days after any date for achievement of an incremental step or final compliance, specified in this Order, the University shall notify U.S. EPA in writing of its compliance or noncompliance and reasons therefor with the requirement. If delay is anticipated in meeting any requirement of this Order, the University shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.
   2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack data for a minimum of 5 years.
ly 2 months after the close of the public comment period—i.e., the first part of August 1978. Because of the volume of comments received in response to the proposed regulations, and the complexity of the issues raised, development of final regulations has taken longer than the Agency originally anticipated. As a result, prospective section 301(h) applicants may now be confused as to exactly what material they will be required to submit by September 24, 1978.

Because it now appears the EPA's final regulations will not be published far enough in advance of September 24, 1978 to provide dischargers with sufficient lead time to submit a completed application based on the final regulations by that date, EPA will consider an applicant to have complied with the September 24, 1978 statutory deadline in the Act and its regulations if it files with EPA a preliminary section 301(h) application, postmarked no later than September 25, 1978 (September 24, 1978 being a Sunday), containing the following information:

(1) The name and address of the applicant.
(2) A statement that the applicant is requesting a modification of EPA's secondary treatment requirements under section 301(h) of the Clean Water Act.
(3) A copy of the applicant's current NPDES permit, if any.
(4) A short description of the wastewater treatment system and outfall for which a modification is requested, including:
   - Location of plant and outfall;
   - Treatment system (e.g., primary chemical, primary, mixed primary/secondary); Nature of sewer systems (on-bank or off-bank);
   - Outfall size and depth;
   - Average flow (gallons per day);
   - Effluent quality (BOD, suspended solids, and pH limitations); and
   - The portion of the applicant's flow which is attributable to industrial users.
(5) The name, title, address, and phone number of the person to be contacted concerning the application.

The preliminary application should be sent by certified or registered mail to Thomas P. O'Farrell, whose address appears above.

A POTW which fails to submit an application by September 25, 1978 will be ineligible for a section 301(h) modification.

Completed section 301(h) applications will be due three (3) months after the date of promulgation of final regulations implementing section 301(h).


THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-24775 Filed 9-1-78; 8:45 am]

PROPOSED RULES

FEDERAL MARITIME COMMISSION

[46 CFR Parts 531 and 536]

[General Order 13; Docket No. 76-52]

TIME LIMIT FOR FILING OF OVERCHARGE CLAIMS

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes a rule to prohibit any tariff rule of a common carrier by water which limits to less than the 2-year period prescribed by section 22 of the Shipping Act, 1916 the time within which a shipper must submit a claim to the carrier to recover overcharges based on errors in weight, measurement, or description. The purpose of and need for such a rule is to benefit the shipping public by clarifying the statute of limitations and to relieve carriers, shippers, and the Commission of the excessive number of formal and informal proceedings resulting from restrictive tariff rules.

DATE: Comments on or before September 29, 1978. (Original and 15 copies.)

ADDRESS: Comments to Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW, Washington, D.C. 20573, 202-533-5725.

SUPPLEMENTARY INFORMATION:

The Federal Maritime Commission is charged under section 14 fourth of the Shipping Act, 1916, with the responsibility to insure that no common carrier by water unfairly treats or unjustly discriminates against any shipper in the adjustment or settlement of claims. The proposed rule is based on these responsibilities and is consistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit, in Kraft Foods v. Federal Maritime Commission, July 13, 1976, and Federal Maritime Commission Report on Remand; Docket 73-44, November 26, 1976. The decision of the court of appeals indicated that a tariff rule published in an ocean freight tariff is invalid if it requires a shipper to submit any claim for the assessment of proper freight charges within a period of less than 2 years as provided by section 22 of the Shipping Act, 1916.

By allowing continued publication of the time limitation and custody rules, the Commission is accepting an additional administrative burden which rightfully belongs with the carriers. These rules as presently published screen the provisions of section 22 from the shipper. The Commission believes that such rules constitute unfair treatment of shippers requiring remedial action based on section 14 fourth of the Shipping Act.

The proposed rulemaking is designed to eliminate any tariff rule which restricts shippers from filing a claim for any period less than 2 years and requires that every tariff contain a rule which advises the shipper of the right to file a claim within 2 years.

The majority of the present restrictive rules fall under two categories. One restricts the shipper to filing an overcharge claim within 6 months and the other requires the shipper to file for discontinuance in weight and measurement to only that period of time that the cargo is in the custody of the carrier. It is not intended that this rulemaking will alter the heavy burden of proof already required of the shipper for those claims where a shipment has left the custody of the carrier.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 14 fourth, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 813, 821, and 841a) it is proposed to amend parts 531 and 536 of 46 CFR by adding new §§ 531. and 536.

§§ 531. and 536.

(a) No tariff shall contain any provision which limits to less than 2 years from the date of payment of freight charges the time within which a shipper must submit a claim to a carrier to recover overcharges based on error in weight, measurement, or description. Nor shall a tariff contain any provision which limits the carrier's ability or right to consider claims submitted within the 2-year period.

(2) Every tariff shall contain a rule which clearly advises shippers/consignees of their right to file such a claim within 2 years for reparations with this Commission pursuant to section 22, Shipping Act, 1916.

(c) The carrier shall within 10 days of the receipt of such a claim forward a written notice to the claimant advising of the governing and pertinent provisions of the applicable freight tariff.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

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

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
PROPOSED RULES

FEDERAL COMMUNICATIONS COMMISSION

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action herein proposes the assignment of UHF television channel 63 to Angola, Ind., as that community's first television assignment. Petitioner, James A. Chase, states that the proposed channel could bring a first local television service to Angola.

DATES: Comments must be filed on or before October 24, 1978, and reply comments on or before November 13, 1978.


In the matter of amendment of §73.606(b), Table of Assignments, Television Broadcast Stations (Angola, Ind.), BC Docket No. 78-272, RM-2945.

1. The Commission has before it for consideration a petition for rulemaking, filed by James A. Chase ("petitioner"), requesting the amendment of the television table of assignments (§73.606(b) of the Commission's rules) by the assignment of channel 51 to Angola, Ind. However, the proposed channel assignment would require the deletion of channel 51 from Sandusky, Ohio, and channel 65 from Defiance, Ohio. The channels assigned to Sandusky and Defiance are unoccupied and unassigned. No responses have been received to the proposal.

2. Angola (pop. 5,117), in Steuben County (pop. 20,159), is located in the extreme northeastern part of Indiana. Angola has no local television broadcast service.

3. Petitioner contends that the proposed assignment could provide for a local television broadcast service to Angola and surrounding area, and that the television station would be made available to local schools and the university for dissemination of classroom instruction and training. It states that basic television service to the area is received from Fort Wayne and South Bend stations but Angola and areas north of the city are located in the fringe areas of both services. Petitioner claims that the major resort area, north of Angola sits in a deep hole, well shielded from the Fort Wayne and South Bend television signals, and that, at times, they are unviewable in these areas unless served by a local cable system.

4. Petitioner asserts that since no interest has been demonstrated in either channel 51 in Sandusky or channel 65 in Defiance, there can be no harmful impact if they are deleted as necessary in order to assign channel 51 to Angola.

5. Although no interest has yet been expressed for the use of the Sandusky and Defiance channels, there may well be a demand in the future for a local television service. In fact, it is to protect such future needs that the table of assignments was developed. Thus, we do not believe it would be in the public interest to deny these communities an opportunity to acquire such a service. Since substitute channels are not available for both communities, we do not believe the public interest would be served by assigning channel 51 to Angola, even though it might be possible for petitioner to use it at a somewhat lower cost through use of equipment on hand. However, a staff study shows that channel 63 is available for assignment to Angola in conformity with the distance separation requirements and other technical criteria and requires no change in the existing television assignments. Channel 63 will therefore be proposed for Angola as its first television channel assignment.

6. As Angola is within 402 kilometers (250 miles) of the United States-Canadian border, Canadian concurrence of the proposal to amend the television table of assignments will be necessary before the assignment can be adopted.

7. Accordingly, pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (c), and 307(b) of the Communications Act of 1934, as amended, and §0.291(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, to propose to amend the FM table of assignments, §73.202(b) of the Commission's rules, to incorporate the proposal into the television table of assignments, §73.606(b) of the Commission's rules, as follows:

<table>
<thead>
<tr>
<th>Channel No.</th>
<th>City</th>
<th>Present</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>63</td>
<td>Angola, Ind.</td>
<td></td>
<td>63</td>
</tr>
</tbody>
</table>

8. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

9. Interested parties may file comments on or before October 24, 1978, and reply comments on or before November 13, 1978.

FEDERAL COMMUNICATIONS COMMISSION,

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (c), and 307(b) of the Communications Act of 1934, as amended, and §0.291(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, to propose to amend the FM table of assignments, §73.202(b) of the Commission's rules, to incorporate the proposal into the television table of assignments, §73.606(b) of the Commission's rules, as follows:

2. Showings required. Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proposers will be expected to answer whatever questions are presented in initial comments. The proposer of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cutoff procedures. The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as 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 they are filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice.
of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.40 (a), (b), and (c) of the Commission rules.

5. Number of copies. In accordance with the provisions of §1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1915 M Street, N.W., Washington, D.C.

[F.R. Doc. 78-24855 Filed 9-1-78; 8:45 am]

[4910–60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 192]

(Docket No. PS-52; Notice 1)

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Cathodically Protected Transmission Lines

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise the testing requirements for determining the effectiveness of cathodic protection in controlling corrosion on transmission pipelines. This proposed rule would delete the requirement that cathodically protected transmission lines be monitored annually for corrosion and would include transmission lines within the same monitoring procedures that are provided for service lines and mains. This action is based on recommendations of the Technical Pipeline Safety Standards Committee and upon petitions from various State public service commissions. The proposed change would simplify the monitoring requirements for short sections of protected transmission lines and reduce the economic burden of testing such sections.

DATE: Comments must be received on or before October 15, 1978.

ADDRESS: Send comments to the Docket Branch, Room 6500, Materials Transportation Bureau, Trans Point Building, Washington, D.C. 20590.

Comments should identify the docket and notice numbers and be submitted in triplicate. They will be available to the public for review at the above location.

FOR FURTHER INFORMATION CONTACT:

Peggy Hammond, 202-426-0135.

SUPPLEMENTARY INFORMATION:

In accordance with article 11 of the Department of Transportation (DOT) policy of improving Government regulations issued March 1, 1978 (43 FR 9982), the Materials Transportation Bureau (MTB) initiated a program for reviewing its existing regulations and revising or revoking those regulations which it determines are not achieving their intended purpose. MTB initiated a systematic review of the existing gas pipeline safety regulations in 1977, with the aid of the Department's Technical Pipeline Safety Standards Committee (TPSSC). The first segment of the regulations chosen for review was subpart I, Requirements for Corrosion Control, since that segment had been the subject of more inquiries and interpretations than any other. On January 18, 1978, the TPSSC completed its review of subpart I and recommended a few changes. In consideration of those recommendations, MTB is proposing by this Notice to amend §192.465(a) as discussed hereafter. Some of the TPSSC recommended changes are not being proposed for adoption while others are being adopted as final rules which will be published separately in the Federal Register.

By a unanimous affirmative vote, the TPSSC proposed a change to §192.465(a) to include transmission lines within the sampling procedure now provided for monitoring service lines and mains. Cathodically protected transmission lines now must be monitored annually. The TPSSC pointed out that requirements for monitoring short sections of transmission lines should not be different from those for short sections of distribution lines since cathodic protection is equally effective on both transmission and distribution lines and hazards are not any greater. The TPSSC argues that the proposed change would simplify the monitoring of short sections of protected transmission lines and reduce the economic burden of testing all such sections. MTB also had received petitions from the Arkansas Public Service Commission (Docket No. 76-29), the Virginia State Corporation Commission (Docket No. 76-12), and the Catholic Protection Service (Docket No. 76-50) to undertake rulemaking action to permit the monitoring of short sections of transmission lines on other than an annual basis.

The current §192.465(a) requires that each pipeline that is under cathodic protection be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected transmission lines, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

The rule specifically limits application of the sampling procedure to certain distribution lines. An MTB review of the gas pipeline accident data contained in its leak-reporting and investigation system shows that cathodic protection does not present any greater problem on transmission pipelines than on distribution pipelines. In consideration of this data and the technical fact that cathodic protection is an equally effective method for controlling corrosion on transmission pipelines, MTB believes the extra precaution of the present regulation requiring that all short sections of transmission pipeline cathodically protected cathodic protection be monitored annually is too stringent. Furthermore, because transmission lines are usually located away from populated areas whereas distribution mains and services are generally in populated areas, MTB believes the more stringent annual monitoring requirement for short sections of transmission lines is not warranted on a public safety basis.

In consideration of the foregoing, MTB proposes that part 192 of title 49 of the Code of Federal Regulations be amended by revising paragraph (a) of §192.465 to read as follows:

§192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected transmission lines, not in excess of 100 feet, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be sur-
SUPPLEMENTARY INFORMATION: Need for this proposal. This rulemaking proceeding concerns the safety problem of limiting the amount of highly volatile liquid spilled from a pipeline in areas inhabited by people. The need to reduce the amount of highly volatile liquid spilled in a pipeline accident is demonstrated by the materials Transportation Bureau’s (MTB) pipeline accident reports filed by carriers under part 195, by the National Transportation Safety Board’s “Special Study of Effects of Delay in Shutting Down Failed Pipeline Systems and Methods of Providing Rapid Shutdown” (Report No. NTSB-FSS-71-1), by the Mechanics Research, Inc. report, “Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failure Due to Overpressure” (DOT-OS-30006), and by the Battelle Laboratories’ report, “Transportation of Highly Volatile, Toxic, or Corrosive Liquids by Pipeline” (DOT/OPSF-75/06). Copies of these reports are available, for inspection in the docket for this proceeding at MTB’s Docket Room 6500.

A definition of a “highly volatile liquid” has been proposed for adoption under part 195 in notice 1 of docket PS-53; Notice 175.407 (43 FR 35813, August 10, 1978), but is repeated here for clarity: “A highly volatile liquid (HVL) means a liquid which has an absolute vapor pressure of 10 kPa (14.5 psia) or more at 37.8° C (100° F).”

The MTB accident reports show that over the past 9 years, HVL pipelines have caused a substantially higher percentage of deaths, injuries, and property damage than liquid pipelines carrying less volatile commodities. The record of liquid pipeline accidents reported on form DOT-7000-1 from 1970 through 1977 shows that although HVL pipeline accidents comprise only 10 percent of the total number of accidents involving liquid pipelines, the HVL pipeline accidents caused 65 percent of the deaths, 50 percent of the injuries, and 50 percent of the property damage. Thus, a reduction in either the number of accidents or severity of accidents involving HVL would result in significant reductions in deaths, injuries, and property damage caused by liquid pipelines overall.

Also, these statistics clearly illustrate the higher risk posed by an HVL spill than by spills of other liquids. The higher potential for damage is due to the fact that when HVL is released into the atmosphere, it forms a gas cloud, which is a markedly different and more insidious hazard than that presented by spills of less volatile liquids. Inside a pipeline, HVL will remain a liquid as long as the pressure of the liquid. If a pipeline rupture occurs, and the pressure is reduced to atmospheric, some of the escaping liquid will immediately flash to gas. The remainder will turn to gas as it picks up heat from its surroundings. The gas forms a cloud that will move downhill or downwind depending on the terrain, type of liquid involved, and atmospheric conditions. Because it is generally heavier than air, the rapidly expanding gas cloud will tend to hug the ground as it continues to move. If a source of ignition is encountered, a petroleum gas cloud will burn or explode. In the case of anhydrous ammonia, the greatest danger is that of toxicity or asphyxiation. In the event of an explosion, the hazards are severe.

The amount of HVL spilled in a pipeline accident is affected by a number of factors including the size of the pipeline and rupture, liquid flow rate and flow characteristics, central boiling point of the liquid, the time to detect a failure, time to isolate and shut down a failed section, topography of the area, and spacing of valves or other means of isolating a line section. Of these factors, only the time to detect a failure, time to isolate and shut down a failed section and spacing of valves or other means to isolate a line section can be readily affected by regulation.

Objectives. To reduce the amount of HVL spilled in pipeline accidents in inhabited areas, MTB proposes to establish two new regulations on the spacing and operation of valves. The present regulation on installation of valves, §195.260, does not require uniform or close valve spacing, and currently part 195 does not contain a specific regulation on valve operation.

Under the proposed §§195.200 and 195.260, automatic or remote control valves would have to be installed in inhabited areas on newly constructed HVL pipelines, and on existing HVL pipelines that are replaced, relocated, or otherwise changed (see §195.200), at points on the pipeline which are more than 6.0 km (3.7 mi) from a sectionalizing valve. In addition, the proposed §195.407 would require that each newly installed or existing line valve on an HVL pipeline in an inhabited area be equipped for remote operation from an attended location unless the valve operates automatically or lies 6.0 km (3.7 mi) or less from a sectionalizing valve that operates remotely by automatic means.

On new HVL pipelines this proposal would result in line sections 12 km (7.5 mi) or less in length that can be isolated rapidly with remote control or automatic valves. Thus, the amount of spill after a rupture is detected could be limited to that contained in a 12 km (7.5 mi) line section plus the volume of the pipeline.
discharged before the line section is shut down.

For existing HVL pipelines, the proposal would have a somewhat different effect since line sections and valves are already in place. While under the proposed §195.407 existing line sections that are more than 12 km (7.5 mi) long would have to be equipped for remote or automatic shutdown, those line sections would not have to be reduced in length by the installation of new valves under §195.260(g) until a carrier replaces, relocates, or otherwise changes a part of the line section.

The use of sectionizing valves to aid rapid shutdown and limit the amount of HVL released in a pipeline accident is supported by the NTSB study (PSS-71-1) which states on page 19: "A large proportion of the loss in the accidents was due to the inability or failure to shut down rapidly, not to the original failure." By reducing the time to shut down a failed pipeline system to minimize the loss of material, the hazardous effects to the public, to persons working near the pipeline, and to property can be minimized or eliminated.

The MRI study (DOT/AS-30008) also supports this approach by stating in paragraph 5.3.1.3: "* * * it is obvious that the use of remotely controlled valves could drastically decrease the amount of product loss compared to the use of manual valves." And in paragraph 5.2.3.1.2: "Strong correlations were found to exist between accident effects (the number of fatalities, the number of injuries, and the amount of property damage) and the amount of product discharged."

The benefits of rapid shutdown and sectionizing a pipeline are discussed by the Battelle study (DOT/OPSC-75/60) on page 73: "The time to isolate a pump station and/or shut down the pipeline system varies with the degree of automatic controls * * *. The fact that a majority of block valves must be manually closed indicates a very long time is required to isolate a section of a damaged pipeline * * *. One remedy would be to install remote control operators on the block valves. This is only a partial solution, however, since the spacing of the valves is also a factor.* * *"

In developing this proposal, MTB has also considered the industry code for Liquid Petroleum Transportation Piping Systems, ANSI B31.4 (1974 ed.). This code in section 434.15.2 requires remote control valve installation at 7.5-mile maximum spacing in industrial, commercial, or residential areas. The ANSI B31.4 does not define "industrial, commercial, or residential areas."

MTB is proposing that valves be installed in "inhabited areas." The proposed definition of this term would include virtually all of the industrial, commercial, and residential areas mentioned in ANSI B31.4. MTB believes that an economic burden unmatched by safety benefits would be placed on those pipelines in sparsely populated areas if similar valving were required in those areas.

The proposed definition of "inhabited area" is based on the projected area that might be subjected to a hazard should an accidental release of HVL occur. NTSB accident reports show that an HVL vapor cloud has migrated as far as 1 mile before being ignited or dispersed (see NTSB-PSS-71-1, Effects of Delay in Shutting Down Failed Piping Systems and Methods of Providing Rapid Shutdown). The proposed valving, as required by §195.407, increases the time it takes to travel to and close manually operated valves or shut down a pipeline section by some other manual method. MTB believes, therefore, that HVL pipelines must have appropriately spaced automatic or remote control valves, as proposed by this notice, to adequately reduce the time it takes to isolate and shut down a line section.

Means to rapidly isolate and shut down a line section other than by automatic or remote control valves have been considered and rejected as possible regulatory alternatives. For example, strategic placement of stop valves and mechanical pipe line pinchers has been rejected because in addition to the travel time involved, there also would be a long time required to uncover the pipeline and install this equipment.

**Issues.** MTB recognizes that compliance with this proposal might not be equitable for all carriers. Carriers who transport HVL only on an occasional basis would be required to install the same number and type of valves as those carriers transporting HVL continuously. Comment on this issue is specifically requested.

In the case of new or existing pipelines, it is important to note that in some situations new valves might have to be installed as close as 0.6 km (3.7 mi) from another valve. Although this close a spacing would be half that required for new pipelines in general, MTB believes that the situation should not arise often and it is preferable to the alternatives of not installing any valve or providing longer line sections overall.

Full retroactive application to existing HVL lines of the rule being proposed for new HVL pipelines is not considered economically feasible or prudent. In order to install valves every 12 km (7.5 mi) or less on existing HVL pipelines, it would be necessary to shut down and cut the line a great number of times. Such action would be inordinately expensive, would cause large temporary reductions in pipeline throughput, and would be hazardous in itself.

**Effective date.** MTB is also interested in receiving comments on what would be an appropriate effective date for the proposal, particularly how much leadtime would be needed to meet §195.407 on existing pipelines.

MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

In consideration of the foregoing, MTB proposes to amend part 195 of title 49 of the Code of Federal Regulations as follows:

1. By adding a new definition to §195.2 as follows:

§195.2 Definitions.

* * * *

"Inhabited area" means an onshore area that extends 1 mile on either side of the centerline of any continuous 2-mile length of the pipeline that has more than 10 buildings intended for human occupancy. Each separate dwelling unit in a multiple dwelling unit is counted as a separate building intended for human occupancy.

2. By adding a new paragraph (g) to §195.260 to read as follows:

§195.260 Valves: Location.

* * * *
PROPOSED RULES

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
In an order served April 20, 1977, the Commission decided to hold this proceeding in abeyance for 1 year. During this period, the Bureau of Operations and Accounts were ordered to gather data on the frequency and magnitude of violations of the existing credit regulations including the circumvention of such rules by transport clearing organizations. In addition, the Commission indicated that it would further investigate the feasibility of implementing the proposed rules or modifications thereof as necessary to insure compliance with the Interstate Commerce Commission.

Various parties to this proceeding have filed petitions requesting that an informal conference be held where shippers, carriers, other interested persons, and the Commission's staff, can discuss the present credit regulations and how they can be modified and improved. It is hoped by petitioners that a compromise can be reached and that proposed rules be suggested. These proposed rules would then be subject to notice and formal comment by the public.

In order to provide shippers and carriers with a forum to informally discuss and eliminate areas of controversy in the area of credit regulation, an informal conference is scheduled for September 25, 1978, at 9:30 a.m. at the Commission's Offices in Washington, D.C. Persons intending to participate are requested to notify the Commission by September 19, 1978. Letters of intent to participate should be addressed to the Interstate Commerce Commission, Room 5342, Washington, D.C. 20423.

To promote an informative discussion of needed changes, a summary of the Commission's Bureau of Operations' and Accounts' survey of the payment and collection of freight bills is attached. Those parties who want a copy of the complete report can request a copy by writing to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

After completion of the informal conference, a decision will be made as to whether an additional stay or relief is warranted and to what extent further Commission action is needed.

By the Commission, Chairman O'Neal.

H. G. Homme, Jr., Acting Secretary.

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<th>RESULTS</th>
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<tr>
<td><strong>Railroads</strong></td>
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<td><strong>Calendar days:</strong></td>
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<td>Total dollar-days (calendar) (for all railroads)</td>
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| **Motor carriers** | | |
| **Workdays:** | | |
| From delivery to payment | $12.6 | $1.9 |
| From delivery to billing | $11.0 | $1.3 |
| From billing to payment or delivery to payment | $10.6 | $1.3 |
| **Calendar days:** | | |
| From delivery to payment | $17.7 | $2.6 |
| From delivery to billing | $14.3 | $1.1 |
| From billing to payment or delivery to payment | $14.5 | $2.0 |
| Average value of bills | $108 | $10 |
| Average dollar-days (calendar) from delivery to payment | $323,223 | $3,649 |
| Total dollar-days (calendar) (for all motor carriers) | $760,000,000,000 | $101,000,000,000 |

*Days*
[6320-01]  
CIVIL AERONAUTICS BOARD  
(Docket:32797)  
CORPORACION AERONAUTICA DE CARGA, S.A.  
Notice of Hearing  
A hearing will be held in this proceeding on September 19, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1975 Connecticut Avenue NW., Washington, D.C.  
The issues involved in this proceeding are discussed in a notice issued in this proceeding on July 18, 1978. See also the transcript of the prehearing conference in this proceeding held on August 29, 1978. (The notice and transcript are on file in the Docket Section of the Civil Aeronautics Board.)  
STEPHEN J. GROSS,  
Administrative Law Judge.  
(FR Doc. 98885 Filed 9-1-78; 8:45 am)  

[6320-01]  
(Docket Nos. 31112, 33136; Order 78-9-1801)  
TEXAS INTERNATIONAL-NATIONAL ACQUISITION CASE AND ENFORCEMENT INVESTIGATION 1 AND NORTH CENTRAL-SOUTHERN MERGER CASE  
Order Instituting Proceedings; Correction  
Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of August 1978.  
The above order inadvertently omitted granting a number of outstanding petitions for leave to intervene. Accordingly, on page 38892, paragraph 4 should read:  
PHYLIS T. KAYLOR,  
Secretary.  
(FR Doc. 78-24869 Filed 9-1-78; 8:45 am)  

[6335-01]  
MAINE ADVISORY COMMITTEE  
Agenda and Notice of Open Meeting  
Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on September 25, 1978, Maine Teachers Association, Augusta, Maine.  
Persons wishing to attend this meeting should contact the committee chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.  
The purpose of this meeting is to discuss program planning. This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.  
JOHN L. BINKLEY,  
Advisory Committee Management Officer.  
(FR Doc. 78-24763 Filed 9-1-78; 8:45 am)  

[6335-01]  
MISSOURI ADVISORY COMMITTEE  
Agenda and Notice of Open Meeting  
Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 2:30 p.m. on September 13, 1978, 911 Walnut, Room 3100, Kansas City, Mo. 64106.  
Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.  
The purpose of this meeting is to discuss the scope, principal issues and structure of a possible conference on desegregation.  
This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.  
JOHN L. BINKLEY,  
Advisory Committee Management Officer.  
(FR Doc. 78-24758 Filed 9-1-78; 8:45 am)
NOTICES


JOHN I. BINKLEY, Advisory Committee Management Officer.

[FR Doc. 78-24763 Filed 9-1-78; 8:45 am]

[6335-01]

JOHN I. BINKLEY, Advisory Committee Management Officer.

[FR Doc. 78-24764 Filed 9-1-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end and 2:30 p.m. on September 27, 1978, 911 Walnut Street, Room 3100, Kansas City, Mo. 64106.

Persons wishing to attend this open meeting and contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to continue planning for the desegregation conference. This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.


JOHN I. BINKLEY, Advisory Committee Management Officer.

[FR Doc. 78-24765 Filed 9-1-78; 8:45 am]

[6335-01]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on September 27, 1978, Tavern Motor Inn, Montpeller, Vt.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning. This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.


JOHN I. BINKLEY, Advisory Committee Management Officer.

[FR Doc. 78-24766 Filed 9-1-78; 8:45 am]

[6335-01]

WYOMING ADVISORY COMMITTEE

Meeting: Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission originally scheduled for September 9, 1978 (FR Doc. 78-23131) on page 36670 has been changed to September 23, 1978. The meeting place and time will remain the same.


JOHN I. BINKLEY, Advisory Committee Management Officer.

[FR Doc. 78-24766 Filed 9-1-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

RIO GRANDE VALLEY SUGAR GROWERS, INC., ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Rio Grande Valley Sugar Growers, Inc., P.O. Drawer A, Santa Rosa, Tex. 78593, a processor of sugar (accepted August 24, 1978); (2) Goodmade Manufacturing Co., 1010 Race Street, Philadelphia, Pa. 19107, a producer of children's shirts and blouses (accepted August 28, 1978); and (3) Biflex International, Inc., One Penn Plaza, New York, N.Y. 10002, a producer of women's body-supporting garments (accepted August 29, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 930618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (19 CFR part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20220,
no later than the close of business of the 10th calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[F.R. Doc. 78-24171 Filed 9-1-78; 8:45 am]

[3510-25]
Industry and Trade Administration

LICENSING PROCEDURES SUBCOMMITTEE OF
THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(c)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, September 20, 1978, at 1 p.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 50(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has nine parts:

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Review of recommendations to be made to the full Computer Systems Technical Advisory Committee.
   a. Increasing the validity period of licenses to two years.
   b. Revocation of the requirement to return used licenses to the Department of Commerce.
4. Status of and discussion on industry recommendation for establishment of a Qualified Product Distribution License.
5. Status of and discussion on raising the parameters for the Distribution License.
6. Discussion of technical data to be provided in advance of the issuance of a license related to customer training and software.
7. Requirement for full information of add-ons to small computers, i.e., below certain PDR levels.
8. Requirement for extensive information on form DIB-6031P related to add-ons for computer systems installed several years previously.
9. Delegation of authority for parts and supplies and other items.

The meeting will be open for public observation and a limited number of seats will be available. To the extent permitted, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 1012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.


LAURENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[3510-15]
Maritime Administration

[Docket No. S-620]

CHAS. KURZ & CO., INC.

Notice of Application

Notice is hereby given that Chas. Kurz & Co., Inc., 313 Chestnut Street, Philadelphia, Pa. 19106 has filed an application dated August 17, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differenti-
NOTICES

WINFRED H. MIBOHN, Associate Director, National Marine Fisheries Service.

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

[3510-22]
GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
SHRIMP ADVISORY SUBPANEL
GROUNDFISH ADVISORY SUBPANEL
Meeting
AGENCY: National Marine Fisheries Service, NOAA.
ACTION: Notice of public meetings.
SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established Advisory Subpanels on Shrimp and Groundfish. These subpanels will meet to review drafts of fishery management plans for shrimp and groundfish.
DATES: The Groundfish Advisory Subpanel will convene on Tuesday, October 3, 1978, 8 a.m. until 5 p.m.; and Wednesday, October 4, 1978, 8 a.m. until 12 noon. The Shrimp Advisory Subpanel will convene on Thursday, October 5, 1978, 10 a.m. until 5 p.m. and Friday, October 6, 1978, 8 a.m. until 3 p.m. This meeting is open to the public.
ADDRESS: The committee will meet in the Belmont and Preakness Rooms of the Holiday Inn Airport, 2929 Williams Boulevard, Kenner, La.
FOR FURTHER INFORMATION CONTACT:
Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, 813-228-2615.

[3510-25]
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM
Changes in Correlation Tariff Sheet
AGENCY: Committee for the Implementation of Textile Agreements.
ACTION: Changes in the "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated."
EFFECTIVE DATE: September 1, 1978.
FOR FURTHER INFORMATION CONTACT:
Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles,
NOTICES


ROBERT E. SHEPPARD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, Department of Commerce.

CORRELATION CHART SHEET—TEXTILE CATEGORIES

Page and Action
46—Add 360.3941 to Cat. 333
51—Add 362.0031
51—Add 362.0684
59—Delete 362.0038
59—Add 362.0037
60—Add 362.0697
60—Delete 362.0698
61—Delete 362.0984
61—Add 360.3962
69—Delete Conversion factor 36.8 for Cat. 445
69—Add Conversion factor 14.88 for Cat. 445
69—Delete Conversion factor 36.8 for Cat. 446
69—Add conversion factor 14.88 for Cat. 446
70—Delete Conversion factor 36.8 for Cat. 446
70—Add Conversion factor 14.88 for Cat. 446
70—Delete 362.0033
70—Add 362.0645
70—Delete 362.0646
71—Add 362.6333
71—Add 362.6366
71—Delete 362.6345
78—Delete 376.5610
78—Add 376.5509
78—Add 376.5612
78—Delete 376.1700
81—Add 376.1700
81—Delete 362.0036
81—Add 360.8647
82—Delete 362.8156
82—Add 362.8157
82—Delete 362.8150
82—Add 703.1500
92—Delete 703.1500
93—Delete 382.8150
92—Delete 362.8156
92—Add 363.6030
92—Add 363.6030
92—Add 369.6030
92—Add 369.6030
100—Delete 369.6030
100—Delete 369.6030
100—Add 369.6010
100—Add 360.6010
100—Delete 360.6000
100—Add 360.6010
103—Delete 360.6000
103—Add 360.6010
103—Delete 360.1000
103—Add 360.1010
103—Delete 360.1500
103—Add 360.1510
104—Delete 361.4200
104—Add 361.4200
104—Delete 361.4400
104—Add 361.4400
104—Add 361.4410
105—Delete 360.7500
105—Add 360.7510
105—Delete 361.5425
105—Add 361.5426
108—Delete 361.5422
108—Add 361.5420.

[FR Doc. 78-24917 Filed 9-1-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

(Petition No. CP 78-31

CO-2 BEER DISPENSING SYSTEMS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition to develop mandatory safety standards for consumer use of CO-2 beer dispensing systems to address the hazards of explosion due to over-pressurization of the keg that may result from malfunctioning or misused pressure regulators. The Commission concludes from the information available that a mandatory consumer product safety standard is not reasonably necessary at this time to reduce or eliminate any risk of injury that may be associated with CO-2 beer dispensing systems.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the Federal Register.

On September 27, 1977, Mr. Nixon deTarnowsky submitted a petition (CP 78-3) requesting: (a) that the Commission require all beer dispensing systems with compressed CO-2 gas to have pressure relief valves, and (b) that brewers and distributors of keg beer be required to place a warning on the keg concerning the dangers of over-pressurization and provide instructions on the safe operation of the system. The petitioner believes that beer keg explosions caused when faulty or misused regulators permit excessive buildup of CO-2 gas in the keg can be prevented by pressure relief valves.

Steel tanks containing high-pressure, liquefied carbon dioxide (CO-2) are often used to dispense beer from aluminum or steel-kegs in bars and restaurants. Members of the industry state that CO-2 is occasionally used to provide the pressure to dispense beer in private homes or at picnics, although hand pumps are most frequently used by consumers dispensing draft beer. The keg pressure desirable for proper dispensing of draft beer is about 15 pounds per square inch (psi), while the pressure in the CO-2 bottle is about 850 psi. A regulator attached to the CO-2 cylinder, when functioning and adjusted correctly, will permit a proper output pressure of about 15 psi. Improper use of malfunctioning of the regulator may result in a keg pressure sufficient to explode the keg and cause death or serious injury.

The interface between the consumer and the supplier of a total beer dispensing system takes a variety of different forms, involving wholesale, retail, and service industry segments, as well as component manufacturers and brewers. Who in this chain of distribution may provide the consumer with a product, i.e., draft beer, keg, tap, hose, regulator and bottle of CO-2, varies considerably from jurisdiction to jurisdiction.

Injury data available to the Commission indicate that over the past 14 years there have been six incidents in consumer-settings such as picnics of beer keg explosions caused by over-pressurization from CO-2 gas. These six explosions resulted in five deaths and one injury. One explosion was attributed to a malfunctioning regulator, another to the consumer's failure to reset the regulator after installing a fresh bottle of CO-2, and a third involved the use of equipment not intended for CO-2 systems.

Three more explosions resulted when consumers unfamiliar with the proper use of CO-2 systems and the hazards associated with over-pressurization released excessive amounts of CO-2 into the keg. According to reports submitted to the Commission, at least four, possibly all six, of the dispensing systems in question lacked pressure relief valves.

The Commission is aware of several safety devices currently available, including a pressure relief valve in the regulator, and automatic shutoff valve in the regulator, a pressure relief valve in the keg tapping mechanism, and a rupture-disc for the hose linking the CO-2 bottle and the keg. These devices, particularly when used in combination, appear to address adequately any risk of injury that may be associated with malfunctioning or misused regulators. Industry sources indicate that the difference in cost between systems with safety devices and systems without is negligible. Retrofits for existing regulators and/or tapping heads also appear to be technologically feasible and economically practicable.

On April 25, 1978, the American National Standards Institute (ANSI) sponsored a meeting to consider the hazards associated with CO-2 beer dis-
pensling systems. The petitioner chaired the conference, which was attended by representatives of 17 component and container manufacturers, the National Soft Drink Association, the American Society of Mechanical Engineers (ASME), and the Consumer Product Safety Commission. As a result of the meeting, the American Society of Mechanical Engineers has agreed to expand the work of its food, drug, and beverage equipment committee to develop voluntary standard specifically for CO-2 dispensing systems. The committee will consider both a "technological fix" and cautionary labeling, as suggested by the petitioner. Although representatives from the U.S. Brewers Association did not attend the conference, they subsequently expressed a willingness to cooperate in the development of a voluntary standard. The willingness expressed by these diverse groups to cooperate in such voluntary efforts suggests that a high degree of conformance with any voluntary standard developed could result.

The Commission has carefully considered the matters raised in the petition and all the injury and technical information available to the Commission. The Commission has also observed the industry's voluntary progress toward resolving hazards of concern to the petitioner. Based on these considerations, the relative priority of the risk of injury, and Commission resources available for rulemaking procedures for all consumer products, it suggests that a high degree of conformance with any voluntary standard developed could result.

The tentative agenda is as follows:

Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of unconventional gas sources. Discuss an organizational structure for the study. Discuss a timetable for completion of the study. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-566-8906, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.


WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24457 Filed 9-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS, NATIONAL PETROLEUM COUNCIL, SUBCOMMITTEE ON UNCONVENTIONAL GAS SOURCES

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Unconventional Gas Sources of the National Petroleum Council will meet on Tuesday, September 26, 1978, at 9 a.m., in the Columns Auditorium, 2 Houston Center, 500 Fannin Street, Houston, Tex.

The parent Committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The subcommittee will discuss the scope of a study for an analysis of unconventional gas sources and will report its findings to the parent Committee.

The tentative agenda is as follows:

Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of unconventional gas sources. Discuss an organizational structure for the study. Discuss a timetable for completion of the study. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-566-8906, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.


WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24457 Filed 9-1-78; 8:45 am]
NOTICES


EFFECTIVE: Immediately.

FOR FURTHER INFORMATION CONTACT:
Anna Leimanis (Data Collection and Operations Division), EIA, Room 7312, 2000 M Street NW., Washington, D.C. 20461, 202-254-3047.

SUPPLEMENTARY INFORMATION: EIA has cancelled the form FEA-101A, Owners of Stored Product Report. The FEA-101A, filed on a monthly basis, provided the means by which all owners of stored product reported information to their respective storage operators, pursuant to the requirement of the mandatory petroleum allocation regulations. The completed FEA-101A was sent by the owner of stored product to the storage operator to facilitate the latter's filing of the FEA-101B, Storage Operators Monthly Report, which was a mandatory data collection report filed with DOE. In view of the expiration of the FEA-105B (43 FR 34524), EIA has determined that it is no longer necessary for owners to file the FEA-101A. Therefore, effective with the issuance of this Federal Register notice, filing of the FEA-101A is no longer required.


C. William Fischer,
Deputy Administrator, Energy Information Administration.

[F.R. Doc. 78-24963 Filed 9-1-78; 8:45 am]

Office of Energy Research

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel will meet on Sunday, September 24, 1978, at 7:30 p.m. and Monday, September 25, 1978, from 9 a.m. until 3 p.m., in the Program Control Room, 8222C, 20 Massachusetts Avenue NW., Washington, D.C.

The Panel was established to provide advice and guidance on a continuing basis to the Secretary of Energy through the Director, Office of Energy Research, with respect to the high energy physics research program. The tentative agenda for the meeting is as follows:

1. Status of the fiscal year 1979 budgets for the National Science Foundation and the Department of Energy programs in high energy physics.
2. Factors toward the creation of an accelerator research and development subpanel.
3. Plans and projects of the LBL Particle Data Group.
5. Relative funding situations for university-based and laboratory-based research groups in high energy physics.

The meeting is open to the public. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management Office, 202-565-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.


William P. Davis,
Deputy Director of Administration.

[F.R. Doc. 78-24963 Filed 9-1-78; 8:45 am]

Office of the Secretary

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

1. A meeting of subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 12, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 2 p.m. The agenda is as follows:
   1. Opening remarks.
   2. Distinction between phases 1 and 2 in a real emergency.
   3. Future work program.
   4. A meeting of the ad hoc working group of subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 13, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 9:30 a.m. The agenda is as follows:
      1. Opening remarks.
      2. Procedures for securing antitrust clearances of oil company activities in an emergency.
      3. Distinction between phases 1 and 2 in a real emergency.
      4. Review Secretariat papers:
         A. Improvement of voluntary offer allocation using mathematical methods.
         B. National emergency tests.
         C. Optimum design of emergency tests.
      5. Other AST-2 follow-up work:
         A. Computer logging of voluntary offers.
         B. Product imbalance calculations and procedures.
         C. Questionnaire A and B reporting instructions.
      6. Future work program.

Issued at Washington, D.C., on September 5, 1978.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978

39411
The buy/sell list for refiner-buyers was determined in accordance with 10 CFR 211.65(b). For the allocation period of October 1, 1978 through March 31, 1979, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil runs to stills at the eligible refinery in the period October 1, 1977 through March 31, 1978, and the period October 1, 1977 through March 31, 1978, and (2) the volume of crude oil runs to stills (not including crude oil purchased pursuant to 10 CFR 211.65 or crude oil processed for other refineries) at the eligible refinery in the period April 1, 1978 through September 30, 1978 (calculated by using the level of the crude oil runs to stills at the particular refinery in the period April 1, 1978 through July 31, 1978 for the entire 6-month period).

The buy/sell list sets forth separately the allocations for refiner-buyers with eligible newly constructed refinery capacity and reactivated refineries and refinery capacity. Pursuant to 10 CFR 211.65(a)(1), ERA has assigned such refinery capacity an allocation equal to twenty-five (25%) percent of the capacity of the allocation period commencing October 1, 1978. The allocation for newly constructed refinery capacity and reactivated refineries and refinery capacity were calculated on the basis of estimated capacity and refinery capacity. Pursuant to 10 CFR 211.65(a)(2), ERA has assigned such refinery capacity an allocation equal to twenty-five (25%) percent of the capacity of the allocation period commencing October 1, 1978.

The allocations shown on the buy/sell list for refiner-buyers were determined in accordance with 10 CFR 211.65(b). For the allocation period of October 1, 1978 through March 31, 1979, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil runs to stills at the eligible refinery in the period October 1, 1977 through March 31, 1978, and (2) the volume of crude oil runs to stills (not including crude oil purchased pursuant to 10 CFR 211.65 or crude oil processed for other refineries) at the eligible refinery in the period April 1, 1978 through September 30, 1978 (calculated by using the level of the crude oil runs to stills at the particular refinery in the period April 1, 1978 through July 31, 1978 for the entire 6-month period).

The buy/sell list covers PAD districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to section 211.65(f), each refiner-buyer shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-buyer's sales obligation as to which an emergency allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding 6-month period.

The buy/sell list covers PAD districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to section 211.65(f), each refiner-buyer shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-buyer's sales obligation as to which an emergency allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding 6-month period.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request ERA to direct one or more refiner-sellers to sell a suitable type of
crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Upon such request, ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing a refiner-seller to make such sales, the ERA will consider the percentage of each refiner-seller’s sales obligation for the allocation period that has been sold as reported pursuant to section 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA’s opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligation for the next allocation period pursuant to 10 CFR 211.65(h)(3)(ii). If the refiner-buyer declines to purchase the crude oil specified by the ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers requesting directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to the ERA:

(i) Name of the refiner-buyer and person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refiner-sellers for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specification of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the refiner-buyer’s purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refinery for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as the ERA may request.

All reports and applications made under this notice should be addressed to:

Program Manager, Crude Oil Allocation, 28th Street Facil Station, P.O. Box 19398, Washington, D.C. 20008.

This notice is issued pursuant to sub part G of DOE’s regulations governing its administration procedures and sanctions, 10 CFR part 205. Any person aggrieved hereby may file an appeal with DOE’s Office of Hearings and Appeals in accordance with sub part H of 10 CFR part 205. Such appeal shall be filed on or before Oct. 5, 1978.

Crude Oil Allocation Program for the Period


<table>
<thead>
<tr>
<th>Refiner-seller</th>
<th>Share</th>
<th>Sales obligation (barrels)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amoco Oil Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Atlantic Richfield Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Cities Service Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Chevron U.S.A., Inc.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Continental Oil Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Exxon Co., U.S.A.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Gulf Refining &amp; Marketing Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Marathon Oil Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Mobil Oil Corp.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Phillips Petroleum Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Shell Oil Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Sun Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Texas Co.</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
<tr>
<td>Union Oil Co. of California</td>
<td>0.072</td>
<td>1,073,023</td>
</tr>
</tbody>
</table>

Total sales - 6,259,517

Eligible refiner-buyers

(Oct. 1, 1978 to March 31, 1979)

<table>
<thead>
<tr>
<th>Refiner</th>
<th>Refinery location</th>
<th>Allocation (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amoco Oil Co.</td>
<td>Denver, Colo.</td>
<td>175,505</td>
</tr>
<tr>
<td>Atlantic Richfield Co.</td>
<td>Park, Ill.</td>
<td>0</td>
</tr>
<tr>
<td>Cities Service Co.</td>
<td>Vicksburg, Miss.</td>
<td>0</td>
</tr>
<tr>
<td>Chevron U.S.A., Inc.</td>
<td>Salt Lake City, Utah</td>
<td>0</td>
</tr>
<tr>
<td>Continental Oil Co.</td>
<td>Dallas, Tex.</td>
<td>0</td>
</tr>
<tr>
<td>Exxon Co., U.S.A.</td>
<td>Houston, Tex.</td>
<td>0</td>
</tr>
<tr>
<td>Gulf Refining &amp; Marketing Co.</td>
<td>Los Angeles, Calif.</td>
<td>0</td>
</tr>
<tr>
<td>Marathon Oil Co.</td>
<td>Los Angeles, Calif.</td>
<td>0</td>
</tr>
<tr>
<td>Mobil Oil Corp.</td>
<td>New York, N.Y.</td>
<td>0</td>
</tr>
<tr>
<td>Phillips Petroleum Co.</td>
<td>Los Angeles, Calif.</td>
<td>0</td>
</tr>
<tr>
<td>Shell Oil Co.</td>
<td>Houston, Tex.</td>
<td>0</td>
</tr>
<tr>
<td>Sun Co.</td>
<td>Houston, Tex.</td>
<td>0</td>
</tr>
<tr>
<td>Texas Co.</td>
<td>Houston, Tex.</td>
<td>0</td>
</tr>
<tr>
<td>Union Oil Co. of California</td>
<td>Los Angeles, Calif.</td>
<td>0</td>
</tr>
</tbody>
</table>

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NOTICES

Elligible refineries—Continued
(October 1978 to March 1979)

<table>
<thead>
<tr>
<th>Refiner</th>
<th>Refinery location</th>
<th>Allocation (barrels)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Refinery Co.</td>
<td>Woods Cross, Utah</td>
<td>0</td>
</tr>
<tr>
<td>Wyoming Refinery (Tucro)</td>
<td>Meccastil, Wyo.</td>
<td>39,353</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

Additional allocations for newly constructed and expanded refining capacity and reactivated refineries

<table>
<thead>
<tr>
<th>Refiner</th>
<th>Refinery location</th>
<th>Estimated capacity (barrels per day)</th>
<th>Allocation (barrels)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southwestern</td>
<td>La Barge, Wyo.</td>
<td>1,000</td>
<td>45,500</td>
</tr>
<tr>
<td>Western Refinery</td>
<td>Woods Cross, Utah</td>
<td>1,500</td>
<td>68,250</td>
</tr>
<tr>
<td>Pistolet, Inc.</td>
<td>Bloomsfield, N. Mex</td>
<td>6,000</td>
<td>313,550</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Total</strong></td>
<td>427,700</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Total all allocations</strong></td>
<td>6,715,817</td>
</tr>
</tbody>
</table>

[FR Doc. 78-24786 Filed 9-1-78; 8:45 am]

Federal Energy Regulatory Commission

ATLANTIC RICHSFIELD CO., ET AL.

(Docket Nos. C177-772 et al.)

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates


Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

This notice does not provide for consolidation of hearing of the several matters covered herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene. Therefore, any protest with reference to said applications to intervene or a protest in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

Lois D. Caswell,

Acting Secretary.

[FR Doc. 78-24792 Filed 9-1-78; 8:45 am]

CIMARRON TRANSMISSION CO.

Proposed Rate Increase


Take notice that Cimarron Transmission Co. on August 16, 1978, tendered for filing proposed changes in its gas rate schedule No. 1. The proposed changes would increase revenues from jurisdictional sales by $3,087,33 annually based upon the test period of twelve (12) months ending April 30, 1978. Cimarron Transmission Co. states the principal reasons for the proposed rate increases are: (1) increased costs of operation, (2) decreased sales volumes which increase unit costs, (3) increased costs associated with increased need for compression, (4) increased depreciation rates to reflect downward estimates of

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gas reserves, and (5) the need to provide a return of 11 percent on its utility investment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with sections 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before September 6, 1978. Protestors will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMBE, Secretary.
FED Doc. 78-24793 Filed 9-1-78; 8:45 a.m.

NOTICES

[6740-02] (Docket No. ER78-413)

DELMARVA POWER & LIGHT CO.

Order Granting Rehearing in Part, Denying Rehearing in Part, and Establishing Certain Procedures

August 25, 1978

On May 31, 1978, the Delmarva Power & Light Co. (Delmarva) tendered for filing with the Federal Energy Regulatory Commission proposed revisions and rates for wholesale electric service applicable to sales of electric power and energy to all wholesale customers of Delmarva. Petitions to intervene were filed by certain cities on June 19, 1978. By order issued June 30, 1978, the Commission accepted the tendered rates for filing, suspended the rates until December 1, 1978, to become effective subject to refund, granted interventions and set the matter for hearing.

The Commission, on June 30, 1978, order further indicated that certain statements set forth in the petitions to intervene did not constitute an allegation of price squeeze which would require an investigation pursuant to section 2.17 of the Commission's regulations.

On July 27, 1978, the petitioners filed with the Commission a petition for rehearing which, among other things, requested the Commission to modify its June 30, 1978 order and institute a price squeeze investigation. In support of its request, petitioners set forth additional data constituting a sufficient allegation of price squeeze pursuant to section 2.17 of the Commission's regulations.

Delmarva, on August 8, 1978, filed an answer to petitioners' request for institution of a price squeeze investigation. Delmarva's answer correctly observes that section 2.17 of the Commission's regulations imposes upon any wholesale customers seeking to raise price squeeze issues the burden of proceeding as if the time for intervention in the proceeding is sought. Petitioners in this proceeding did not comply with this requirement.

The Commission recently stated:

"... (One of the purposes of 16 CFR 2.17 is to provide expedited price squeeze discovery procedures. In this regard, the specificty of section 2.17 overrides the general provisions of 18 CFR 1.11 permitting amendment of pleadings until shortly before the beginning of hearings. Moreover, to the extent that price squeeze serves as a basis for a Commission decision as to whether a revised rate filing should be accepted, price squeeze allegations must be adequately set forth in pleadings to intervene, must be before the Commission at the time the Federal Power Act requires action on rate filings. Therefore, we hereby, henceforth require strict compliance with section 2.17 of our regulations, and that the allegations specified in that section (price squeeze allegations having a direct and substantive effect) be contained in petitions to intervene if the issue is to be raised by intervenors ***.

The Commission in its Monongahela Power order noted that it had in the past permitted some deviation from the practice and therefore granted the petitioners 20 additional days in which to submit supplementary pleadings containing price squeeze allegations.

Inasmuch as petitioners' intervention petition was filed prior to our Monongahela Power Company order of August 10, 1978, announcing strict compliance with the requirements of section 2.17, we find good reason not to require strict compliance in the instant case. Since petitioners have in their petition for rehearing subsequently complied with the provisions of section 2.17 of the Commission's regulations by adequately setting forth allegations of price squeeze, the Commission will grant petitioners' request to institute a price squeeze investigation.

Petitioners also request, as they did in their petition to intervene, that the Commission make summary disposition of the portion of the rate filing that is based on the double inclusion in rate base of investment in an energy control center. In its answer, Delmarva concedes that this rate base item was included twice, but contends that its costs of service justification for the proposed rates (should it prevail on all issues) exceeds the revenues to be received under the rates by some $246,000. Since the revenue requirement related to the energy control center is $122,000, Delmarva contends that the elimination of the double counting does not compel a revision of the filed rates. Delmarva's conclusion that no revision is necessary at this time is correct.

The Commission finds that it is appropriate and proper in the administration of the Federal Power Act and the public interest to grant rehearing of the Commission's order issued in this docket on June 30, 1978. The Commissioner orders:

Petitioners' request set forth in their petition for rehearing filed July 27, 1978, is hereby granted to the extent that a price squeeze investigation in this docket is hereby instituted pursuant to further requirements of section 2.17 of the Commission's regulations. All other requests set forth in the petition for rehearing of the Commission's.
NOTICES

[6740-02] [Docket No. ER78-566]

FRIDAY POWER & LIGHT CO.

Filing


Take notice that Florida Power & Light Co. (FPL), on August 21, 1978, tendered for filing an initial rate agreement on the terms of an agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Vero Beach." FPL states that under the agreement, FPL will transmit power and energy for the city of Vero Beach (Vero Beach) as is required by Vero Beach in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co. and Florida Power Corp.

FPL requests an effective date of no later than 30 days after the date of filing. According to FPL, copies of this filing were served on the city manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL, Acting Secretary.

[FR Doc. 78-24807 Filed 9-1-78; 8:45 am]

[6740-02] [Docket No. ER78-567]

Florida Power & Light Co.

Filing


Take notice that Florida Power & Light Co. (FPL) on August 21, 1978, tendered for filing an initial rate an agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Vero Beach." FPL states that under the agreement, FPL will transmit power and energy for the city of Vero Beach (Vero Beach) as is required by Vero Beach in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co. and Florida Power Corp.

FPL requests an effective date of no later than 30 days after the date of filing. According to FPL, copies of this filing were served on the city manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL, Acting Secretary.

[FR Doc. 78-24807 Filed 9-1-78; 8:45 am]
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effective, Union's monthly bill will be subject to an additional adjustment, or surcharge, to recover certain "unbilled" purchased power costs existing at the time the new PPA clause becomes effective.

**LOCKHART'S PURCHASED POWER ADJUSTMENT CLAUSE**

In docket No. E-9469, Lockhart's prior rate filings, the company sought approval of a purchased power adjustment clause. Our review of the record in that proceeding is currently on-going and action in that proceeding is still pending. We shall defer ruling on the appropriateness of Lockhart's proposed PPA clause at this time, until we have made our decision in docket No. E-9469.

**LOCKHART'S PURCHASED POWER ADJUSTMENT CLAUSE SURCHARGE**

Union asserts that Lockhart's proposed PPA clause surcharge is indistinguishable from surcharges which we have consistently rejected in the past. Accordingly, it argues that the proposed surcharge filed for in this proceeding should be summarily dismissed.

Union is correct in its observation that we have consistently rejected various fuel adjustment clause surcharges, where approval would have been a form of retroactive ratemaking. While there are some obvious similarities between fuel adjustment clause surcharges and the proposed purchased power adjustment clause surcharge, we are unable to reject Lockhart's proposal at this preliminary stage. Instead we shall address the surcharge question in an order to be issued prior to the expiration of the period to be established herein for suspension of the surcharge.

In order to assist us in determining whether summary dismissal of the proposed surcharge is or is not appropriate, we are directing our advisory staff to conduct an investigation of the past and present operation terms and conditions of the PPA. In the course of this investigation, Staff may ask the parties for written submissions including, inter alia, briefs and affidavits. We hereby direct the parties to cooperate with Staff requests for any such material.

Our review indicates that the proposed increased rates tendered by Lockhart have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will therefore accept Lockhart's tender for filing, suspend operation of the proposed surcharge for 5 months, until January 26, 1978, and suspend the remainder of Lockhart's proposed rate schedule for 1 day, until August 28, 1978, when they shall respectively become effective subject to refund. The suspension of the surcharge is intended merely to postpone the initiation of the charge, not to deny Lockhart the recovery of any part of the alleged deficiency. If there is found to be a deficiency, we may provide for the recovery of the full amount over an appropriate time period.

Additionally, as stated above, the lawfulness of Lockhart's PPA is pending before us in docket No. E-9469, and our decision in that proceeding will determine the disposition of the issue of the proposed PPA in this proceeding.

The Commission orders: (A) Pursuant to the authority contained in and upon the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act (18 CFR, chapter —), a public hearing shall be held concerning the rates proposed by Lockhart in this proceeding.

(B) Pending such hearing and determination, the increased rates proposed by Lockhart are hereby accepted for filing and operation, except that the surcharge deferred until January 26, 1978 and the use of the remainder of the rate schedule deferred until August 28, 1978, when they shall respectively become effective subject to refund.

(C) The issue of Lockhart's proposed PPA surcharge provision will be addressed in an order to be issued prior to January 28, 1979.

(D) Union is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: Provided, however, That participation by such intervenor shall be limited to matters set forth in its petition to intervene; and Provided further, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

The Commission's advisory staff should conduct an investigation of the proposed surcharge related to the operation of the PPA and report back to the Commission so that the Commission may act prior to January 28, 1979.

(F) An administrative law judge to be designated by the chief administrative law judge for that purpose (see, Delegation of Authority, 39 FR 353(3), dated August 28, 1974, 364) shall conduct a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 525 North Capitol Street NE, Washington, D.C. 20426. Said law judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(G) The Staff shall prepare and serve top sheets on all parties within ten (10) days of the date of the issuance of this order.

(H) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMIS, Secretary.

[FFR DC 78-24505 Filed 9-4-78; 8:45 a.m]

[6740-02]

[Docket No. CA-1967]

MAY PETROLEUM INC.

**Limited-Term Certificate Application**

**August 25, 1978.**

Take notice that on August 10, 1978, May Petroleum Inc. (May), 4925 Greenville Avenue, Suite 1000, Dallas, Tex. 75206, filed in docket No. CH78-1267 an application for a limited-term certificate of public convenience and necessity pursuant to section (k) of the Natural Gas Act, as amended, of the Commission's regulations thereunder.

Applicant proposes to sell gas for resale and delivery in interstate commerce to Cities Service from the J. C. Carroll No. 1 well located in Canadian County, Okla., pursuant to a contract between May and Cities Service dated June 8, 1978. This agreement provides that Cities Service's obligation to purchase gas shall be limited to a total of 1,500,000 Mcf of gas. The price paid for this gas shall not exceed the national rate. It is anticipated that this volume of gas will be purchased during the eighteen (18) month period following Commission approval. The gas had previously been dedicated to an intrastate Oklahoma market for a higher price, but the 1,500,000 Mcf has been released for resale. The intrastate purchaser had failed to take its dedicated

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share of the daily split sales production. Since this sale is to be limited to a total of 1,500,000 Mcf of gas which represents the total amount of reserves not already dedicated under existing contracts, it is requested that the order issuing a limited-term certificate to applicant also include pre-granted authority for applicant to abandon the sale of gas to Cities Service under the subject contract when 1,500,000 Mcf of gas has been purchased.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own, motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PUMAS,
Secretary.

[F.R. Doc. 78-24795 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP75-1414]

MIDWESTERN GAS TRANSMISSION CO.
Filing of Revised Tariff Sheets Pursuant To Settlement Agreement

Take notice that on August 17, 1978, Midwestern Gas Transmission Co. (Midwestern) tendered for filing the following revised tariff sheets to be effective October 1, 1978:

VOLUME No. 1
First Revised Sheet Nos. 73 and 85F
Second Revised Sheet Nos. 79, 83, 93, 95F
and 95G
Third Revised Sheet Nos. 81, 82, 84, 86 and
94
Fourth Revised Sheet No. 85

VOLUME No. 2
First Revised Sheet Nos. 38 and 39
Midwestern states that such filing is being made pursuant to the Commission's letter order of July 18, 1978, accepting a settlement agreement (October 12, 1977) in docket No. RP76-114. Midwestern states that copies of its filing have been mailed to all of its customers, interested State commissions and parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PUMAS,
Secretary.

[F.R. Doc. 78-24796 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP74-97 (PGA78-21)]

MONTANA DAKOTA UTILITIES CO.
Order Granting In Part and Denying in Part Application for Rehearing and Modifying Previous Order

On June 30, 1978, the Commission issued an order accepting for filing and suspending PGA rate increases, and prescribing conditions in this case. On July 28, 1978 Montana Dakota Utilities Co. (MDU) filed a timely application for rehearing. In the June 30 order the Commission suspended MDU's proposed PGA filing for the following reasons: the inclusion of nonjurisdictional purchases associated with MDU's Sheridan system in the tariff filing; the inclusion of costs and volumes related to gas purchases not certified as of July 1, 1978; the inclusion of a 61/Mcf transportation charge for certain volumes purchased by MDU; and the inclusion of a 38c/Mcf transportation charge for certain volumes purchased from Kansas-Nebraska Natural Gas Co., Inc. (K-N). MDU challenges the Commission's actions with respect to the suspension of the filing and the ordered exclusion of the 38c/Mcf transportation charge.

We conclude that MDU is correct with regard to the K-N purchase. MDU's rate schedule X-3 provides for the K-N purchases and allows K-N to receive a 55 cents "gathering and delivery" charge. It is this charge that was excluded in the June order and we conclude here that it is appropriately included in the PGA as purchased gas cost. The gathering charge represents...
a cost of the gas to MDU because it is included in the sales price by K-N.

The order issued May 11, 1977 in docket No. CP75-57 authorizing the sale provided that the price charged by K-N to MDU include the gathering charge. We will therefore delete item (iii) from ordering paragraph (B) of the June 30 order and permit inclusion of these costs in its PGA rate filing.

MDU contends that the Commission wrongfully suspended the tariff sheets with regard to the inclusion of Sheridan system intrastate purchases in the PGA. According to the company the Commission mistakenly relied upon an order issued December 30, 1977 suspending its previous PGA filing. Additionally the company maintains that the suspension was improperly based upon the initiation of a hearing under Section 5 of the Natural Gas Act. Also MDU contends that there is no question that MDU's filed, effective tariff provides for the allocation over the entire MDU system of costs intrastate purchases for the Sheridan System.

Contrary to MDU's assertion, we do not believe that it is clear that MDU's tariff provides for the allocation over the entire MDU system of the Sheridan System purchases. Accordingly, it would not be appropriate at this time to vacate the suspension ordered in the case by the Commission's June 30, 1978, order.

The Commission finds: MDU's application for rehearing of the Commission's June 30, 1978, order in this docket should be granted in part and denied in part as hereinafter ordered and conditioned.

The Commission orders: (A) that section (ii) of ordering paragraph (B) of the June 30, 1978, order in this proceeding is hereby deleted from that order.

(B) To the extent not granted in ordering paragraph (A) above, MDU's application for rehearing is hereby denied.

(C) The Commission shall cause prompt publication of this order in the Federal Register.

By the Commission.

KENNETH F. PLUMEB, Secretary.

[FR Doc. 78-24809 Filed 9-1-78; 8:45 am]

[6740-02] [Docket No. RP76-64; PGA No. 78-1]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing, Effective October 1, 1978


Take notice that on August 15, 1978, Mountain Fuel Supply Co., pursuant to section 154.66 of the Commission's regulations under the Natural Gas Act, filed sixth revised sheet No. 3-A to its FERC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the unrecovered purchased gas cost account of the purchased gas adjustment provision authorized by the Commission's order issued February 27, 1978 in docket No. RP76-64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of $.250 cents per MCF (X-3) and 1.672 cents per MCF (X-9) and are to be effective October 1, 1978. Any person desiring to be heard and to make any protest with reference to said filing should on or before September 8, 1978, file with the Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests filed with the Commission will be considered by it but will not serve to make the protesters parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protesters parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL, Acting Secretary.

[FR Doc. 78-24811 Filed 9-1-78; 8:45 am]
The company states that the notice of change in rates is being filed pursuant to the Commission's order issued March 29, 1974, at docket No. RP74-48 and article 13.4 of Northwest's FERC Gas Tariff. Original Volume No. 1. The change in rates will result in a net increase of .016 cents per therm for rates schedules ODL-1, DS-1, and PS-1. The new demand charge credit adjustment of (.013) cents per therm is based on a negative balance in the deferred account for demand charge credits of $272,145.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision and Article 17, Gas Research Institute Charge Adjustment Provision, contained in its Original Volume No. 1 Tariff. All three rate adjustments are reflected on the tendered substitute 20th revised sheet No. 10, which is proposed to become effective October 1, 1978.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 31, 1978. Proceedings will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24799 Filed 9-1-78; 8:45 am]

[6740-02]

(Docket No. RP74-48)

PEOPLES NATURAL GAS DIVISION OF NORTHERN NATURAL GAS CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision


Take notice that Peoples Natural Gas Division of Northern Natural Gas Co. (Peoples) on August 21, 1978, tendered for filing substitute 21st revised sheet No. 3a of its FERC Gas Tariff, Original Volume No. 4. Peoples states that the proposed change to become effective October 1, 1978 would decrease the rate per Mcf to jurisdictional customers by 1.90¢ per Mcf and reflects a decrease in rates by Colorado Interstate Gas Co., resulting from a general increase filed by CGC in accordance with the provisions of its FERC Gas Tariff. Colorado Interstate is the pipeline supplier to Peoples for sales made under article 13 of Peoples' FERC Gas Tariff.

Copies of the filing were served upon Peoples' customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 31, 1978. Proceedings will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24799 Filed 9-1-78; 8:45 am]

[6740-02]

(Docket Nos. ER78-337 and ER78-338)

PUBLIC SERVICE CO. OF NEW MEXICO

Order Granting and Denying Rehearing


A request for clarification or reconsideration and applications for rehearing have been filed with respect to the Commission's June 30, 1978 order in the above-referenced docket.

Public Service Co. of New Mexico (PNM) seeks rehearing on three grounds: (1) The order unlawfully delayed the effectiveness of the proposed rate (2) The Commission failed to consider PNM's financial condition in ordering a full 5 months suspension; and (3) The order issued by the Secretary is contrary to notice requirements once again asking that the Commission allow the rates to become effective on June 1, 1978.

PNM's May 30 response included a request for waiver of our notice requirements once again asking that the Commission allow the rates to become effective on June 1, 1978. PNM, June 6, 1978, PNM applied for rehearing before the Secretary's May 17, 1978 deficiency letter.

In our June 30 order, we denied PNM's request for waiver of our notice requirements and noted that the requisite information completing the filing had not been received until May 31, 1978. As such, the June 30 order treated May 31, 1978 as the filing date and appropriately began the 6-month suspension on the statutory effective date of July 1, 1978.

On rehearing, PNM argues that this course of events in effect required the company to give more than the 30 days notice specified by section 205(d) or constituted a suspension of more than 5 months, which would be prohibited by section 205(e). Once again, the company challenges the issuance of the deficiency letter, stating that its filing as originally tendered on April 28, 1978, did not patently fail to comply substantially with the regulations; that the additional data could have been obtained through discovery; and that inasmuch as PNM promptly cured the deficiencies (within 30 days of the date that the filing was originally tendered), the refusal to assign April 28, 1978 as the filing date constituted an abuse of discretion.

We find PNM's arguments to be unpersuasive. The company's filing as originally tendered did not substantially comply with our filing requirements. This point was made clear in
our June 30 order when, in denying PNM's request for waiver of our order requirements, we stated:

Good cause has not been shown to grant such waiver. PNM's filing as originally tendered did not meet the requirements of section 35.13(b)(4)(iii) and did not provide us with the necessary information from which we could reach an informed and equitable decision as to the necessity for a hearing or the appropriate length of suspension. The requisite information was not received until May 31, 1978.

Additionally, we regard the issuance of a deficiency letter by the Secretary to be interlocutory in nature; thus, rehearing does not lie. We shall construe PNM's application for rehearing as a motion for reconsideration, which, based on the foregoing discussion, shall be denied.

Further, PNM's reliance on the determination in order No. 47 that: "If additional data beyond that required by the regulations is required, it could be obtained through the discovery process", is misplaced. As pointed out above, in PNM's case, it was the data required by section 35.13(b)(4)(iii) of the regulations at the time of filing which were lacking, whereas the additional data secured through discovery pursuant to order No. 487 was supplemental to that required by our regulations.

We also find Atlantic Seaboard Corp. v. FPC, supra, to be inapposite. Therein, the court found that the FPC had abused its discretion in treating the date of the tender of an amendment to the application, rather than the date of tender of the original application, as the filing date. This determination was grounded on a finding by the court that:

- **Such amendment did not change the proposed rates, did not delay the Commission in considering the rates beyond the 30 day period (and) could not possibly prejudice the Commission in the discharge of its duties.**

Unlike the applicant in Atlantic Seaboard, PNM did not provide all of the information necessary to cure its deficient filing until May 31, 1978. The deficiencies in PNM's filing did delay the Commission in considering the filing and thus impeded the process by which we could reach an informed and equitable decision as to the necessity for a hearing or the appropriate length of suspension.

The second issue raised by PNM on rehearing pertains to the length of the suspension period -for the partial-CWIP based rates in docket No. ER78-338.

In its "Order Denying Request for Conference" issued June 4, 1976, in High Island Offshore Systems, et al., docket No. CP70-104, et al., the Federal Power Commission stated:

"As explained when the open meeting procedure was initiated, and as reiterated herein, the discussions held at the open meeting are a part of the deliberative process and not the factual record of the proceedings, upon which the official action is to be based. The Commission acts officially only through its orders as issued by the Secretary" (emphasis added).

The June 30 order, as issued, provided for a 5-month suspension period.

Finally, PNM requests clarification of the timing for implementation of rate relief for service to Gallup in docket No. ER78-333. Referring to the June 30 order, the company submits that the increased rates for service to Gallup are intended to be implemented at the conclusion of phase I of the proceeding. For purposes of clarification, we direct PNM's attention to ordering paragraph (D) of our June 30 order, which stated in pertinent part:

- **"... the effectiveness of the ER78-333 rates shall be deferred until a final order approving such rates is issued by the Commission at the completion of phase II."**

This decision is entirely consistent with our determination that rate increases for Gallup can be prospective only, upon completion of a section 206 proceeding. That portion of our June 30 order concluding that PNM will be directed to file a compliance filing at the end of phase I under section 206 for the rates to Gallup in docket No. ER78-333 does not change this conclusion. Since it will not be known until phase I is completed whether PNM will be entitled to include any or all of non-pollution control CWIP in rate base, the proffering of a compliance filing at that time will merely provide us with a rate structure to which adjustments can be made after consideration of the issues to be litigated in phase II. Thus, the final and approved rates will not be determined until phase II is completed.

The sole issue raised by Gallup on rehearing pertains to the burden of proof which must be met by PNM to effect a change in rates to Gallup in docket No. ER78-338. We shall grant a rehearing of this issue and allow responses to be filed pursuant to section 1.34(d).

The Commission finds:
(1) Good cause exists to deny PNM's motion for reconsideration.
(2) PNM's application for rehearing sets forth no new facts or principles of law which were not considered by the Commission when it issued its June 30, 1978 order or upon which such consideration would warrant any change or modification of the June 30, 1978 order.
(3) Good cause exists to grant Gallup's petition for a rehearing.

The Commission orders:
(A) PNM's motion for reconsideration is hereby denied.
(B) PNM's application for rehearing is hereby denied.
(C) Gallup's application for a rehearing is hereby granted.

The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plummer,
Secretary.

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**NOTICES**

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June 30 order, mimeo at p. 7.

Atlantic Seaboard, supra, at p. 571.

**NOTES**

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NOTICES

[6740-02]
[Docket No. ER78-566]
SOUTH CAROLINA ELECTRIC & GAS CO.
Filing


Take notice that on August 21, 1978, South Carolina Electric Gas Co. (SCE&G) tendered for filing modifications No. 1 to the interchange agreement between SCE&G and South Carolina Public Service Authority, dated January 1, 1978. SCE&G states that Modification No. 1 deletes service schedules providing for emergency assistance and energy interchange and substitutes therefor the following service schedules: spinning reserve, short-term power, limited-term power, economy interchange, and other energy SCE&G requests that modification No. 1 be permitted to become effective on September 22, 1978.

According to SCE&G, copies of this filing have been sent to the South Carolina Public Service Commission and the South Carolina Public Service Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C., 20426, in accordance with §8 1.10. All such petitions or protests should be filed on or before September 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party 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.

[FDR Doc. 78-24800 Filed 9-1-78; 8:45 am]

[6740-02]
[Docket No. RP78-139]
TEXAS GAS TRANSMISSION CORP.
Certification of Proposed Settlement Agreement


Take notice that on July 27, 1978, Administrative Law Judge Grossman certified to the Commission a stipulation and agreement proposed in settlement of the above-captioned rate proceeding. The proposed stipulation and agreement, as filed with the presiding judge on July 26, 1978, states that there is no known opposition to its approval. The proposed stipulation and agreement, if approved, would resolve all issues in the subject proceeding except the issues of cost classification, cost allocation and rate design, which are currently being litigated in the United States Court of Appeals for the District of Columbia Circuit. As to these issues, the stipulation and agreement provides that the decision in that proceeding will govern the instant proceeding.

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, on or before September 15, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FDR Doc. 78-24802 Filed 9-1-78; 8:45 am]

[6740-02]
[Docket No. RP78-111]
TRUNKLINE GAS CO.
Certification of Proposed Settlement Agreement and Record


Take notice that on July 17, 1978, Administrative Law Judge Howe certified to the Commission a stipulation and agreement proposed in settlement of the issues in the above-captioned rate proceeding. The certification states that the proposed stipulation and agreement, which was filed by Trunkline Gas Co. on July 14, 1978, is not opposed by any party. The certification also included testimony and exhibits which had been filed in the subject docket and admitted into evi-
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FEDERAL COMMUNICATIONS COMMISSION

American Telephone & Telegraph Co. and the Associated Bell System Companies

Charges for Interstate Telephone Service, Transit Rates Nos. 10939, 11027, 11657, and 12303; Order Terminating Proceedings

By direction of the Chief, Common Carrier Bureau, in the Commission's docket 19129 re reconsideration FCC 78-293 adopted February 15, 1978, released February 24, 1978, the Commission voted on its own motion to reconsider the revenue requirement treatment accorded institutional advertising expenditures and charitable contributions in the Phase II Final Decision and Order in Docket No. 19129 (Decision), 64 FCC 2d 1 (1977). Subsequently, on July 19, 1978, an oral argument on en banc was held at the Commission's offices and the provision was also made for filing of written briefs or comments.

Any of the present participants in this proceeding who have not already filed their briefs or comments, will have until September 8, 1978, to make such filings with the Secretary. After September 8, 1978, no further filings will be entertained in this proceeding. Delegated authority to the Chief, Common Carrier Bureau to so order is contained in §0.291 of the Commission's rules and regulations (47 CFR §0.291).

Accordingly, it is ordered, That the record in the above-captioned proceeding shall be closed on September 8, 1978.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau

[FR Doc. 78-24634 Filed 9-1-78; 8:45 am]

FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING


By the Chief, Broadcast Facilities Division.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on October 11, 1978, the TV and FM translator applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(d) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 10, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C. by the close of business on October 10, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached appendix by reason of conflict with the listed applications and applications appearing in previous notices published pursuant to §1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 394 of the Communications Act of 1934, as amended, is directed to §1.580(f) of the Commission's rules for provisions governing the time for...
filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION, WILLIAM J. TRICARICO, Secretary.

APPENDIX

UHF TV TRANSLATOR APPLICATIONS

BPTV-3615 (K70CP), Grand Marais, Minn., KDAL, Inc. Req: Change frequency to channel 63, 764-770 MHz.

BPTV-3616 (K79AQ), Grand Portage, Minn., KDAL, Inc. Req: Change frequency to channel 57, 762-768 MHz.


BPTV-3619 (new), Little Falls, Minn., Hubbard Broadcasting, Inc. Req: Channel 69, 700-706 MHz, 100 watts. Primary: KSTF-TV, St. Paul, Minn.

BPTV-3620 (new), Chicago, N.Y., Board of Co-operative Educational Services of Allegheny County. Req: Channel 60, 746-752 MHz, 10 watts. Primary: WXXI-TV, Rochester, N.Y.

BPTV-3621 (new), Long Prairie, Minn., Hubbard Broadcasting, Inc. Req: Channel 32, 575-581 MHz, 100 watts. Primary: KSTF-TV, St. Paul, Minn.

BPTV-3622 (new), Alexandria, Minn., Hubbard Broadcasting, Inc. Req: Channel 34, 560-566 MHz, 100 watts. Primary: KSTF-TV, St. Paul, Minn.

BPTV-3623 (new), Birchdale, Loman & Black River Rural Area, Minn., County of Koochiching. Req: Channel 31, 575-581 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minn.

BPTV-3624 (new), Big Falls & Rural Areas, Minn., County of Koochiching. Req: Channel 64, 770-776 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minn.


BPMPTT-1007 (K58BA), Pacific City and Cloverdale, Oreg., State of Oregon acting by and through the State of higher education. Req: Change primary TV station to KOAC-TV, channel 7, Corvallis, Oreg.

BMPPTT-1008 (K49AA), Armatage Field portions of Ridgecrest and China Lake, Calif., Indian Wells Valley TV Booster, Inc. Req: Change primary TV station to KWHY-TV, channel 22, Los Angeles, Calif., increase output power to 20 watts.

VHF TV TRANSLATOR APPLICATIONS

BPTVV-6124 (K50YFJ), Glendale, Mont., Meyer Broadcasting Co. Req: Change frequency to channel 13, 210-216 MHz.

BPTVV-6123 (K1MYF), Jeffrey City, Wyo. Req: Change primary TV station to KRMA-TV, channel 6, Denver, Colo.

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TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING


By the Chief, Broadcast Facilities Division.

Notice is hereby given pursuant to § 1.572(c) of the Commission’s rules, that on October 11, 1978, the TV broadcast applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to § 1.287(b)(1) and § 1.591(b) of the Commission’s rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 10, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by close of business on October 10, 1978.

The attention of any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to section 308(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.508(l) of the Commission’s rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

13005. Leo Tornado Shipping S.A.: Leo Torna-
19326. Ocean Brother Shipping, Ltd: Ocean Bro-
13444. Redolfo Maritime Corp: Article I.
13445. Stuart Shipping Corp: Antilope.
13650. Niger River Navigation Co, S.A: Hans-
13973. Kokusai Shipping Koubushi Kkkas: Rokuto Maru.
13984. Energy Chemical Marine, Inc: FM Ma-
13999. Latin America Petroleum Carriers, Inc: Bre-
14001. H. Danzis Services Maritimes S.A: Qupim.
NOTICES

Certificate Owner/Operator and Vessels No.
14017 Igancia Shipping Corp.: Oceanus Leader-
14025 Sea Horse Marine of Louisiana, Inc. No. 70
14029 Lucky Star Navigation Inc.: Notor Star
14037 Telemun Compagnie Naviera S.A. Tele-
14040 Protegoret Maritime Corp.: Protegoret
14045 Intrepid Shipping Inc.: Atahual
14049 Glenhast Maritime Inc.:
14054 Mulroy Bay Shipping Co., Ltd.: Eastern
14069 A/S Idic Joaell and Esti Atlanti
14073 Kylenore Bay Shipping Co., Ltd.: Sitia
14079 International Transport Santana, Inc.:
14084 Bastion Maritime.
14092 Congelados Jesus,
14101 The Cambay Steamship Co., Ltd.:
14106 British Maritime Inc.: Zita Bay
14109 Lagan Shipping Co., Inc., Panama: Marit-
14117 Atlantic Navigation Co., S.A., Panama: La-
14116 Ocean Shipping Co., Inc. Zora Sea and Ross Sea
14119 Nicstar Navigation Co. S.A.: Grace
14127 West Africa Navigation Co. S.A.:
14128 The Cambay Steamship Co., Ltd.: Feder-
14129 Matat Shipping Co.: Panamas
14142 Admiral Maritime Inc.: Zita Bay
14143 Highsea Navigacion Co. S.A.: Eldile II
14147 Taf on Shipping, Inc.: On Lee, On Tung, and
14147 Morgan, U.S.A.: Galion Gudilana de Arma-
14151 Conception Jesus, S.A. Zorra
14153 Davenport Shipping Corp.: Maya
14164 Yulcan Industries Co., Ltd.: Yulcan Fo-
14165 Tanahiti Bay Shipping Co., Ltd.: Emerald
14170 Basilica Maritime, Inc.: Orient Express
14171 A/S Siljestad Med Flered Sjostad.
14172 A/S Siljestad: Sommerladet, Sofiaet, and
14174 Jasmine Shipping Corp.: Alcuma Sea.
14176 Jazcon Zeeztransporter III B.V.: Pacific
14174 Northcoast Seafood Processors, Inc.:
14178 Danske Primera Shipping Co. S.A.: Em-
14179 P.F.P. Stella Shipping & Commercial Co. Ltd.:
14179 P.S. Grothe Dania and Hvalsamra
14179 Zeederij Holland Friedland B.V. (Inc.
14183 Danish Shipping Co., Ltd.: Cherry Jel.
14183 Splendor Monaco Shipping S.A.M. Wes-
14185 Universal Peace Shipping Enterprises Parvos Y.
14190 Gavina Compania Naviera S.A. Logada
14190 Oceania Inc.: Gulf Salazar, Ocean Sal-
14190 G. J. Martin, E. H. Sandford, and J. H.
14194 Venture Cruise Lines, Inc.: America
14194 Treasure Shipping Inc.: Queen Emerald
14194 Uninor Estoril-Er. 
14200 Partedrediet for MS Scoll Residens: Scoll

Certificate Owner/Operator and Vessels No.
14200 Norden America Shipping Corp. Amsen-
14204 Fair Trade Services Inc.: Elpisida.
14206 Gesa E. A/S Diene & Co. Diace.
14208 Chis Lo S.A.:
14209 Endeavour Compania Naviera S.A. Tran-
14210 Sun Rice Line Inc. S.A. Rio.
14211 Sea Commerce Corp.: Ocean Spr สร.
14213 Olympia Santa Shipping Co. S.A.
14215 Donn Maritime Corp. S.A. Dexterity
14216 Fores Sea Transport Corp.: Seaflower.
14227 Oy Nils Fisher Co. Ltd. Goya No. 57.
14229 Inca.
14235 Lia Heredero de Navegacion S.A. Falsa
14231 Vanu Shipping Co. N.V. Varna, Martina.
14236 Oceanstar Corp.: Lussuf.
14237 Salzamet Shipping Corp: Fast Roter.
14243 Dahli Maritime Enterprits Inc. Hildes-
14244 Gypsyphila Shipping Corp. Aosta Way.
14246 Delos Shipping Co., Ltd. Delos.
14253 Libertan Mainer Transporti, Inc. Golden
14258 RedRum Fishing NV. Dala de Sao Bra-
14259 Maritima Gysyous Kabushiri Kalchs.
14260 Mita Gysyous Kabushiki Kalsch.
14261 Kubamaro Gysyous Ekany Kumbul.
14262. Co. Ltd.: Astara.
14263 Bomu Jitsuko Co., Ltd: Kumbali Horu No. 28.
14264 Kabushiki Kabushiki Kabushiri Sho	no Maru No. 2.
14265. Tadai Gysyous Kabushiki Kalsch.
14267. Rincan Shipping Corp.: Michelle Lemos.
14269. Heitenismai Navegacion Ltd: Heiten-
14270. Silver Arrow Shipping Co. S.A. Silver Ar-
14271 Galinas Shipping Ltd: Dorse Arano.
14276. Transmar Corp.: Theodore.
14302. A/S Sandberg Syltavernet E/O Marten-
14303. Takura Gysyous Kabushiki Kalsch Horo Maru No. 17.
14305. Kalsch Shipping Corp. Europe.
14306. Kalsa Shipping & Tradings Inc: Scarefinn

By the Commission.
FRANCIS C. HURNEY, Secretary.

[FR Doc. 78-24978 Filed 9-1-78; 8:45 am]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, III.; and San Juan, P.R. Interested parties may submit comments on each agreement, includ-

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978

[6730-01]

AGREEMENTS FILED

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814). Interested parties may inspect and obtain a copy of the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, III.; and San Juan, P.R. Interested parties may submit comments on each agreement, includ-
ing requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 25, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of law.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-2677-1.
Pleading Party: David Alsworth, Senior Counsel, Matson Navigation Co., P.O. Box 3933, San Francisco, Calif. 94119.

Summary: Agreement No. T-2677-1, between Matson Navigation Co. (Matson) and Seattle/Crescent Container Service (Crescent), modifies the basic agreement between the parties which provides for Crescent to perform stevedoring and terminal services for Matson subject to Matson's non-preferential assignment agreement with the Port of Seattle. Agreement No. T-2677-1 provides for Crescent, instead of Matson, to provide container moving and handling equipment and Matson will reimburse Crescent for its cost in hiring such equipment from Port of Seattle pursuant to its tariff.

Agreement No.: T-2999-2.
Pleading Party: H. W. Fellen, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1299, Seattle, Wash. 98111.

Summary: Agreement No. T-2999-2, between the Port of Seattle (Port) and Kerr Steamship Co., Inc. (Kerr) modifies the parties' basic agreement providing for the month-to-month lease to Kerr of approximately 10% of warehouse space at Transit Shed No. 3, Pier 46, Seattle, Wash., to be used for the stuffing and unstuffing of containers, the purpose of the modification is to increase the rental amount paid by Kerr, from $800 to $1,100 per month and to increase the lease deposit from $600 to $1,100.

Agreement No.: T-3694.
Pleading Party: Francis X. Nolan, Kirklin, Campbell & Keating, One Twenty Broadway, New York, N.Y. 10005.

Summary: Agreement No. T-3694, between International Terminal Operating Co. (I.T.O.) and Chilean Line, Inc. (Chilean Line), provides for I.T.O. to perform stevedoring and terminal services for Chilean Line at Port Newark, N.J. The services will be performed at rates agreed upon by both I.T.O. and Chilean Line. The agreement will continue in effect until cancelled by either party upon 30 days' written notice to the other party.

Agreement No.: T-3289-4.
Pleading Party: Mr. Carl S. Parker, Jr., Traffic Manager, Port of Galveston, P.O. Box 339, Galveston, Tex. 77553.

Summary: Agreement No. T-3289-4, between the Board of Trustees of Galveston Wharves (Wharves) and Bunge Corp. (Bunge), modifies the lease between the parties of a grain elevator and terminal facilities. This modification enlarges the leased premises to include an area adjacent to the existing leased facilities. The additional area consists of approximately 42,092 square feet and is further described in the amendment. As compensation, Bunge will pay Wharves additional quarterly rental payments of $1,262.76.

Agreement No.: 10353.
Pleading Party: John R. Mahoney, Esq., Burlington Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Summary: Agreement No. 10353 between Associated Operating Co., Ltd. and Skagen & Co. A/S would establish a joint service entitled Transatlantic Maritime Services to be operated by the parties in the trade between U.S. Atlantic and Gulf Coast ports and ports in Europe in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.
FRANCIS C. HURNEY,
Secretary.

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 36692 on August 28, 1978, that meetings of the Federal Prevailing Rate Advisory Committee will be held on September 7, September 21, and September 28, 1978. This is notice that the meeting scheduled for September 7 has been canceled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.


[6820-22]

GENERAL SERVICES ADMINISTRATION REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, September 29, 1978, from 9 a.m. to 3 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets SW., Auburn, Wash. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for a 1-year Supplemental A/E Services contract for Oregon State, west of the Cascade Crest. The meeting will be open to the public.

R. D. CASAD, Regional Administrator.

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration PANEL ON REVIEW OF ANTIMICROBIAL AGENTS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice that the Panel on Review of Antimicrobial Agents meeting announced in a notice published in the Federal Register of August 18, 1978 (43 FR 36922) for September 22 and 23, 1978, has been changed to September 29 and 30, 1978. The meeting will be held in Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, on Friday, September 29, and at the Holiday Inn, Georgia Room, Bethesda, Md. 20014, on Saturday, September 30. The open public hearing will begin at 9 a.m. on Friday, September 29.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4900.


JOSEPH P. HILE, Associate Commissioner for Regulatory Affairs.

[FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978]
NOTICES

[4110-03]

(Docket No. 78N-0263)

ANTACID DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Final Classification of Category III Antacid Ingredients and Labeling Claims

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document contains the final decision that over-the-counter (OTC) antacid drug products having certain ingredients or combinations of ingredients and having certain labeling claims would be considered, not generally recognized as safe and effective for their intended use or, in the case of labeling, would be misbranded (Category II). OTC antacid drug products with the conditions subject to this notice are therefore regarded as new drugs requiring approval of new drug applications before they can be marketed in interstate commerce.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION:

The Commissioner of Food and Drugs issued in the Federal Register of June 4, 1974 (39 FR 19862) the final order for OTC antacid drug products generally recognized as safe and effective and not misbranded (21 CFR part 351). This order was issued under the OTC drug review procedures (21 CFR 330.10) promulgated in the Federal Register of May 11, 1972 (37 FR 9464) and the conclusions and recommendations of the Advisory Review Panel on OTC Antacid Drug Products.

Section 330.10(a)(5) of the OTC drug review procedures defines Category I, Category II, and Category III conditions as follows:

(i) A recommended monograph or monographs covering the category of OTC drugs and establishing conditions under which the drugs involved are generally recognized as safe and effective and not misbranded (Category I). This monograph may include any conditions relating to active ingredients, labeling liabilities, warnings and adequate directions for use, prescription of OTC status, and any other conditions necessary and appropriate for the safety and effectiveness of drugs covered by the monograph.

(ii) A statement of all active ingredients, labeling claims or other statements, or other conditions reviewed and excluded from the monograph on the basis of the panel's determination that they would result in the drug's not being generally recognized as safe and effective or would result in misbranding (Category II). This monograph may include any conditions relating to active ingredients, labeling liabilities, warnings and adequate directions for use, prescription of OTC status, and any other conditions necessary and appropriate for the safety and effectiveness of drugs covered by the monograph.

(iii) A statement of all active ingredients, labeling claims or other statements, or other conditions reviewed and excluded from the monograph on the basis of the panel's determination that the available data are insufficient to classify such conditions under either paragraph (i) or (ii) of this section and for which further testing is therefore required (Category III). The report may recommend the type of further testing required and the time period within which it might reasonably be concluded.

In the Federal Register of April 12, 1977 (42 FR 19137), the Commissioner amended §330.10(a)(1) to permit any product with a Category III condition (e.g., ingredient, combination of ingredients, labeling claim) to remain on the market or be introduced into the market during the testing period if the Food and Drug Administration (FDA) receives notification, pursuant to 21 CFR 330.10(c)(2) and (c)(3), that the sponsor has conducted a study or studies that would be sufficient to satisfy the responsible advisory panel's determination that the available data are sufficient to classify such conditions under either paragraph (i) or (ii) of this section and for which further testing is therefore required (Category III). The report may recommend the type of further testing required and the time period within which it might reasonably be concluded.

During the Category III testing period provided for OTC antacid drug products, data were submitted to FDA by Marion Laboratories, Inc., in support of a foam-forming antacid combination product containing the ingredients aluminum hydroxide dried gel, magnesium trisilicate, alginic acid, and sodium bicarbonate (OTC File No. 31-00088). In addition, two firms submitted data to support amendment of part 331 (the antacid monograph) to include the labeling indication "upset stomach" (Miles Laboratories, Inc. (OTC file No. 31-000192) and Warner-Lambert Co. (OTC file No. 31-115709).

Review of the petitions to amend the antacid monograph has been complicated by several factors. The claim "upset stomach due to overindulgence in food and drinks" is currently under review by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Although this claim is different from the "upset stomach" claim for which supporting data were submitted in the two petitions to amend the antacid monograph, the Commissioner has determined that it is appropriate to coordinate certain aspects of the review of these petitions with the ongoing review by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Accordingly, the final evaluation of the petitions to amend the antacid monograph to include the claim of "upset stomach" has been delayed.

In the case of the petition to amend the monograph to include an antacid combination containing alginic acid in Category I, the petitioner has clarified the rationale for including alginic acid in its final formulation, i.e., alginic acid reacts with the sodium bicarbonate in the formulation to form a foam that carries the antacid ingredients and floats on the stomach contents. The petitioner calls this a foam-forming floating antacid product. No claim is made that alginic acid has any antacid activity. Heretofore alginic acid had been reviewed and classified as an active antacid ingredient. Hence it has been necessary to reassess the petition in light of the sponsor's position regarding alginic acid.

For these reasons it has taken longer than anticipated to evaluate the test results that have been submitted in support of the three petitions to amend the antacid monograph, and because this evaluation is still ongoing, the Commissioner concludes that the final classification of Category III conditions for which no test results have been
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been submitted should not be further delayed.

The Commissioner will set forth his findings on the three petitions to amend OTC antacid drug products and Drug

quate and reliable scientific evidence was unknown or dubious, with no ade-

unproven. The relationship of these mechanisms, and none had been shown

standing as to pathophysiological mecha-

indigestion, gas, excessive eructations (belch-

ing), sour breath, stomach distress, coating, defoaming, demulcent, and carma-

ative. The Commissioner advised in the

cluded in one of the petitions to amend the antacid monograph and its,

including as safe and effective for antacid use; they are regarded as new drugs as defined in section 201(p) of the act (21 U.S.C. 321(p)) requiring approved new drug applications prior to marketing for antacid use.

Included among the Category III labeling claims discussed below, are classified in Category II for OTC antacid drug products and thus may not be marketed in interstate commerce unless they are the subject of a new drug application approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

in the preamble to the June 4, 1974 (39 FR 10873-19874) final order establishing part 331, the Commissioner determined that adequate and reliable scientific evidence was not available to permit final classification of the following OTC antacid active ingredients: Alginic acid, as defined in section 201(p), and associated gums, charcoal (activated), gastric mucin, kaolin, methylcellulose, pectin, and carboxymethylcellulose, and these ingredients were placed in Category III to allow for further testing.

Alginic acid, as discussed above, is included in one of the petitions to amend the antacid monograph and its status is, therefore, not affected by this notice. No data were submitted during the testing period in support of any of the other Category III ingredients identified above. As a result, none of those ingredients is generally recognized as safe and effective for antacid use; they are regarded as new drugs as defined in section 201(p) of the act (21 U.S.C. 321(p)) requiring approved new drug applications prior to marketing for antacid use.

Included among the Category III labeling claims identified in the preamble to the June 4, 1974 (39 FR 10874) antacid final order were claims alleging relief of the following symptoms not known to be related to acidity of gastric contents: Indigestion, gas, upper abdominal pressure, full feeling, nausea, excessive eructations (belching), and upset stomach. The Commissioner concluded that these symptoms were vague, most were poorly understood as to pathophysiological mechanisms, and none had been shown by adequate and reliable scientific evidence to be caused or alleviated by changes in gastric acidity.

Other claims or indications linking certain signs and symptoms with gastric acidity were placed in Category III on the ground that these claims were unproven: The relationship of these signs and symptoms to gastric acidity was unknown or dubious, with no adequate scientific evidence to support the use of antacids to relieving them. The following signs and symptoms were placed in Category III for this reason: Sour breath, upper abdominal pressure, full feeling, nausea, stomach disturbances as to cause, upset stomach, and excessive eructations. The Commissioner concurred with the Advisory Review Panel on OTC Antacid Drug Products that these claims or indications encouraged the user to rely on conclusions or in-termediation of such symptoms, conclusions that even members of the medical profession were incapable of drawing at that time.

Other claims relating to physical or chemical properties were placed in Category III on the ground that the currently available evidence was inadequate to support the conclusion that the properties contributed to the relief of upper gastrointestinal symptoms. The properties were: Floating, coating, defoaming, demulcent, and carminative. The Commissioner advised in the preamble to the June 4, 1974 (39 FR 10874) that continuation of use of these claims, or ones closely allied to them, would require additional studies both to confirm the claimed specific action and to demonstrate its clinical significance. The Commissioner will defer a final decision on the term “floating” until the review of the petition to amend the antacid final order to include a foam-forming floating antacid product in Category I has been completed.

No data was submitted during the testing period in support of any Category III antacid claim or property except “upset stomach” and “floating.” Accordingly, the following untested claims that were previously classified as Category III are now placed into Category II when used for OTC antacid drug products: Indigestion, gas, upper abdominal pressure, full feeling, nausea, excessive eructations (belching), sour breath, stomach distress, coating, defoaming, demulcent, and carminative. Antacid drug products that are initially introduced or delivered for introduction into interstate commerce after the effective date of this notice bearing these claims in their labeling will be in violation of sections 502 and 505 of the act (21 U.S.C. 352 and 355) and, therefore, subject to regulatory action.

The Commissioner is aware that confidentiality was requested by Marion Laboratories, Inc., Miles Laboratories, Inc., and Warner-Lambert Co., for information in their petitions submitted to amend the final order on OTC antacid products. The issue of whether such information is entitled to confidential status was fully discussed in paragraph 10 of the preamble to the April 12, 1977, amendments to § 330.10(a). However, to assure that there is no misunderstanding, the Commissioner reemphasizes several points made regarding the discernibility of all safety and effectiveness information. In submissions to amend OTC monographs. General recognition of safety and effectiveness is incompatible with Category III status, which looks toward establishment of general recognition of such safety and effectiveness. General recognition of safety and effectiveness cannot, as a definitional matter, be shown by reference to confidential material (see Weinberger v. Hynson, Westcott and Dunning, Inc., 412 U.S. 609, 632 (1973); Weinberger v. Benton Laboratories, Inc., 412 U.S. 644, 652 (1973)), and, therefore, all safety and effectiveness data and information submitted with a petition to amend a monograph to include a condition previously classified in Category III will become publicly available when the petition is received (see the Federal Register of April 12, 1977). With respect to the three petitions submitted to amend the antacid monograph, they will become publicly available on September 5, 1978. Any other approach would be inconsistent with both the goal and procedures of the OTC drug review. These petitions shall be maintained in a permanent file for public inspection in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The effective date of this notice is March 5, 1979. After that date, no person will be permitted to initially introduce or deliver for introduction into interstate commerce any OTC antacid drug product not included in the monograph established in 21 CFR Part 331, except as noted herein.


JOSEPH P. HILL
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-24141 Filed 9-1-76; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education and its two standing committees. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: Meetings: September 27, 28, and 29, 1978.

ADDRESS: The Downtown Howard Johnson's Hotel, 330 Loyola Avenue, New Orleans, La.

FOR FURTHER INFORMATION:


The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-539. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public: Beginning with the meetings of the two standing committees on Wednesday, September 27, from 4 to 7 p.m.; and the meetings of the full Council on Thursday, September 28, from 9:30 a.m. to 12 noon and 2 p.m. until 4 p.m.; and on Friday, September 29 from 9 a.m. until 12 noon.

The agenda for the Council meeting is summarized as follows:

A. WEDNESDAY, SEPTEMBER 27 (4-7 P.M.)

1. Meeting of the Continuing Education Policy Committee to discuss Federal policies for continuing education and the adult learner; and,

2. Meeting of the Title I Committee to discuss activities related to the reauthorization of the Higher Education Act.

B. THURSDAY, SEPTEMBER 28 (9:30 A.M. TO 12 NOON, AND 2-4 P.M.)

Meeting of the full Council will include discussion of Council plans for the future; and the discussion of prepared statements dealing with financial aid to the part-time student, private sector support for continuing education, educational opportunities for the unversed adult population, and staff training and development.

C. FRIDAY, SEPTEMBER 29 (9 A.M. TO 12 NOON)

Meeting of the full Council to continue discussion of Thursday session, and to hear and discuss Committee reports.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.


WILLIAM G. SHANNON,
Executive Director.

[FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978]
NOTICES

31A, Room 3A-03, National Institutes of Health, Bethesda, Md. 20014 (301-496-4345), will furnish summary minutes, rosters of committee members, and substantive program information.


Suzanne L. Freema, Committee Management Officer, NIH.

[FR Doc. 78-24826 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NIA

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 30-31, 1978, to be held at the Gerontology Research Center, Baltimore, Md. The meeting will be open to the public from 9 a.m. to adjournment on Monday, October 30, and from 9 a.m. until noon on Tuesday, October 31. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12:30 p.m. until the conclusion of the meeting on November 3 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Suzanne H. Porter, Committee Management Officer, NIH, Building 31, Room 5C05, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-5345, will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Md. 21224, will furnish substantive program information.


Suzanne L. Freema, Committee Management Officer, NIH.

[FR Doc. 78-24827 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NINCDS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, November 2 and 3, 1978, in Conference Room 13-07, Building 36, Bethesda, Md. 20014. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on November 2 and 9:00 a.m. to 12:30 p.m. on November 3 is discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12:30 p.m. until the conclusion of the meeting on November 3 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Ms. Sylvia Shaffer, Building 31, Room 5A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

The executive secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director, of Intramural Research Program, NINCDS, Building 36, Room 5A05, NIH, Bethesda, Md. 20014, telephone 301-496-4297.

(Catalog of Federal Domestic Assistance Program No. 10.356, National Institutes of Health.)


Suzanne L. Freema, Committee Management Officer, NIH.

[FR Doc. 78-24828 Filed 9-1-78; 8:45 am]

[4110-08]

EPILEPSY ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, October 27, 1978, in Room 6C01, Federal Building, NIH, Bethesda, Md. 20014.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Dr. J. Kiffin Penry, Chief, Epilepsy Branch, 'Neurological Disorders Program, NINCDS (Federal Building, Room 114), Bethesda, Md. 20014, telephone 301-496-5708, will Furnish summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)


Suzanne L. Freema, Committee Management Officer, NIH.

[FR Doc. 78-24825 Filed 9-1-78; 8:45 am]

[4110-08]

NUTRITION STUDY SECTION

Workshop

Notice is hereby given of a workshop on Primates in Nutrition to be held by the Nutrition Study Section at the Oregon Regional Primate Center, Beaver, Oregon, October 23, 1978, from 8:30 a.m. until recess and October 24, 1978, from 8:30 a.m. until adjournment.

Further information may be obtained from Dr. John R. Schuber, Executive Secretary, Nutrition Study Section, Westwood Building, Room 204, telephone 301-496-7178.

This workshop will be open to the public. Attendance by the public will be limited to space available.


Suzanne L. Freema, Committee Management Officer, NIH.

[FR Doc. 78-24823 Filed 9-1-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B34, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will furnish summaries of the meetings and rosters of committee members, upon request.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Other information pertaining to the meeting can be obtained from the executive secretary indicated.

Name of committee: President's Cancer Panel.
Dated: October 19, 1978; 2:30 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and of the national cancer program.

Executive secretary: Dr. Richard T. Jatema, Building 31, Room 11A46, National Institutes of Health, 301-496-5854.

Name of committee: Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Dated: October 17-18, 1978; 9 a.m. to adjournment.
Place: Building 31, Conference Room 11A10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Initial meeting of the Board. Discussions will cover general items re future direction of the Division of Cancer Cause and Prevention and orientation for members of the Board.

Executive secretary: Dr. David M. Howell, Building 31, Room 11A04, National Institutes of Health, 301-496-5846.

Name of committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogenesis.
Dated: October 24, 1978; 9 a.m. to adjournment.
Place: Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md., 20014.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive secretary: Dr. J. Dan Recer, Landow Building, Room 8C25, National Institutes of Health, 301-496-4663.

Name of committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogenesis.
Dated: October 25, 1978; 9 a.m. to adjournment.
Place: Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md., 20014.
Times: Open for the entire meeting.
Agenda: To discuss experimental design for bioassay and other matters relevant to experimental design.
Executive secretary: Dr. J. Dan Recer, Landow Building, Room 8C25, National Institutes of Health, 301-496-4663.

Name of committee: Data evaluation/Risk Assessment of the Clearinghouse on Environmental Carcinogenesis.
Dated: October 26, 1978; 9 a.m. to adjournment.
Place: Landow Building, Conference Room A, 1910 Woodmont Avenue, Bethesda, Md., 20014.
Times: Open for the entire meeting.
Agenda: To review available bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health, 301-498-5108.

NOTICES


SUZANNE L. PREZEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24822 Filed 9-1-78; 2:45 am]

[4110-08]

WORKSHOP ON ALCOHOL AND CANCER Meeting

Notice is hereby given of the Workshop on Alcohol and Cancer sponsored by the National Cancer Institute, Division of Cancer Control and Rehabilitation and the National Institute of Alcohol Abuse and Alcoholism, Division of Extramural Research, October 23 and 24, 1978, Building 31, Conference Room 10, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on October 23 from 9 a.m. to 5:30 p.m. and October 24, 1978, from 9 a.m. to 5:30 p.m. for presentation of scientific papers. Attendance of the public will be limited to space available.

Dr. Vincent Groupe, cochairman of the Workshop Committee, Division of Cancer Control and Rehabilitation, Blair Building, Room 701, National Cancer Institute, National Institutes of Health, Bethesda, Md. 20014 (301-427-7953), will provide additional information.


SUZANNE L. PREZEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24824 Filed 9-1-78; 2:45 am]

[4110-08]

REPORT ON BIOASSAY OF ETHIOHAMIDE FOR POSSIBLE CARCINOGENICITY

Availability

Ethionamide (CAS 585-33-4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the chemotherapeutic drug ethionamide for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 34 or 35 mice of each sex were administered ethionamide at one of the following doses, either 1,500 or 3,000 p.p.m. for the rats and either 1,000 or 2,000 p.p.m. for the mice. The animals were treated 3 days per week for 78 weeks, then observed for an additional 25 or 26 weeks. Matched controls consisted of groups of 15 untreated rats and 15 untreated mice of each sex. All surviving animals were killed at 103 or 104 weeks.

Mean body weights of the treated rats and mice were lower than those of the corresponding matched controls.

O. D. L. S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc. 78-24821 Filed 9-1-78; 2:45 am]

[4110-08]

REPORT ON BIOASSAY OF 4-CHLORO-M-PHENYLENEDIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

4-Chloro-m-phenylenediamine (CAS 5131-60-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4-chloro-m-phenylenediamine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 4-Chloro-m-phenylenediamine was administered in the feed, at either of two concentrations, to groups of 49 or 50 male and 50 female animals of each species. The dietary concentrations used in the chronic bioassay for low- and high-dose rats were 0.2 and 0.4 percent, respectively. The time-weighted average dietary concentrations used for low- and high-dose mice were 0.7 and 1.4 percent, respectively. After a 78-week period of compound administration, observation of rats continued for an additional 27 weeks and observation of mice continued for an additional 17 weeks. For each species, 50 animals of each sex were placed on test as untreated controls.

In both species, adequate numbers of animals in all groups survived long enough to be at risk from late-developing tumors.

Under the conditions of this bioassay, dietary administration of 4-chloro-m-phenylenediamine was carcinogenic to the experimental animals, causing an increased incidence of hepatocellular tumors in female B6C3F1 mice and an increased incidence of adrenal pheochromocytomas in male Fischer 344 rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)


DONALD S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc. 78-24821 Filed 9-1-78; 2:45 am]
during most or all of the study. Survival in the rats was sufficient to allow development of late-appearing tumors. In the mice, survival of the high-dose males (27%), matched-control males (7%), and low-dose females (37%) to the end of the study was low, and the deaths were associated with suppurative lung lesions. However, tests for dose-related trend in mortality were not significant in either sex, and 47% or more of all groups of mice except control males were alive at 78 weeks. It is concluded that under the conditions of this bioassay, ethionamide was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Prevention Research, Health Resources Administration, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014. [Catalogue of Federal Domestic Assistance Program Number 15.393, Cancer Cause and Prevention Research]


DONALD S. FREDERICKSON, Director, National Institutes of Health.

(FR Doc. 78-24820 Filed 9-1-78; 8:49 am)

[4110-83]

Public Health Service

HEALTH RESOURCES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HR (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (42 FR 61329, December 2, 1977) is amended to reflect numerous changes in the program responsibilities and operational requirements of existing components of the Health Resources Administration (HRA) and the establishment of the Bureau of Health Professionals Financing, Compliance, and Conversion. The current statement for HRA is deleted in its entirety and replaced by the following:

Section HR-A mission. The mission of the Health Resources Administration is to identify health care resource problems and maintain or strengthen the distribution, supply utilization, quality, and cost-effectiveness of these resources to improve the health care system and individual health status.

Major thrusts include the development of a national health planning capability geared to promoting equal access to quality health care at a reasonable cost, containing health care costs, particularly hospital costs, and promoting innovative strategies and targeted development of manpower, facilities, and other resources required for an effective health care system.

Section HRA-Program and functions. The Health Resources Administration is directed by an Administrator who is responsible to the Assistant Secretary for Health. The Administration consists of the following major components, with functions indicated:

Office of the Administrator (HRA)

Provides leadership and direction to the programs and activities of the Health Resources Administration.

Immediate Office of the Administrator (HRAI). (1) Provides leadership for the execution of administration responsibilities related to the development of a national policy with respect to the identification, deployment, and utilization of physical, financial, and personnel resources in the achievement of optimal health services for the people of the United States; (2) manages and directs the activities of the Administrator and supervises and stimulates programs designed to encourage the training and full utilization of minority and disadvantaged persons both within the administration and, in the case of health professions, on a nationwide basis; (4) directs the coordination of the administration's activities, both internally and with other components of the Department of Health, Education, and Welfare, to assure adequate resources for a comprehensive health-service system; and (5) provides liaison with major health systems and organizations, both governmental and private, national and international, to promote collaboration and interchange of information in support of national health goals.

Office of equal employment opportunity (HRA12). (1) Plans, directs, and coordinates Equal Employment Opportunity (EEO) programs covering headquarters and field employees; (2) provides staff advice to the Administrator and to other key officials throughout the Health Resources Administration with respect to policies, plans, procedures, regulations, and reports pertaining to the general equal employment opportunity policy of the Federal Government and the Department's programs established under Executive Order 11478, Pub. L. 92-261, and Pub. L. 93-259; (3) plans and develops programs and procedures designed to eliminate discriminatory employment practices; (4) receives and provides for the investigation of complaints of alleged discrimination; and (5) maintains liaison with the Office of the Assistant Secretary for Health, DEW, and the Civil Service Commission, and other organizations outside the HRA concerned with equal employment opportunity.

Office of program policy coordination (HRA14). (1) Advises the Administrator and, upon his direction, other top HRA officials, in the identification and where appropriate, resolution of program policy issues, initiatives and problems; (2) performs the secretariat function for the Administrator in his role as chairperson of the HRA Policy Board; (3) interacts on program and policy matters with the national councils on health planning and development, the graduate medical education, national advisory council, and other public advisory groups, and performs executive secretariat and related support functions for such councils and groups; (4) plans, organizes, and directs the Executive Secretariat of the Administration, with primary responsibility for preparation and management of written communications to and from the Administrator; (5) coordinates the preparation of proposed rules and regulations relating to HRA programs, and coordinates HRA review and comment on proposed HEW regulations that may affect HRA programs; (6) in cooperation with the Office of Communications, HRA, organizes and coordinates speaking engagements involving the Administrator and other HRA officials; and (7) organizes and manages the committee management system of the Administration.

Office of Communications (HRA4). (1) Directs, formulates policy for, conducts, and coordinates communications activities of the Health Resources Administration; (2) provides communications expertise and staff advice to the Administrator in support of program and policy formulation and execution; (3) establishes and maintains productive relationships with the communications media; (4) establishes and implements policies for review, processing, quality control, and dissemination of HRA program communications materials; (5) provides central communications and graphic arts services to all HRA programs; and (6) serves as focal point for coordination of HRA communications activities with those of other health agencies within HEW and with regional, State, local, voluntary, and professional organizations.

Office of Operations and Management (HRA5). (1) Provides Administration-wide leadership in all phases of management and for direct conduct or general supervision of Administration-wide operational functions; (2) directs and coordinates the Administration's activities in the areas of management policy, operational planning, systems management, financial management, procurement and material management, grants management, and personnel management; (3) advises the Administrator on management implications of Administration plans and programs; (4) directs and coordinates the development of HRA's annual zero
(2) provides analysis, recommendations, and guidance related to the establishment or modification of organizational structures and functions; (3) conducts and coordinates HRA-wide management improvement programs, including manpower utilization and productivity measurement; (4) participates in program and legislative planning and implementation from the standpoint of assuring recognition of management problems; (5) initiates or reviews proposed program and administrative delegations of authority; (6) conducts and coordinates the HRA issuance management system; (7) conducts and coordinates the HRA records, reports, and forms management programs; (8) coordinates HRA, as required, PHS responses to GAO and HEW program audit reports; (9) oversees and coordinates HRA implementation of legislation and directives relating to the privacy of records; (10) prepares and maintains the HRA index of policy documents required to implement freedom of information legislation and directives; (11) conducts management studies and surveys; and (12) negotiates solutions to intra- and interagency problems and issues in such areas as organizations, functions, delegations, and procedures.

Division of Financial Management (HRA52). (1) Provides advice and assistance to the Administrator in financial planning and analysis; (2) collaborates with the Office of Planning, Evaluation, and Legislation in the forward planning process, and assists in the development of the Administration’s annual zero base budget (ZBB); (3) provides assistance in the development and implementation of an Administration-wide budget system and prepares budget submissions; (4) directs the Administration’s fiscal activities; (5) develops and implements systems for allocating funds within the Health Resources Administration and maintaining accounting records and controls; (6) participates in the development of policies and procedures concerning financial, administrative, and fiscal management and coordinated research and development contracts; (7) develops fund ceilings for travel, prepares reports on the status of travel funds, provides travel cost advisory services, develops and maintains travel regulations and procedures, and provides agent cashier services for HRA; and (8) maintains liaison with the Office of the Assistant Secretary for Health and the Office of the Secretary.

Division of Grants and Procurement Management (HRA54). (1) Provides leadership in the planning, development, and implementation of policies and procedures for grants and contracts; (2) exercises the sole responsibility within HRA for the management and award of contracts; (3) provides advice and consultation on interpretation and application of PHS and departmental polices and procedures affecting contracts and grants management; (4) develops and issues policy and procedural materials for the Administration’s contract and grant programs; (5) establishes standards and procedures for evaluating contracts and grants management operations throughout the Administration; (6) coordinates Administration positions and actions with respect to the audit of grants and contracts; (7) provides professional accounting advice relative to the management of contracts and grants; (8) maintains liaison, directly or through the Regional Health Administrators, with grantee institutions and organizations and with the Office of the Assistant Secretary for Health and other components of the Department; and (9) advises on and coordinates Administration-wide policies and procedures required to implement GSA and departmental regulations governing materiel management, including transportation, motor vehicles, and utilization and disposal of personal property.

Division of Personnel Management (HRA55). (1) Provides personnel management advice and assistance to the Administrator and to managers and supervisors within its servicing area; (2) participates in the development of HRA goals and operating plans related to personnel management; (3) within its servicing area, provides personnel management and personnel administration services, including manpower planning and utilization, employment, employee relations, management and executive and career development, upward mobility, labor relations, employee relations, and occupational health; (4) prepares staff studies and recommendations for HRA and management on personnel needs and problems; (5) identifies the need for personnel policies and programs to PHS and collaborates with PHS, as appropriate, in the development of such policies and programs; (6) develops and implements operating procedures and interprets policies to the extent necessary to meet the special needs of the Health Resources Administration in the application of personnel policies and procedures; (7) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies; and (8) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies; and (9) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies; and (10) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies; and (11) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies; and (12) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, and other Government agencies;
and optimal use of automatic data processing (ADP) systems in support of HRA mission and program goals; (2) provides a computerized system of operations analysis, programing, data communications, and data maintenance; (3) supports the HRA staff offices and Bureaus in the processing, storing, retrieving, and reporting of data for survey, program, operational, and administrative activities; in the application of operations research methodology; and in the development of management information systems; (4) serves as liaison between HRA and the Office of the Assistant Secretary for Health (OASH) on all ADP matters; (5) evaluates and audits ADP activities to assure compliance with management and security policies and procedures issued by OASH, DH EW, the Office of Management and Budget, and the General Services Administration; and (6) provides, for HRA and OASH elements, a remote communications control facility for transmission and receipt of automated data and from PHS and other computer centers.

Office of Planning, Evaluation, and Legislation (HRA6). Serves as the Administrator's principal advisor on long- and short-range goals for meeting the health resource needs of the nation. Develops related plans and evaluative activities and designs legislative proposals. Specifically: (1) Assesses HRA leadership in planning for the most effective use of health care resources; (2) conducts ERA policy and outcome evaluations and coordinates operational and other evaluations to provide objective measurements of program effectiveness and performance; (3) prepares legislative analyses to assure the fullest possible consideration of programmatic requirements in meeting established Departmental and PHS goals; (4) as determined by the Administrator, HRA, and in collaboration with the Office of the Director, Office of Operations and Management, maintains liaison, directly or through the regional health Administrators, with State or local health officials and with the private health sector to achieve common understanding and effective coordination; (5) maintains surveillance of HRA data collection, research and development and other intelligence which contributes to pertinent policy analyses and anticipates issues which may demand legislative action; (6) provides, the HRA focal point and leadership for international health policies, programs, and activities; and (7) coordinates ERA efforts with other PHS and Departmental activities, the Office of Health Policy, Research, and Statistics, OASH, the Office of the Assistant Secretary for Legislation, and the Office of the Assistant Secretary for Planning and Evaluation.

Division of Evaluation (HRA61). (1) Develops programs and a system for evaluating the long-range outcomes of HRA policies and programs; (2) promotes throughout HRA an appreciation of the need for objective measurements of the results of all programs supported by grants and contracts; (3) works closely with relevant data and information gathering activities to enhance the quantification and validity of evaluation studies; (4) reviews and coordinates plans of HRA Bureaus for evaluations of the operations of programs and activities; (5) conducts training of HRA staff responsible for evaluating the effectiveness and results of agency programs; (6) coordinates HRA's public-use reports clearinghouse; and (7) coordinates efforts with other PHS and Departmental evaluation activities.

Division of Planning (HRA52). (1) Develops and coordinates ERA contributions to the forward planning process and its relation to budgetary processes; (2) in close collaboration with the Office of the Director, Office of Operations and Management, guides and reviews plans and their relationship to forward planning, and monitors their implementation; (3) coordinates interrelated Bureau activities which influence programmatic planning; (4) conducts and maintains surveillance over program analysis activities; and (5) coordinates efforts with other PHS and Departmental planning activities.

Division of Legislation (HRA53). (1) Maintains continuous review of legislation which affects the activities of HRA; (2) prepares materials for testimony before Congressional committees; (3) assists in the interpretation of HRA responsibilities to Departmental and PHS legislative needs; (5) keeps HRA programs informed on legislative matters and provides analyses of pending bills and new laws; (6) promotes a rational approach to health legislation, identifying conflicts, gaps, or other barriers to the achievement of Departmental goals; (7) maintains current data on major changes in State laws which influence health resources, with particular attention to conflicts between Federal and State laws; (8) anticipates the need for data and analyses which may be demanded by Congressional or Departmental legislative interests; and (9) coordinates efforts with other PHS and Departmental activities.

Office of Health Resources Opportunity (HRA7). Provides the HRA focal point and leadership for assuring equity in access to health services and health careers for the disadvantaged. Specifically: (1) Provides technical assistance to groups that represent and seek to improve the health status of the disadvantaged, and facilitates the access of such groups to HRA and other Federal resources; (2) provides leadership and direction for the development and implementation of HRA objectives as they relate to the disadvantaged; (3) develops and recommends health resources and career opportunities for the disadvantaged; (4) initiates, stimulates, supports, coordinates, and evaluates HRA manpower and planning programs for improving the availability and accessibility of health services and health careers for the disadvantaged; (5) initiates, stimulates, supports, coordinates, and evaluates in conjunction with other HRA units, comprehensive data systems and analyses on requirements, resources, accessibility, and accountability of the health delivery system for the disadvantaged; (6) conducts extramural programs, including the use of grants and contracts, specifically designed to promote equity in access to health services and health careers; (7) assures contract compliance and implementation of the PHS Policy Statement on Civil Rights in HRA; (8) provides leadership for and assistance to Native American program initiatives through coordination with HRA Bureaus and in collaboration with other appropriate DH EW entities; (9) conducts and coordinates HRA programs in health careers for women; (10) provides HRA leadership to develop and coordinate HRA program support to student health organizations; and (11) provides advice and consultation to the Office of the Assistant Secretary for Health and PHS agencies on policy and other matters related to assuring equity in access to health services and health careers for the disadvantaged.

Division of Analysis and Evaluation (HRA74). (1) Performs the following functions pertaining to achieving equity in health care careers and to the delivery of health services for
the disadvantaged: (1) Serves as the principal focus in HRA for planning, coordinating, supporting, and administering new programs efforts in support of grants or contracts; (2) develops general strategies for HRA for improving access to health resources and provides advice for policy making and planning, including initiating program-supported reports, promotes, and engages in cooperative efforts with other HRA components in new programs related to the disadvantaged; (4) develops, tests, and demonstrates new and improved methodologies; (5) administers development and utilization of health personnel within various patterns of health care delivery and financing systems; (6) provides financial support to institutions and individuals for health education programs; (7) administers Federal programs for targeted manpower development and utilization; (7) provides technical assistance, consultation, and special financial assistance to national, State, and local agencies, organizations, and institutions for the development, production, utilization, and evaluation of health manpower; (8) provides linkage between Bureau headquarters and PHS Regional Office activities related to manpower education and utilization by providing training, technical assistance, and consultation to Regional Office staff; (9) coordinates with the programs of the Office of the Secretary of the Department, and in other Federal departments and agencies concerned with health manpower development and health care services; (10) provides liaison and coordinates with non-Federal governmental entities concerned with health manpower development and utilization; and (11) In coordination with the Office of the Administrator, HRA, serves as a focus for and coordinates technical assistance activities in the technical aspects of health manpower development, including the conduct of special international projects relevant to domestic health manpower problems.

Division of Program Coordination (HRA73). (1) Provides the principal focus for planning, coordinating, and supporting ongoing program efforts to assure equity in access to health careers and access to and the delivery of health services for the disadvantaged; (2) administers Federal grant and contract programs that promote equity in access to health resources for the disadvantaged; (3) provides technical assistance to developing nongovernmental entities to enhance their ability to address the health resources problems of the disadvantaged; (4) coordinates Intra-HRA review of grants and contracts for their impact on programs of access to health careers and health services for the disadvantaged; (5) administers Federal, State, and non-Federal governmental and non-Federal organizations and agencies with health manpower development interests and responsibilities; (4) develops and implements the Bureau's civil rights plan in accordance with guidelines established by HRA, OASH, and the Department; and (5) directs and coordinates Bureau programs in support of Equal Employment Opportunity.

Bureau of Health Manpower (HRM)

The Bureau of Health Manpower provides national leadership in coordinating, evaluating, and supporting the development and utilization of the nation's health manpower. Specifically: (1) Assesses the nation's health manpower needs and requirements and develops and administers programs to meet those requirements; (2) collects and analyzes data and disseminates information on the characteristics and capabilities of the nation's health manpower production; (3) maintains intergovernmental linkages and collaborates with those programs that have mutual interest in ensuring that all Americans have equal access to available health resources; and (6) serves as a clearinghouse for information on health services and health careers programs for the disadvantaged.

Office of the Director (HRM1). (1) Directs and provides leadership to the national health manpower education and development programs and activities; (2) provides policy guidance and staff direction to the Bureau; (3) plans, directs, coordinates, and maintains intergovernmental linkages and collaborates with those programs that have mutual interest in ensuring that all Americans have equal access to available health resources; and (6) serves as a clearinghouse for information on health services and health careers programs for the disadvantaged.

Office of Program Support (HRM12). Plans, directs, coordinates, and evaluates Bureau-wide administrative and management support activities; directs and coordinates the Bureau's legislative implementation activities; performs the Bureau's grants management and generalized contracts liaison functions; and provides Bureau liaison with the PHS Regional Offices. Specifically: (1) Provides or serves as liaison and coordination for program support services and resources, including equipment and supplies, printing, property, space, correspondence control, manual issuances, forms, records, and reports; (2) directs, coordinates, and supports the Bureau's manpower management activities and advises the Bureau Director on the allocation of the Bureau's personnel resources; (3) provides organization and management analysis for the Bureau, develops policy and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates, the operating program and administrative delegations of authority activities; (5) in cooperation with the Office of Operations and Management, HRA, develops and carries out a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the National Advisory Council on Health Professions Education; (9) participates in the development of implementation plans and processes for health manpower legislation, including the development, clearance, and dissemination of regulations, criteria, guidelines, policy statements, and technical assistance to develop and disseminate program objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, guides, and coordinates program planning, reporting, and evaluation activities of the Divisions and staff offices; (2) provides staff services to the Bureau Director, for program planning and its relation to the budgetary process, Congressional reports, and evaluation; (3) prepares the Bureau's forward plan; (4) develops and implements the Bureau's evaluation programs; (5) provides staff services
and coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development and operation of proposals, the analysis of existing and pending legislation, liaison with other agencies, and distribution of legislative materials; (6) directs and assists Bureau-wide and individual Division efforts in the design and operation of program management information systems; (7) produces program management information and progress reports; and (8) provides direction to the development of professional education learning resources and conducts learning resources development activities.

**Division of Associated Health Professions (HRM3).** Serves as a principal focus with regard to health manpower in the fields of optometry, pharmacy, veterinary medicine, public health, and allied health professions and occupations. Specifically: (1) Provides professional direction and leadership for planning, evaluation, and credentialing of health professions; (2) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices; (3) directs and assists Bureau in carrying out its responsibilities for planning, coordinating, evaluating, and support appropriate utilization of the Nation's health manpower resources; (4) supports and conducts programs with respect to the development, use, and credentialing of such personnel; (5) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices; (6) maintains liaison with relevant health professions institutional support and student assistance; (7) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices; and (7) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices.

**Division of Dentistry (HRM3).** Serves as a principal focus for dentistry with regard to dental education, practice, and manpower and service research. Specifically: (1) Provides professional dental expertise and leadership required by the Bureau in carrying out its responsibilities for planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower resources; (2) supports and conducts programs with respect to the development, use, and credentialing of dental personnel, including dentists, dental hygienists, expanded function auxiliaries, dental assistants, and dental technicians; (3) conducts and supports studies designed to determine and improve the organization, financing, personnel mix, quality, environment, and capabilities of the Nation's dental delivery system; (4) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the capacity of and the interrelationships between individuals on the team, their tasks, educational requirements, and related training modalities; (5) maintains liaison with health professional groups and others, including consumers, having common interests in the Nation's capacity to deliver dental services; (6) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including agencies of the Federal Government and PHS regional offices, on all aspects of dental expertise relevant to the division's functions.

**Division of Medicine (HRM4).** Serves as the principal focus with regard to education, practice, and research of medical manpower, with special emphasis on allopathic and osteopathic physicians, podiatrists, and closely associated assistants, particularly physician's assistants. Specifically: (1) Provides the professional expertise and leadership required by the Bureau for planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower for medicine professions; (2) supports and conducts programs with respect to the development, use, quality, and credentialing of such personnel; (3) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between the members of the health care team, their tasks, education requirements, and training modalities; (4) supports and encourages the planning, development, and operation of regionally integrated educational systems; (5) supports and conducts programs with respect to activities associated with the international migration, domestic training, and utilization of health manpower for medicine professions; (6) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices; and (7) maintains liaison with relevant health professions institutional support and student assistance.

**Division of Nursing (HRM5).** Serves as the principal focus for nursing education, practice, and research. Specifically: (1) Provides the professional nursing expertise and leadership required by the Bureau in planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower resources; (2) supports and conducts programs with respect to the development, use, quality, and credentialing of nursing personnel, including registered nurses, practical or vocational nurses, and nursing students; (3) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between individuals, families, and communities, having common interest in the Nation's capacity to deliver nursing services; (7) fosters, supports, and conducts projects to expand the scientific knowledge base in the field of nursing; (8) reformulates and to develop and incorporate new knowledge into practice and education; and (9) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including the Federal Government, on all aspects of nursing relevant to the division's functions.

**Division of Manpower Training Support (HRM6).** Serves as the Federal focal point for the Health Professions and Nursing Student Loan and Scholarship Programs, the Exceptional Financial Need Scholarship Program, the Physician Shortage Area Scholarship Program, the Public Health Service Scholarship Training Program, the National Health Service Corps Scholarship Program, the Health Professions and Nurse Education Loan Refund and Loan Cancellation Programs, the Lister Hill Scholarship Program, and the Cuban Refugee Health Professions Loan Program. Specifically: (1) Directs and administers these programs; (2) develops and implements program plans and policies and operating and evaluation plans and procedures; (3) monitors and assesses educational institutions with respect to Federal support for students; (4) provides guidance and technical assistance to Public Health Service staff in Regional Offices; (5) develops and conducts training activities for staff of educational institutions and Regional Offices; (6) operates financial services and maintains fiscal control; and (7) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions.

**Division of Manpower Analysis (HRM7).** Serves as the focal point for...
health manpower analysis and health manpower planning activities. Specifically: (1) In conjunction with other BIM and HRA components, conducts and directs a coordinated program of analyses and studies of the present health care system and the past, current, and future supply of health professionals and allied workers in that system; (2) develops models of existing and potential health care systems in order to analyze, estimate, and evaluate current health manpower and resources supply and requirements, and projects future supply and requirements under varying assumptions; (3) in cooperation with the categorical Divisions and programs of the Bureau, conducts analyses, studies, and research on the geographic distribution and misdistribution of health manpower and identifies and designates health manpower shortage areas; (4) in cooperation with the Bureau of Health Facilities Financing, Compliance, and Conversion, conducts studies and analyses on the relationship between the availability of varying types and mixes of health professionals and the functional efficiency of different types of health facilities; (5) utilizing general-purpose and other data collected by such organizations as the National Center for Health Statistics, the National Center for Health Services Research, and the Health Care Financing Administration, develops and maintains computer data bases for the analysis of health manpower supply, utilization, requirements, geographic distribution, costs, and related issues; (7) assesses the impact and policy implications of socio-economic, technological, scientific, financing, and health delivery systems development on health manpower, especially as they relate to health manpower education and training; (8) serves as the Bureau's managing and coordinating point for Office of Management and Budget clearance for surveys and data collection instruments; (9) provides technical, economic, and statistical assistance to the Bureau's other Divisions as needed, and develops data and analyses to meet other Division needs; and (10) maintains liaison and represents the Bureau in dealing with HRA, PHS, DHF, and analytical and statistical organizations inside and outside the Federal Government, and serves as a focal point for dissemination of Bureau and other manpower data and analyses.

**BUREAU OF HEALTH PLANNING (HRP)**

The Bureau of Health Planning (BHP) provides national leadership and administration of a program of Federal, State, and area health planning and health delivery systems development. To this end, the Bureau: (1) Facilitates implementation of a nationwide network of local health system agencies (HSA's) responsible for preparing and implementing plans to increase the accessibility, acceptability, continuity, and quality of health services in the areas, and to restrain increases in the costs of the areas' health services; (2) provides for the designation, and supports the effective functioning, of State health planning and development agencies (SHPDAs)'s responsible for performing the State government's health planning, regulatory, and facilitate development activities, including provision of and staff support to statewide health coordinating council (SHCC's) which must coordinate HSA's plans and prepare and establish State health plans; (3) administers a grant program of financial assistance for State and local health systems development activities; (4) provides technical and other nonfinancial assistance and support to the planning agencies by conducting studies and analyses on health planning, health resources, and health delivery systems development, engendering improved health planning approaches, methodologies, policies and standards, and establishing multidisciplinary centers for health planning; (5) develops and applies performance standards, guidelines, and criteria for governing the structure, operation, and performance of the health systems agencies and State agencies; (6) coordinates Bureau activities with other components of HRA, the Office of the Assistant Secretary for Health (OA), and other Federal agencies and local agencies and groups concerned with health planning, health resources, and health delivery systems development; and (7) establishes and directs the implementation of policies, criteria, and procedures related to applications for and the allocation and utilization of area health services development funds.

**Office of the Director (HRPI).** Provides overall executive management of the Bureau's activities. Specifically: (1) Plans, directs, administers, coordinates, and evaluates national health planning and resources development program activities conducted under title XV of the PHS Act and section 1640 of the Act as amended; (2) coordinates health planning policies with related activities of the Bureau of Health Facilities Financing, Compliance, and Conversion and the Bureau of Health Manpower, HRA: (3) serves as advisor to, and coordinates the Bureau's activities with, other Administration organizational elements; (4) negotiates with the Federal, State and local bodies, and professional and scientific organizations, on matters pertaining to the planning and development of health delivery systems; (4) coordinates and oversees the development and clearance of Bureau policies and procedures, and coordinates the preparation, dissemination, and control of formal Bureau policy issuances; (5) in consultation with the Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health, provides program assistance to the Regional Office personnel who assist in the implementation of the health planning program; (6) coordinates technical assistance strategy and practice for the Bureau; (7) manages and conducts the Bureau's participation in the preparation of the preparation of regulations; (8) insures that Bureau program policies and operating procedures are consistent with general DHEW, PHS, HRA, and other Federal policies and requirements; (9) provides Administration with advice in consultation with the General Counsel, interacting with the Office of the Administrator (HRA) as required; (10) establishes and maintains working relationships with various national associations, such as the National Governors' Conference and the National Conference of State Legislatures, in order to solicit views and keep such groups informed of evolving Bureau regulations and policy; (11) directs and coordinates Bureau activities in support of equal employment opportunity; (12) provides, through the Office of Communications, HRA, information about the Bureau's programs to the general public, health professions organizations, and interested groups; (13) represents the Bureau in meetings with concerned public organizations, provider organizations, and consumer groups; and (14) maintains Bureau central files, and provides for timely and effective Bureau response to outside inquiries.

**Office of Program Support (HRPI4).** Plans, directs, coordinates, and evaluates bureauwide administrative and management support activities. Specifically: (1) Provides or serves as liaison for providing the Bureau with program support services and resources, including data systems, equipment and supplies, printing, property, space, correspondence, other Federal or outside organizations, forms, records, and reports; (2) directs, conducts, and coordinates the Bureau's manpower management activities and advises the Bureau Director on the allocation of the Bureau's personnel resources; (3) provides orga-
nization and management analysis for the Bureau, develops policies and procedures for Federal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates the Bureau's program and administrative delegations of authority with the Division of Operations and Management, HRA, directs and conducts a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the Bureau; (7) conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants, and coordinates contracts activities; (8) provides staff services to the Bureau Director in day-to-day operational planning and program analysis; and (9) provides support services for PHS Regional Offices as appropriate.

Office of Program Development (HRP5). Develops plans, establishes evaluation requirements, and drafts legislative proposals to support Administration goals: Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's forward plan; (2) promotes evaluation and monitoring activities which will provide objective measurements of program performance; (3) analyzes Federal and State legislation to assure the fullest possible consideration of programmatic requirements in meeting established departmental, PHS, and HRA goals; and (4) produces program management information and progress reports.

Division of Planning Assistance and Assessment (HRP8). (1) Directs Bureau activities which support the development and implementation of integrated health planning (including facilities planning) processes in States and health service areas; (2) facilitates the development of effective and well-managed health systems agencies (HSA's), State health planning and development agencies (SHPDA's), and statewide health coordinating councils (SHCC's) by providing technical assistance related to health planning; (3) develops and oversees a program of periodic assessment of agency performance; (4) serves as the national focal point for the development and dissemination of regulations, guidance, planning approaches, and methodologies for use by State and local agencies and other concerned parties in the development of plans and their use in developing health delivery systems; (5) reviews, on a continuing basis, the appropriateness of designated health service areas; (6) establishes specific plans and procedures to link agency-based assistance activities of the Bureau with assistance available from other Federal and non-Federal resources; (7) develops, implements, and provides guidance for monitoring approaches for health planning established to provide assistance to HSA's and State agencies; (8) develops and implements the Bureau's civil rights plan in accordance with guidelines established by HRA, OASH, and the Department; and (9) coordinates Division activities closely with other components of the Department, and especially with the Office of Health Policy, Research, and Statistics, OASH, and its National Center for Health Statistics (NCHS) and National Center for Health Services Research (NCHSR), and with the Bureau of Health Manpower and the Bureau of Health Facilities Financing, Conversion, and Compliance, HRA, in the development of methodologies for plan development and data collection.

Division of Regulatory Activities (HRP9). Functions as the focal point for the regulation of health systems agencies (HSA's) and State health planning and development agencies (SHPDA's). Carries out its functions in close cooperation with the Bureau of Health Facilities Financing, Conversion, and Compliance, HRA, in the development of methodologies for plan development and data collection.

NOTICES

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The Bureau of Health Facilities Financing, Compliance, and Conversion (BHFFCC) directs, coordinates, monitors, and supports and develops policy for planning, financing, the modernization, utilization, construction, conversion, and closure of non-Federal health facilities. Specifically: (1) Administers loan, loan guarantee, and interest subsidy programs relating to the construction, modernization, conversion, or closure of health facilities; (2) enforces institutional compliance with required assurances applicable to receipt of assistance for the construction or modernization of health facilities; (3) in coordination with other parts of HRA, especially the Bureau of Health Planning, develops policy and administers programs for the construction, modernization, conversion, or closure of health facilities; (4) in coordination with the Administration in regard to the rate-setting demonstration program; (9) participates in the development of mechanisms for the impact on regulatory activities; and (10) suggests State and Federal legislative actions which will further the attainment of regulatory goals.
efficiency of health facilities; (6) develops and implements policies and programs designed to achieve more efficient use of energy resources in health facilities and the development and utilization of less costly and/or more reliable energy sources for such facilities; (7) serves as the national liaison and maintains liaison with other PHS components, the Department, and other Federal departments and agencies concerned with health facilities and energy matters; and (8) maintains liaison and coordinates with non-Federal public and private entities as necessary for the accomplishment of its mission and objectives.

Office of the Director (HRF1). Directs and provides leadership for national health facilities programs; (2) directs and coordinates the activities of the Bureau; (3) develops and implements the Bureau's civil rights plan in accordance with the principles of management, activities by HRA, OASH, and the Department; and (4) directs and coordinates Bureau programs in support of equal employment opportunity.

Office of Program Support (HRF12). Plans, directs, coordinates, and evaluates bureauwide administrative and management support activities; performs the Bureau's grants management and contracts liaison functions; manages the Bureau's automatic data processing (ADP) and information systems activities; and provides Bureau liaison with the PHS Regional Offices. Specifically: (1) Provides or serves as liaison for providing the Bureau with program support services and resources, including equipment and supplies, printing, property, space, correspondence control, manual issuances, forms, records, and reports; (2) directs, conducts, and coordinates the Bureau's administrative delegations of authority activities and advises the Bureau Director on the allocation of the Bureau's personnel resources; (3) provides organization and management analysis for the Bureau, develops policies and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates the Bureau's program and administrative delegations of authority activities; (5) in cooperation with the Office of Operations and Management, HRA, directs and conducts a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the Bureau; (7) conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants, and coordinates contracts activities; (8) provides staff services to the Bureau Director in day-to-day operational planning and program analysis; (9) in close cooperation with the Division of Data Management, HRA, directs the formulation of ADP policy for the Bureau; plans, develops, and evaluates the Bureau's ADP systems; and develops, manages, and monitors the Bureau's information systems; (10) maintains continual and routine contact with PHS Regional Office staff responsible for the implementation of Bureau programs; and (11) serves as liaison between the Bureau, Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health with regard to health facilities matters in the PHS Regional Offices.

Office of Program Development (HRF12). Serves as the Bureau focal point for planning, evaluation, legislation, and legislative implementation activities, including the development and dissemination of objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, formulates, and guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's forward plan; (2) promotes evaluation and monitoring activities which will provide objective measurement of program performance; (3) provides staff services and coordinates activities pertaining to legislative policy development and interpretation, including the development of legislative proposals, the analysis of existing and pending Federal and State legislation, liaison with other agencies, and distribution of legislative materials; (4) participates in the development of implementation plans and processes for health facilities legislation, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; and (5) produces program management information and progress reports.

Division of Facilities Compliance (HRF2). Is responsible for ascertaining whether health facilities are in compliance with the various assurances given by them at the time they applied for Federal assistance, and for insuring that the Federal Government takes appropriate recovery action, when necessary, as prescribed by title XVI of Pub. L. 93-641. Specifically: (1) Establishes, develops, and maintains policies, procedures, and guidelines for the implementation of regulations, policies, procedures, and guidelines for use by Regional Offices, State agencies, and health care facilities in ascertaining that assurances are met; (2) develops and maintains a system for receiving and responding to patient complaints; and for their analysis, evaluation, and disposition; (3) serves as the national focus for all monitoring activities necessary to enforce the assurances; (4) directs periodic investigations of health care facilities to ascertain the extent of compliance with the various assurances; (5) develops and implements policies and procedures for the Bureau's automatic data processing (ADP) and information systems; (6) develops and implements policies and procedures for internal Bureau requirements; (7) coordinates the Bureau's liaison with the Department; (8) serves as liaison between the Bureau, Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health with regard to health facilities matters in the PHS Regional Offices; (9) in cooperation with the Division of Data Management, HRA, directs the implementation of ADP policy for the Bureau; plans, develops, and evaluates the Bureau's ADP systems; and develops, manages, and monitors the Bureau's information systems; (10) maintains continual and routine contact with PHS Regional Office staff responsible for the implementation of Bureau programs; and (11) serves as liaison between the Bureau, Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health with regard to health facilities matters in the PHS Regional Offices.

Division of Facilities Conversion and Utilization (HRF3). Develops policy and administers programs for conversion, modernization, and utilization of non-Federal health facilities, health professions facilities, and nurse training facilities. Specifically: (1) Provides consultation and policy guidance to PHS Regional Offices, State health planning and development agencies (SHPDA's), health systems agencies (HSA's), and regional Centers for Health Planning and Utilization, and others in seminars, workshops, and conferences, and conducts studies for medical institutional planning and operation directed toward increased productivity and cost containment; (2) participates in the development of technical publications designed to promote better planning, utilization, and operation of health facilities; (3) participates in the education of new personnel of the PHS Regional Offices, SHPDA's, and HSA's in the field of medical care resource development and utilization; and (4) coordinates with the Bureau's Division of Energy Policy and Programs and other concerned parties on energy matters pertaining to health facilities, and develops, manages, and coordinates its activities with other components of the Bureau and the Administration, other PHS agencies, DHEW (particularly the Health Care Financing Administration), and other Federal agencies.

Division of Facilities Financing (HRF4). Provides policy guidance and expertise in the operational aspects of the administration of facilities project

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application, review, and funding, and provides development, implementation, and surveillance of special project grants, loans, and loan guarantees. Specifically: (1) Provides expertise in the methodologies of financial feasibility determination and all aspects of the administration of facilities project application, review, and funding; (2) in close collaboration with the Bureau of Health Planning, HRA, assists PHS Regional Offices in the processes and techniques involved in approval of State medical facilities plans and the projects submitted for grant and/or loan support; (3) administers PHS responsibility for sections 241 and 242 of the National Housing Act; (4) develops regulations, policies, procedures, and technical guides for Regional office staff and State agency use in health facilities financing; (5) participates in analyses, studies, and testing of data, formulas, and projections concerning technical and financial support for health facilities; (6) administers loan, loan guarantee, and interest subsidy programs, including financial monitoring of loans, loan guarantees, and interest subsidies, to provide surveillance of specific projects; (7) provides consultative assistance to Regional Office staff and State agencies; (8) as authorized under section 1265 of Pub. L. 92-584, (a) establishes, develops, and oversees the application of regulations, policies, and procedures applying to special project grants; (b) identifies priority projects for funding on the basis of goals and objectives established by the National Council on Health Planning and Development; (c) reviews, analyzes, and makes recommendations on all project grant proposals; and (d) oversees and evaluates the projects funded; and (9) maintains liaison with and coordinates its activities with other components of the Bureau, HRA, other PHS agencies, DHEW, and other Federal agencies, such as the Treasury Department, the Department of Defense, the Veterans Administration, the Federal Financing Bank, the Department of Housing and Urban Development, the Department of Commerce, the Federal National Mortgage Association, and the Government National Mortgage Association, and also with private lending institutions.

Division of Energy Policy and Programs (HRFS). Provides leadership in developing, stimulating, and implementing effective energy management principles and techniques in health care services delivery, and in encouraging the transition to nonexhaustible energy forms by health institutions. Provides a focal point for the acquisition, interpretation, and dissemination of information on energy development which will contribute to improved cost containment in the delivery of health services and to the maintenance of high quality, accessible care. Specifically: (1) Develops, analyzes, and recommends policies relating to the impact of energy resource developments on health institutions and health resource programs; (2) provides planning leadership and policy guidance for the incorporation of effective energy management in health resource programs; (3) participates in the development and implementation of legislation, guidelines, regulations, and standards relating to energy needs and use in health facility operations and health services delivery; (4) promotes and guides the development and incorporation of energy related concerns in the planning and execution of health programs; (5) conducts, supports, and assists analyses and applied research activities relating to improved energy utilization in the delivery of health care services, including the adoption of alternate fuel sources; (6) provides technical assistance to public agencies and private entities on energy management programs and activities as they relate to health services and resources; (7) develops and disseminates information on energy resources and management through all communications media to assure awareness of the impact of emerging energy problems on the health sector and identification of new initiatives for resolving those problems; (8) performs a variety of information dissemination functions related to energy needs and use in the health sector, including conducting or participating in conferences and seminars, preparing papers and articles, and planning, developing, and/or conducting training and education programs in energy management for health personnel; and (9) maintains liaison with Federal, State, and local health and energy agencies and organizations, and develops joint activities to assure appropriate participation by the health sector in energy related deliberations and initiatives.

Sec. HR-D delegations of authority. (1) All delegations of authority to the Administrator, HRA, which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation; and (2) all delegations and redelegations of authority to officers or employees of HRA which were in effect immediately prior to the effective date of this reorganization shall continue in effect in them or their successors pending further redelegation.


H. COOPER CHAMBERLAIN, Acting Secretary.

[FR Doc. 78-24866 Filed 9-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of the Secretary

(Docket No. D-78-5071)

ASSISTANT SECRETARY FOR ADMINISTRATION, ET AL.

Delegation of Authority Regarding the Publication in Newspapers of Advertisements, Notices, or Proposals

Consistent with departmental reorganization of the procurement function under the Assistant Secretary for Administration, effective January 19, 1976 (41 FR 2665), the authority herein updates the transfer of functions by relocating the authority described below from the Director, Office of Administrative Services, to the Director, Office of Procurement and Contracts.

Section A. Authority delegated. The Assistant Secretary for Administration is hereby empowered to:

1. Authorize the publication in newspapers of advertisements, notices, or proposals.

2. Redelegate to one or more subordinates any of the authority delegated herein.

Sec. B. Supersede. The designation and redelegation of authority in section A supersede the designation and redelegations of authority from: (a) The Secretary to the Director, Office of General Services, effective March 26, 1967 (32 FR 4549), and (b) the Director, Office of General Services, to the Director, Contracts and Agreements Division, effective September 28, 1972 (37 FR 20271).

(37 FR 20271)
AGENCY: Department of Housing and Urban Development.

[FR Doc. 78-2478 File d 9-1-78; 8:45 am]

ACTION: Notice is given announcing the sixth meeting date of the task force.

SUMMARY: The Secretary is announcing the sixth meeting and agenda for the Task Force on Tenant Participation in the Management of Low-Income Housing. Meetings are scheduled for September 20 and 21, 1978 and the agenda for the meetings are stated.

DATE OF SIXTH MEETING: The sixth meeting of the task force is scheduled to be held over a 2-day period beginning September 20, 1978, at 10 a.m., in Room 4202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

ADDRESS: James F. Anderson, Director, Project Management Division, Office of Assisted Housing Management, Room 6248, or Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.


SUPPLEMENTARY INFORMATION: Meetings of the Task Force on Tenant Participation in the Management of Low-Income Housing have been scheduled for the dates and times indicated above. The first meeting of the task force was held over a 2-day period which began November 7, 1977, in Washington, D.C. Subsequent meetings have been held in Washington, D.C., and Denver, Colo., for a total of five task force meetings to date. The agenda for the sixth meeting of the task force shall include the following:

1. Review minutes of previous meetings.
2. Discuss draft report to the Secretary.
3. Closing discussion.

The meetings of the task force will be open to the public.


PATRICIA ROBERTS HARRIS, Secretary, Department of Housing and Urban Development.

[FR Doc. 78-24252 Filed 9-1-78; 8:45 am]
NOTICES

Royalty Rate

Work Commitment

Profit Share Rate

This lease is effective as of __________ (hereinafter called the "Effective Date") by and between the United States of America (hereinafter called the "Lessor") and the Bureau of Land Management, its authorized officer, and __________ (hereinafter called the "Lessee"). In consideration of the cash payment hereof made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, and covenants contained herein, including those contained in the stipulations attached hereto, the Lessee and Lessor agree as follows:

Sec. 1. Statutes and Regulations. This lease is issued pursuant to the Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 463 as amended; 43 U.S.C. 1331 et seq. (hereinafter called the "Act"). The lease is issued subject to the Act; section 302 of the Department of Energy Organization Act, 91 Stat. 516, 42 U.S.C. 7152(b); all regulations issued pursuant to such statute and in existence upon the effective date of this lease; all regulations issued pursuant to such statutes in the future which provide for the prevention of waste and the conservation of the natural resources of Outer Continental Shelf, and the protection of correlative rights thereon; and all other applicable statutes and regulations.

Sec. 2. Rights of Lessee. The Lessor hereby grants and leases to the Lessee the exclusive right and privilege to drill for, develop and produce oil and gas resources, except helium gas, in the submerged lands of the Outer Continental Shelf described as follows:

(a) The nonexclusive right to conduct operations within the leased area geological and geophysical explorations in accordance with applicable regulations;

(b) The nonexclusive right to drill water wells within the leased area, unless the water is part of geopressed-geothermal and associated resources, and to use the water produced therefrom for operations pursuant to the Act free of cost, on the condition that the drilling is conducted in accordance with procedures approved by the Regional Conservation Manager of the United States Geological Survey (hereinafter called the "Manager"); and

(c) The right to construct or erect and to maintain within the leased area artificial islands, installations and other devices permanently or temporarily attached to the seabed and other works and structures necessary to the full enjoyment of the lease, subject to compliance with applicable laws and regulations.

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The Secretary of the Interior may, upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or President, order the suspension or cancel this lease during the initial lease term or thereafter pursuant to section 12(c) of the Act, and just compensation shall be paid to the Lessee for such suspension.

Sec. 14. Indemnification. The Lessee shall indemnify the Lessor for, and hold it harmless from, any loss or damage to property or injury to persons caused by or resulting from any operation on the leased area conducted by or on behalf of the Lessee, except that the Lessor shall not be held responsible to the Lessee under this subsection for any loss, damage or injury caused by or resulting from:

(a) Negligence of the Lessee other than the commission or omission of a discretionally function or duty on the part of a Federal agency whether or not the discretion involved is abused;

(b) The Lessee's compliance with an order or directive of the Lessee against which an appeal is pending before the lease is filed before the cause of action for the claim arises and is pursued diligently thereafter.

Sec. 15. Disposition of Production. As provided in the Act, the Secretary of the Interior may require and produce at the fair market value at the wellhead of the oil and gas produced from the Regulated Areas.

Sec. 16. Unitization, Pooling, and Drilling Agreements. Where any payments of rentals are suspended pursuant to this paragraph, under this lease within any designated area of the area needed for national defense, the Secretary of Defense, during a state of war or national emergency declared by the Congress or President, may, if the Secretary of the Interior determines that it is in the public interest to do so, cause any portion of the oil or gas so produced from the Regulated Areas to be treated and shipped of products thereof to the working of other lands or to the transportataion, and housing facilities or facilities and other housing facilities or by or under-authority of the Lessee, or by or under-authority of the Secretary of Defense. If operations or production under this lease likewise shall be suspended under this paragraph, the Secretary of the Interior or the Lessor shall fully comply with paragraphs 1 through 7 of section 202 of Executive Order 11246 as revised (reprinted in 41 CFR 69-1.6a), which are for the purpose of preventing discrimination against persons on the basis of race, color, religion, sex or national origin, because of habit, local custom, or otherwise. The Lessee further agrees that he will obtain Identical certifications from proposed contractors and subcontractors prior to award of contracts or subcontracts unless they are exempt under 41 CFR 60.5.

Sec. 17. Equal Opportunity Clause. During the performance of this lease, the Lessee shall fully comply with paragraphs 1 through 7 of section 202 of Executive Order 11246 as revised (reprinted in 41 CFR 69-1.6a), which are for the purpose of preventing discrimination against persons on the basis of race, color, religion, sex or national origin, because of habit, local custom, or otherwise. The Lessee further agrees that he will obtain Identical certifications from proposed contractors and subcontractors prior to award of contracts or subcontracts unless they are exempt under 41 CFR 60.5.

Sec. 19. Reservations to Lessor. All rights in the leased area not expressly granted to the Lessee by the Act, the regulations, or this lease, including any working of other lands, or to the extent such reservations are necessary or appropriate to the working of other lands, or to the operation, and the term of operations an designated area as may be necessary or appropriate to operations subject to safety regulations, to any authorized Federal inspector and shall be held by the Lessee in trust for the Lessor, so long as such designation remains in effect and no operations may be conducted on the surface of the leased area or the part thereof included within the designation consistent with the requirements of the Act. If operations or production under this lease within any designated area are suspended pursuant to this paragraph, or if the provisions of a unit, pooling or drilling agreement described by this lease likewise shall be suspended during such period of suspension of operations, any proving of the lease by the Lessee for such suspension period, and the Lessee shall be liable to the Lessee for such suspension period, and the Lessee shall be liable to the Lessee for such suspension period.
NOTICES

Address of Lessee: ____________________________

Notary Public: ________________________________

Prescribed and sworn to before me this day of _______

My Commission expires: _______________________

United States of America, Lessor

Authorized signature: __________________________

Title: _______________________________________

Date: _______________________________________

[FED Doc. 78-24846 Filed 9-1-78; 8:45 am]

[Bureau of Land Management]

COAL LEASE OFFERING BY SEALED BID


U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that the lands hereinafter described in Emery County, Utah, will be offered for coal lease by a bid of $100 per acre minimum bonus to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2 p.m., m.d.t., September 21, 1978, in Room 1408 of the University Club Building. At that time all sealed bids will be opened and read, and the highest bid announced. Sealed bids may be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for the opening of such bids. The Department reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversaries of the lease. The successful bidder is obligated to pay for the newspaper publication of this notice.

Warning to Bidders: A bidder will not be considered qualified if he holds or controls more than 46,080 acres of Federal coal leases in Utah or 100,000 acres of Federal coal leases in the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease.

Public comments: The public is invited to submit written comments on the fair market value of the coal to be leased. Approximately 1,750,000 tons in the average 6.1-foot thick Blind Canyon Seam and 1,500,000 tons in the average 5.5-foot thick Hawatha Seam will be mined from the lands to be leased. Written comments on the fair market value will be received by the Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. A copy of the written comments should also be submitted to the Office of the Conservation Manager, Geological Survey, Box 25046, Denver Federal Center, Denver, Colo. 80225. Written comments must be received by September 14, 1978, in order to be considered. All written comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection.

Lands Offered: The lands are located in the Manti-LaSal National Forest approximately 12 miles northwest of the community of Huntington, Utah. The lands are described as follows:

T. 16 S., R. 7 E., SLM, Utah
Sec. 8, SW1/4
Sec. 10, NW1/4, NW1/4, SW1/4, NW1/4
Sec. 17, NW1/4

Containing 440 acres

Detailed statement: A detailed statement of the terms and conditions of the lease offer, how and where to submit sealed bids, and the obligations of the high bidder to pay for publication of this notice may be obtained from the Bureau of Land Management, Utah State Office.

PAUL L. HOWARD,
State Director.

[FED Doc. 78-24859 Filed 9-1-78; 8:45 am]

Fish and Wildlife Service

OFFICIAL INSIGNIA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Official Insignia Designation.

SUMMARY: This notice issues the official insignia of the U.S. Fish and Wildlife Service. The Service insignia was changed in 1974 when the organization name change was effected by Congress. Publication of the new insignia was overlooked at the time. This action accomplishes the official designation of the insignia now in use by the Service.

DATES: This action is final September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan Levitt, Acting Chief, Office of

SUPPLEMENTARY INFORMATION:
The primary author of this document is Alan Levitt, Acting Chief, Office of Current Information.
The insignia depicted below is prescribed as the official insignia of the U.S. Fish and Wildlife Service, Department of the Interior.

In making this prescription, notice is given that whoever manufactures, sells, or possesses this insignia, or any colorable imitation thereof, or photographs, prints or in any other manner makes or executes any engraving, photograph or print, or impression in the likeness of this insignia, or any colorable imitation thereof, without authorization from the United States Department of the Interior is subject to the penalty provisions of section 701 of Title 18 of the United States Code.

KEITH M. SCHEELEN
Acting Director.
(FR Doc. 78-24800 Filed 9-1-78; 8:45 am)

[4310-09]

Bureau of Reclamation
WAPINITA PROJECT, OREGON
Transfer of Jurisdiction of Lands, Clear Lake (Wasco) Reservoir, Correction

In FR, Vol. 43, 128, page 28857 dated July 3, 1978, make the following changes to this notice.
1. Line 4: Change the word “being” to “hereby” to read, “The below described lands are hereby transferred
2. Line 20: Remove the word “proposed” from the sentence to read “Information regarding the transfer can be

D. D. ANDERSON,
Acting Commissioner of Reclamation.
(FR Doc. 78-24778 Filed 9-1-78; 8:45 am)

[4310-03]

Heritage Conservation and Recreation Service
NATIONAL REGISTER OF HISTORIC PLACES
Additions, Deletions, and Corrections

By notice in the Federal Register of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 86 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.
The following list of properties has been added to the National Register of Historic Places since notice was last given in the February 7, 1978, Federal Register. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

ALABAMA
Clarke County
Galconctown vicinity, Wilson-Finlay House, N of Galconctown on Suggsville Rd. (7-12-78)

Jackson County
Stevenon, Roscrans, Gen. William, Headquarters, Myrtle Pl. (7-12-78)

Madison County
Huntville, Old Town Historic District, roughly bounded by Dianne and Lincoln Sts., and Randolph and Walker Aves. (7-12-78)

ALASKA
Aleutian Islands Division
Nikolai vicinity, Anangula Archeological District (6-2-78) NHL

Bristol Bay Division
Kanastak vicinity, Kukak Village Site, N of Kanastak at Shellof Straits, Katmai National Monument (7-20-78)

Cordova-McCarthy Division
Kenneccott vicinity, Kennecott Mines, SE of Kennecott Glacier on N bank of National Creek (7-12-78)

Fairbanks Division
Fairbanks, Federal Building (U.S. Post Office and Courthouse, Cushman St. and 3rd Ave. (6-2-78)

Nome Division
Nome vicinity, Cape Nome Mining District Discovery Sites (6-2-78) NHL

Seward Division
Seward, Ballaine House, 437 3rd Ave. (7-12-78)

Upper Yukon Division
Central, Central House, Mile 128, Steese Hwy. (7-31-78)

Sugon vicinity, Gallagher Flinst Station Archeological Site (6-2-78) NHL

ARIZONA
Navajo County
Holbrook, Navajo County Courthouse, Courthouse St. (4-31-78)

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NOTICES

San Francisco County
San Francisco, Bank of Italy, 552 Montgomery St. (6-2-78) NHL

San Mateo County
Woodside, Independence Hall, 129 Albion Ave. (6-3-78)

Santa Clara County
Los Gatos, Forbes Mill Annex, CA 17 (7-31-78)

Sonoma County
Santa Rosa, Hotel La Rose, 5th and Wilson Sts. (8-2-78)

Ventura County
Ventura, San Miguel Chapel Site, 292 E. Thompson Blvd. (7-20-78)

COLORADO
Boulder County
Boulder, Squires-Tourtellot, 1019 Spruce St. (6-10-78)

Denver County
Denver, Public Service Building, 910 15th St. (7-20-78)

Denver, Treat Hall, E. 18th Ave. and Ponti- se St. (6-10-78)

Grand County
Grand Lake vicinity, Shadow Mountain Lookout, NE of Grand Lake in Rocky Mountain National Park (6-2-78)

Lincoln County
Estes Park vicinity, Lefler House, S of Estes Park off CO 7 (6-2-78)

Fort Collins, Baker House, 304-304 E. Mulberry St. (7-20-78)

Fort Collins, Old Town Fort Collins, roughly bounded by College Ave., Mountain, Pine, Willow, and Walnut Sts. (6-2-78)

CONNECTICUT
Hartford County
Manchester, Cheney Brothers Historic District, bounded by Hartford Rd., Laurel, Spruce, and Lampfield Sts. (6-2-78) NHL

New London County
Stonington, Stonington High School, Church St. (6-17-78)

Tolland County
Rockville, Florence Mill, 121 W. Main St. (7-18-78)

DELAWARE
Kent County
Milford, Bank House, 119 N. Walnut St. (7-31-78)

Milford, Wilkerson, J. H., & Son Brickworks, off SR 409 (7-12-78) HAER

New Castle County
Wilmington vicinity, Augustine Paper Mill, N. Brandywine Park Dr. (6-3-78)

DISTRICT OF COLUMBIA
Washington
American Revolution Statuary, public buildings and various parks within DC (7-14-78)

Dupont Circle Historic District, roughly bounded by Florida and Rhode Island Aves., T, 17th, 21st, and 22nd Sts. (7-21-78)

FLORIDA
Leon County
Tallahassee, Riley, John Gilmore, House, 419 E. Jefferson St. (6-1-78)

Tallahassee, St. John's Episcopal Church, 211 N. Monroe St. (6-10-78)

Okaloosa County
Valparaiso, Valparaiso Inn, 331 Bayshore Dr. (6-1-78)

GEORGIA
Baldwin County
Milledgeville, Central Building, State Lunatic Asylum, Broad St. (7-20-78)

Chatham County
Savannah, Central of Georgia Railroad: Savannah Shops and Terminal Facilities, W. Broad St. and Railroad Ave. (6-2-78) NHL

Clarke County
Athens, Downtown Athens Historic District, roughly bounded by Hancock Ave., Foundry, Mitchell, Broad, and Lumpkin Sts. (6-10-78)

Fayette County
Fayetteville vicinity, King, Tandy, House, S of Fayetteville on GA 82 (7-20-78)

Floyd County
Rome vicinity, Berry Schools, N of Rome on U.S. 21 (7-21-78)

Hancock County
Sparta vicinity, Rockby, NE of Sparta off GA 16 (7-12-78)

Johnson County
Wrightsville, Grice Inn, E. Elm St. (7-20-78)

Muscooge County
Columbus, Columbus Historic Riverfront Industrial District, Columbus River from 8th St. N. to 38th St. (6-2-78) NHL

Oglethorpe County
Crawford vicinity, Antle-Elder House, W of Crawford on Elder Rd. (6-2-78)

Richmond County
Augusta, Augusta Cotton Exchange Building, Reynolds St. (7-20-78)

HAWAII
Hawaii County
Honokaa, Chee Ying Society, HI 24 (7-20-78)

Kaunakakai, Kamehameha III's Birthplace, off Alli Dr. (7-24-78)

IDAHO
Elmore County
Mountain Home, Mountain Home Carnegie Library, 180 S. 33rd St. E. (7-24-78)

Gooding County
Hagerman, Roberts, Morris, Store, off U.S. 30 (7-7-78)
NOTICES

Idaho County
Grangeville, Grangeville Savings and Trust, State and Main Sts. (7-24-78)

Nez Perce County
Lewiston, Nara Apartments, 600 block of 8th St. (8-3-78)

Power County
American Falls vicinity, Register Rock, W of American Falls on U.S. 30 (7-24-78)

Washington County
Welser, St. Agnes Catholic Church, 204 E. Liberty St. (7-24-78)
Welser, St. Luke's Episcopal Church, E. 1st and Liberty Sts. (7-24-78)

ILLINOIS
Cook County
Chicago, Chicago Board of Trade Building, 141 W. Jackson Blvd. (6-2-78) NHL
Chicago, Marshall Field Company Store, 111 N. State St. (6-2-78) NHL
Chicago, Montgomery Ward Company Complex, 610 W. Chicago Ave. (6-2-78) NHL
Chicago, Sears, Roebuck and Company Complex, 925 S. Holman Ave. (6-2-78) NHL

Du Page County
Lombard, First Church of Lombard, Maple and Main Sts. (3-10-78)

Logan County
Mount Pulaski, Mount Pulaski Courthouse, Public Sq. (8-3-78)

McLean County
Bloomington, Miller, George H., House, 405 W. Market St. (7-20-78)

Ogle County
Oregon, Pinehill, 400 Mix St. (7-24-78)

Will County
Joliet, Rubens Rialto Square Theater, 102 N. Chicago St. (7-24-78)
Joliet, Union Station, 59 E. Jefferson St. (8-1-78)

IOWA
Dubuque County
Dubuque, Fenelon Place Elevator, 512 Fenelon Pl. (8-3-78)

Johnson County
Iowa City, Vogt House, 800 N. Van Buren St. (7-24-78)

Lee County
Fort Madison, Albright House, 716-718 Ave. P (7-24-78)

Kentucky
Bourbon County
Paris vicinity, Loudoun Hall, S of Paris off KY 958 (8-2-78)

Calloway County
Murray, Murray State University Historic Buildings, 15th, 16th, and Main Sts. (8-3-78)

Louisiana
Ouachita Parish
New Orleans, Algiers Point, bounded by Mississippi River, Siloel St., and Atlantic Ave. (5-1-78)
New Orleans, New Orleans Colonn Exchange Building, 231 Carondelet St. (12-25-77) NHL
New Orleans, Sincor, Louis, House, 1001 Camp St. (7-12-78)

West Feliciana Parish
Laurel Hill vicinity, Hazelwood Plantation, SE of Laurel Hill on Hazelwood Rd. (7-31-78)

Maine
Androscoggin County
Leawood, Lord, James C., House, 497 Main St. (7-21-78)

Cumberland County
Naples, Manor House, U.S. 202 (7-12-78)

Franklin County
Farmington, Greenwood, Chester, House, 12E 27 (7-12-78)
Rangely, Rangely Public Library, Lake St. (7-12-78)

Massachusetts
Barnstable County
Chatham, Half Way House, Andrew Har- ding La. (7-21-78)

Plymouth County, Hawthorne Class Studio, off Miller Hill Rd. (7-21-78)

Bristol County
Attleboro, Capron House, 42 North Ave. (7-21-78)

Essex County
West Newbury, Nevers Farm, 243 Main St. (7-21-78)

Southwest Harbor vicinity, Fernand Point Prehistoric Site, N of Southwest Harbor (7-21-78)

Kennebec County
Waterville, Redington House, 64 Silver St. (7-21-78)

Penobscot County
Bangor, Pond, Charles H., House, 175 State St. (7-12-78)

Washington County
Calais, First Congregational Church, Calais Ave. (7-12-78)

York County
Parsonsfield vicinity, Morison, Capt. James, House, SE of Parsonsfield on South Rd. (7-12-78)

Maryland
Baltimore County
Glen Arm vicinity, Rarrenhurst, 12915 Du- laney Valley Rd. (8-14-78)

Carroll County
Keysville vicinity, Terra Rubra, 1 ml. (1.6 km) S of Keysville (7-24-78)
Sylva vicinity, Branton Manor, 2219 Old Liberty Rd. (6-10-78)

Charles County
La Plata vicinity, Locust Grove, W of La Plata on MD 225 (7-21-78)

Frederick County
Frederick vicinity, Arcadia, 3.5 ml. (5.6 km) S of Frederick on MD 85 (6-3-78)

Howard County
Ellicott City, Ellicott City Historic District, MD 144 (7-31-78)

Prince Georges County
Bladensburg, Hillcrest, William, House, 4073 Annapolis Rd. (7-20-78) HABS
Upper Marlboro, Kingston, 5415 Old Crain Hwy. (7-21-70) HABS

Washington County
Hagerstown, Colonial Theatre, 12-14 S. Fotos- moe St. (8-3-78)

Hagerstown vicinity, Rockland Farm, 726 Antietam Dr. (7-21-78)

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NOTICES

MISSOURI

Adair County
Kirkville, Adair County Courthouse, Washington St. (8-11-78)

Audrain County
Mexico, Rose House 501 S. Muldrow St. (7-26-78)

Franklin County
Washington, Schroeder, Franz, House, 2 Walnut St. (7-17-78)

Jackson County
Kansas City, Case Spring, 1100 Blue Ridge Extension (6-10-78)

NEVADA

Carson City (independent city)
Carson Brewing Company, 102 S. Division St. (6-18-78)

Meder, Leo M., House, 308 N. Nevada St. (8-2-78) HABS

Lincoln County
Hiko vicinity, White River Narrows Archeological District, N of Hiko (8-1-78)

Ferndale District
Lovelock vicinity, Rye Patch Archeological Sites, N of Lovelock (8-2-78)

NEW HAMPSHIRE

Belknap County
East Alton, First Freewill Baptist Church, Drew Hill Rd. (8-1-78)

Hillsborough County
Manchester, Smyth Tower, 718 Smyth Rd. (7-24-78)

Rockingham County
Newmarket, Stone School, Granite St. (7-12-78)

Sandel, Sandown Old Meetinghouse, Fremont R. (8-9-78)

Sullivan County
Cornish Mills vicinity, Trinity Church, W of Cornish Mills on NH 12-A (7-31-78)

Newport, Reed, Isaac, House, 39-34 Main St. (7-19-78)

NEW JERSEY

Bergen County
Edgewater, Alcoa Edgewater Works, 700 River Rd. (8-10-78)

Hudson County
East Newark, Clark Thread Company Historic District, 900 Passaic Ave. (6-2-78) NHL

Hoboken, Seamen's Mission, 60-64 Hudson St. (7-25-78)

New Jersey City, Great Atlantic and Pacific Tea Company Warehouse, Frovo St. between 1st and Bay Sts. (9-2-78) NHL

Monmouth County
Shrewsbury, Shrewsbury Historic District, Broad and Sycamore Sts. (7-17-78)

NEW MEXICO

Chaves County
Roswell, White, James Phelps, House, 200 N. Lea Ave. (7-24-78)

San Miguel County
Las Vegas, Bridge Street Historic District, 100 block of Bridge St. (7-20-78)

NEW YORK

Bronx County
Bronx, Lorillard Snuff Mill, off U.S. 1 (12-22-77) NHL

New York County
New York, American Stock Exchange, 80 Trinity Pl. (6-2-78) NHL

New York, Equitable Building, 120 Broadway (6-2-78) NHL

New York, Macy, R. H., and Company Store, 181 W. 34th St. (6-5-78) NHL

New York, Metropolitan Life Insurance Company, 1 Madison Ave. (6-2-78) NHL

New York, National City Bank, 5 Wall St. (6-2-78) NHL

New York, New York Coton Exchange, 1 Hanover Sq. (12-22-77) NHL

New York, New York Life Building, 1 Madison Ave. (6-2-78) NHL

New York, New York Stock Exchange, 1 Wall St. (6-2-78) NHL

New York, Sinclair, Harry, House, 2 E. 7th St. (6-2-78) NHL

New York, Stewart, A. T., Company Store, 200 Broadway (6-2-78) NHL

New York, Third Judicial District Courthouse, 6th Ave. and 10th St. (12-22-77) NHL

New York, Tiffany and Company Building, 401 5th Ave. (6-2-78) NHL

Westchester County
Valhalla vicinity, Hartford, John A., House, SW of Valhalla on NY 100 (12-22-77) NHL

NORTH CAROLINA

Cumberland County
South Mills vicinity, Abbott, William Riley, House, SE of South Mills on SR 1294 (6-11-78) HABS

Forsyth County
Winston-Salem, Graylyn, Reynolds Rd. (8-3-78)

Winston-Salem, Poindexter, H. D., Houses, 124 and 130 West End Blvd. (7-31-78)

Orange County
Hillsborough vicinity, St. Mary's Chapel, NE of Hillsborough (7-12-78)

Vance County
Henderson, Henderson Fire Station and Municipal Building, Garnett and Young Sts. (8-10-78)

Henderson, Mistletoe Villa, Young Ave. (6-10-78)

Wake County
Raleigh, Raleigh, Sir Walter, Hotel, 400-412 Fayetteville St. (8-11-78)

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Wayne County
Goldboro, Old Fellows Lodge, 111-115 N. John St. (8-3-78)

Wilson County
Wilson, Branch Banking & Trust Company
Building, 124 W. Nash St. (8-11-78)

OHIO
Clark County
South Charleston, South Charleston Historic
District, OH 70 (7-17-78)

Clermont County
Bantam Vicinity, Bethel Methodist Church,
1 mi. N of Bantam on Elk Lick Rd. (8-11-78)

Franklin County
Groveport, Groveport Town Hall-Historic
Group, 828, 632 Main and Main Sts. (T-31-78)

Lawrence County
Kent, Fifth and Lawrence Streets Resi-
dential District, 5th and Lawrence Sts. (8-2-78)

Lorain County
Avon, Williams, Henry Harrison, House,
37392 Detroit Rd. (7-12-78)
Sheffield Lake, 103rd Ohio Volunteer Infan-
try Association Barracks, 5501 E. Lake Rd.
(7-14-78)

Miami County
Troy, Troy Arch, Stone Culvert, N of
Troy at SR 25A (7-17-78)

Montgomery County
Kettering, Kettering, Charles F., House,
3965 Southern Blvd. (12-22-77) NHL

Muskingum County
Zanesville, Achauer-Linser House and Brew-
ery Complex, 976-988 E. Main St. (6-3-78)
Zanesville, Zanesville YWCA, 49 N. 6th St.
(7-17-78)

Portage County
Kent, Kent Jail, 124 W. Day St. (8-10-78)

Shelby County
New Bern vicinity, Turtle Creek Culvert and
Embarkment, W of New Bern (8-10-78)

Trumbull County
Warren, Edwards, John Stark, House, 309
South St., SE. (7-17-78) HABS

OKLAHOMA
Canadian County
El Reno, Southern Hotel, 319 S. Grand St.
(8-2-78)

Oklahoma County
Oklahoma City, Weather Service Building,
1923 Classen Blvd. (7-12-78)

OREGON
Marion County
Silvertown vicinity, Miller Cemetery Church,
2 mi. (3.2 km) NE of Silvertown on Cascade
Hwy. (6-10-78)

Multnomah County
Portland, Beth Israel School, 1230 SW Main
St. (8-10-78)

Pennsylvania
Fayette County
Brownsville, Dunlap's Creek Bridge, spans
Dunlap's Creek (7-31-78)

Franklin County
Mercersburg, Hays Bridge Historic District,
E of Mercersburg on SR 331 and
SR 228 (7-31-78)

Lackawanna County
Scranton, Dime Bank Building, Wyoming
Ave. and Spruce St. (7-14-78)

Lancaster County
Marletta, Marietta Historic District, rough-
ly bounded by Market, Front, Biddle, and
Waterford Sts. (7-18-78)

Nottingharn vicinity, Kirls Mills Historic
District, W of Nottingharn off PA 272 (7-
17-78)

Philadelphia County
Philadelphia, Insurance Company of North
America Building, 1600 Arch St. (6-2-78)
NHL
Philadelphia, Wanamaker, John, Store,
Juniper and Market Sts. (6-2-78) NHL
(6-10-78)

SOUTH CAROLINA
Aiken County
Granville, Granville Historic District
SC 19 and Gregg St. (6-2-78) NHL

Greenville County
Piedmont, Piedmont Manufacturing Com-
pany, S end of Main St. (6-2-78) NHL

SOUTH DAKOTA
 Codington County
Watertown, Codington County Courthouse,
1st Ave. SE. (7-24-78)

Fall River County
Edgemont vicinity, Flint Hill Aboriginal
Quartzite Quarry, E of Edgemont (7-14-
78)

TENNESSEE
Meigs County
Decatur, Meigs County Courthouse, Court
Sq. (6-3-78)

Shelby County
Memphis, Columbian Mutual Tower, 60 N.
Main St. (7-24-78)
Memphis, Southwestern at Memphis Histor-
ic District, 2000 N. Parkway (7-20-78)

TEXAS
Bexar County
San Antonio, Source of the River District,
4515 Broadway (7-31-78)

Brazos County
Alpine, Brazos County Courthouse and
Jail, Courthouse Sq. (7-17-78)

Dallas County
Lancaster, Randolf House, 401 S. Centre St.
(8-11-78)

Deaf Smith County
Horado, Block, E. B., House, 503 W. 3rd St.
(7-17-78)

Fayette County
LaGrange vicinity, Mount Eliza, 3 mi. (4.8
lam) S of LaGrange on U.S. 77 (7-17-78)

Round Top, Bethlehem Lutheran Church,
White St. (8-10-76)

Harris County
Houston, Hogg Building, 401 Louisiana St.
(7-14-78)

Limestone County
Tehuacana, Texas Hall, Old Trinity Univer-
sity, College and Westminster Sts. (7-12-
78)

Lute Oak County
Calliham vicinity, Pagan Site, E of Calliham
off TX 72 (8-10-78)

McMullen County
Calliham vicinity, Mustang Branch Site,
NW of Calliham off TX 72 (6-10-78)

Presidio County
Marfa, El Patsalo Hotel, N. Highland and
W. Texas Sts. (6-1-78)

Terrell County
Dryden vicinity, Bullis' Camp Site, NE of
Dryden (6-2-78)

Throckmorton County
Throckmorton, Throckmorton County
Courthouse and Jail, Public Sq. and
Checotah St. (8-10-78)

Travis County
Austin, Congress Avenue Historic District,
Congress Ave. from 1st to 11th Sts. (6-11-
78)

Austin, St. David's Episcopal Church, 394 E.
7th St. (6-2-78)

UTAH
Carbon County
Price, Price Tavern, E. 100 South and
Carbon Ave. (6-11-78)

Salt Lake County
Salt Lake City, Exchange Place Historic
District, Exchange Pl. and S. Main St.
(6-10-78)

Salt Lake City, McIntyre House, 259 7th
Ave. (7-17-78)

Sanpete County
Ephraim, Peterson, Canute, House, 10 N.
Main St. (7-17-78)
NOTICES

Dane County
Madison, Cutter, Judson C, House, 1030
Jenifer St. (7-12-78)
Madison, Elliott, Edward C, House, 137 N.
Prospect Ave. (8-11-78)

Lincoln County
Merrill, Merrill City Hall, 711 E. 2nd St. (7-12-78)

Milwaukee County
South Milwaukee, South Milwaukee Passenger
Station, Milwaukee Ave. (6-3-78)

Rock County
Janesville, Richardson, Hamilton, House,
429 Prospect Ave. (7-17-78)

Sauk County
Leopold, Aldo, Shack, Reference—see Columbia County.

Walworth County
Delavan, Stowell, Israel, Temperance House,
61-65 E. Walworth Ave. (8-11-78)
Lake Geneva, Lake Geneva Depot, Broad St. (7-31-78)

Waukesha County
Okauchee, Okauchee House, 34880 Lake Dr.
(8-11-78)

WA

Alexandria (Independent city)
Franklin and Armfield Office, 1315 Duke St.
(6-2-78) NHL

Botetourt County
Buchanan vicinity, Looney Mill Creek Site,
W of Buchanan (8-3-78)

Page County
Shenandoah, Shenandoah Land and
Improvement Company Office (Stevens College),
201 Maryland Ave. (7-14-78)

Williamsburg (Independent city)
College Land, off VA 31 (7-12-78)

WASHINGTON

King County
Seattle, Fort Lawton (8-15-78)
Seattle, Seattle Electric Company George-town Steam Plant, off WA 99 at King
County Airport (8-6-78)

Kitsap County
Hansville vicinity, Point No Point Light Sta-
tion, E of Hansville (8-10-78)

Pierce County
Tacoma, Pacific Brewing and Malting Com-
pany, S. 25th St. Between C St. and Jef-
ferson Ave. (7-31-78)

WEST VIRGINIA

Ritchie County
Pennsboro, Old Stone House, 310 W. Myles
Ave. (7-61-78)

WISCONSIN

Brown County
Green Bay, Fish, Joel S., House, 123 N. Oak-
land Ave. (8-11-78)

Columbia County
Columbus vicinity, Leopold, Aldo, Shack,
central Wisconsin (also in Sauk County)
(7-14-78)

Silka Division
Silka, Alaska Native Brotherhood Hall, Kal-
leen St. (2-23-72) NHL

Skagway-Yakutat Division
Skagway vicinity, Chilkoot Trail, Mile 0 to
U.S./Canada border (4-14-75) NHL
Yakutat vicinity, New Russians Site, SW of
Yakutat on Phipps Peninsula (2-23-72) NHL

Upper Yukon Division
Eagle and vicinity, Eagle Historic District
(10-27-70) NHL; G

Valdez-Chitina-Whittier Division
Gakona vicinity, Sourdough Lodge, AK 4
(Richardson Hwy.) (10-1-74) NHL; G

Yukon-Koyukuk Division
Lignite vicinity, Dry Creek Archeological
Site (9-6-74) NHL; G

ARKANSAS

Lonoke County
Scott vicinity, Toltec Mounds (Knapp
Mounds), 5 mi. (8 km) SE of Scott off AR
39 (1-12-76) NHL

CALIFORNIA

Los Angeles County
Pasadena, Gamble House (Greene and
Greene Library), 4 Westmoreland Pl. (9-3-
71) NHL; HABS

Mendocino County
Gualala, Milano Hotel, 38300 CA 1 S. (6-23-
78)

GEORGIA

Glynn County
Jekyll Island, Jekyll Island Club, between
Riverview Dr. and Old Village Blvd. (1-20-
72) NHL

Muscooge County
Columbus, Springer Opera House, 105 10th
St. (12-29-70) NHL; G

Wildes County
Washington vicinity, Gilmer, Thomas M.,
House, 5 mi. (8 km) W of Washington on
U.S. 78 (11-2-77) (moved, delete from Cy-
lethorpe Co.)

INDIANA

St. Joseph County
South Bend, Tippecanoe Place (Studebaker
House), 620 W. Washington Ave. (7-2-73) NHL

IOWA

Buena Vista County
Albert City, Albert City Station, 212 N. 2nd
St. (10-22-76)

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
NOTICES

KANSAS
Wilson County
Neodesha, Norman No. 1 Oil Well Site, E. Mill St. (6-28-74) NHL

MASSACHUSETTS
Middlesex County
Lowell, Locks and Canals Historic District, between Middlesex St. and the Merrimack River (8-13-76) NHL

MICHIGAN
Genesse County
Flint, Durant-Dort Carriage Company Office, 315 W. Water St. (9-2-75) NHL

MISSOURI
Buchanan County
St. Joseph, Buchanan County Courthouse, Courthouse Sq. (6-21-72)

NEW HAMPSHIRE
Cheshire County
Harrissville and vicinity, Harrissville Historic District, Harrissville and its environs (9-17-71) NHL; HABS; G

NEW YORK
New York County
New York, Chamber of Commerce Building, 65 Liberty St. (2-6-73) NHL
New York, Grace Church and Dependencies, Broadway, 10th St. and 4th Ave. (6-28-74) NHL; G
New York, Soho Historic District, roughly bounded by W. Broadway, Houston, Crosby, and Canal Sts. (6-29-76) NHL
New York, Surrogates Court (Hall of Records), 31 Chambers St. (1-29-72) NHL

NORTH CAROLINA
Davie County
Mocksville vicinity, Cooleemee, terminus of SR 1812 (3-20-73) NHL; HABS

OKLAHOMA
Kay County
Ponca City, Marland, E. W., Mansion (The Villa), Monument Rd. (4-11-73) NHL

OREGON
Clackamas County
Government Camp vicinity, Timberline Lodge, 8 ml. (13 km) N of Government Camp in Mount Hood National Forest (11-12-73) NHL

Pennsylvania
Berks County
Reading vicinity, Gruber Wagon Works, W. of Reading off PA 183 in Tulpehocken Creek Park (6-2-72) NHL

Philadelphia County
Philadelphia, Philadelphia Contributionship, 212 S. 4th St. (5-27-71) NHL; HABS

SOUTH CAROLINA
Charleston County
Charleston, Charleston Historic District, incorporates most of area S of Bee, Morris, and Mary Sts. to waterfront (7-16-76) NHL; HABS; G (boundary revision)

SOUTH DAKOTA
Lawrence County
Spearfish vicinity, Spearfish Fisheries Center (Spearfish Hatchery), S of Spearfish off U.S. 14 (5-19-78)

TENNESSEE
Sumner County
Gallatin vicinity, Fairview (Isaac Franklin Plantation), 4 ml. (6.4 km) S of Gallatin on U.S. 31E (6-10-75) NHL; HABS

TEXAS
Lubbock County
Lubbock vicinity, Lubbock Lake Site, N of Lubbock off U.S. 84 (6-21-71) NHL; G

VIRGINIA
Patrick County
Culpeper vicinity, Reynolds Homestead, N of Culpeper on VA 789 (5-22-71) NHL

Richmond (independent city)
Jackson Ward Historic District, roughly bounded by 8th, Marshall, and Gilmer Sts., and Richmond-Petersburg Tpke. (7-30-76) NHL

Tredyffrin Ironworks, roughly bounded by James River, Kanawha Canal, and VA 1/ U.S. 301 (7-2-71) NHL; HAER

WYOMING
Laramie County
Cheyenne vicinity, Fort David A. Russell (Francis Warren AFB), W of Cheyenne (10-1-69) NHL; HABS

The following properties have been demolished and/or removed from the National Register of Historic Places.

FEDERAL REGISTER, VOL. 43, NO. 172-TUESDAY, SEPTEMBER 5, 1978

HAWAII
Honolulu County
Honolulu, Kauluhi House, 1326 Keeaumoku St.

ILLINOIS
Union County
Anna, Willard House, 633 S. Main St.

IOWA
Clinton County
Clinton, Young, W. J., Company Machine Works, N of Jct. of 10th Ave. S. and 1st St.
Madison County
St. Charles vicinity, Imes Covered Bridge, 3.5 ml. SW of St. Charles

MASSACHUSETTS
Hampden County
Chicopee, Kendall Block, 6-20 Springfield St.

NEBRASKA
York County
York, York County Courthouse, 5th St. and Lincoln Ave.

NEW MEXICO
Bernalillo County
Albuquerque, Iffold, Charles, Company Warehouse, 200 1st St., NW.

OHIO
Ashland County
Ashland, Ashland County Jail, W. 2nd and Cottage Sts.
Ashland, First National Bank and Firestone Building, 2 and 10 W. Main St.

Portage County
Kent, Kent, Charles, House, 125 N. Pearl St. (2-23-76)

Shelby County
Sidney, People’s Federal Savings and Loan Association, 101 E. Court St. (6-5-72) NHL

The determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility,
under the authorities in section 2(b) and l(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requesting determinations of eligibility are designated by § 63.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

**ALABAMA**

Franklin County
Bonds, A. T., Home, 1 mi. past Bonds Cemetery (63.3)
Cedar Creek Archeological District (63.3) - Johnson, Ben, House, Jay Center Rd. (63.3)
Langley, Catherine Massey, House, Jay Center Rd. (63.3)
McKinney, Nelson, Home, Jay Center Rd. (63.3)
McKinney, Sampson, House, Jay Center Rd. (63.3)
McMurray, Jim, House, Jay Center Rd. (63.3)

**CALIFORNIA**

Contra Costa County
Richmond, Point Richmond
Humboldt County
Humboldt Bay Life-Saving Station, on Humboldt Bay
Moody Bridge, over S fork of Eel River
Los Angeles County
Long Beach, Point Vicente Light
Los Angeles vicinity, Los Angeles Harbor Light Station, Cabrillo Beach
Orange County
Cooks Corners vicinity, Archeological District (63.2)
Santa Barbara County
CA-SBa-532 (63.3)
CA-SBa-670 (63.3)
CA-SBa-831 (63.3)
Santa Barbara vicinity, Point Conception Light Station

**HAWAII**

Kauai County
Kauai Bridge, Kuhio Hwy.
Waioli Bridge, Kuhio Hwy.
Waipa Bridge, Kuhio Hwy.

**ILLINOIS**

Cook County
Chicago, Chicago Union Loop Elevated Structure, Bounded by Wells, Lake, Van Buren, and Wabash Sts.

**INDIANA**

Jefferson County
Archeological Site 12JE119/120

**KENTUCKY**

Fayette County
Lexington vicinity, Paris Pike Historic District (also in Bourbon County)

**MARYLAND**

Queen Anne County
Stevensville vicinity, Benton House, W of Stevensville (63.3)

**MISSISSIPPI**

Grenada County
Grenada, Grenada Post Office, 176 S. Main St.

**MISSOURI**

Boone County
Columbia, Columbia (Wabash) Depot Building and Freight House, 126 N. 10th St. (63.3)

**MONTANA**

Monroe County
Florida, Bannister, Daniel, Log House
Florida, Bannister, Daniel, Site
Florida, Cave, Richard, Site (63.3)
Florida, Donaldson, Andrew C., Farmstead
Florida, Schurr, House (63.3)
Florida, Schurr, Site (63.3)
Florida, Smith, Samuel H., House and Farmstead, 5 mi. W of Florida (63.3)
Florida, Smith, Samuel H., Farmstead, SW of Florida
Florida, Smith, Samuel H., Farmstead, NE of Florida

**Oklahoma**

Federal Register, Vol. 42, No. 172—Tuesday, September 5, 1978
NOTICES

PUERTO RICO
Puerto Rico (Santa Matilde Bridge Over La Tuna River), Spans Guajataca River

RHODE ISLAND
Providence County
Providence, Downtown Providence Historic District (63.3)

SOUTH DAKOTA
Minnehaha County
Sioux Falls, Sioux Falls Depot, Between 5th and 6th Sts. (63.3)

TENNESSEE
Hamilton County
Walnut Street Bridge, Across the Tennessee River from Walnut St. to Fredder Ave. (63.3)

TEXAS
Hays County
Archeological Site 41H775
Archeological Site 41H795

KAUFMAN COUNTY
Cedar Creek Lake vicinity, 41 KF 64

TRUST TERMINITY OF THE PACIFIC ISLANDS
Fonana District

EASTERN CAROLINA ISLANDS
Tafuna Shell Midden, Kecora Island

MOA ISLAND
Moon Island, Nine Japanese Bunkers (63.3)

TUNKU DISTRICt
Moon Island, Shell Hidden No. 1 (63.3)

MOA ISLAND
Moon Island, Shell Hidden No. 2 (63.3)

MOA ISLAND
Moon Island, Shell Hidden No. 3 (63.3)

MOA ISLAND
Moon Island, Shell Hidden No. 4 (63.3)

MOA ISLAND
Moon Island, Shell Hidden No. 5 (63.3)

VIRGIN ISLANDS
St. Thomas Island

CHARLOTTE AMALIE
Charlotte Amalie, Hamburg-America Shipping Line Administrative Offices, 46R Toole Gade

VIRGINIA
Bath County
Archeological Site 44Ba200 (63.3)

CHESTERFIELD COUNTY
Point of Rocks Archeological Sites 44CF101, 44CF104, and 44CF105 (63.3)

WISCONSIN
Milwaukee County
Milwaukee, Franklinton Arcade, 161 W. Wisconsin Ave.

Milwaukee, St. Vincent's Asylum, 899 W. Greenfield Ave.

Rock County

Janesville, Myers-Nehoch Building, 121 N. Parker Dr. (63.3)

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The following properties have either been demolished or placed on the National Register and are therefore removed from the Determinations of Eligibility listing.

IDAHO

Faucer County

American Falls vicinity, Register Rock (placed on National Register 7-24-73)

[FR Doc. 78-24177 Filed 9-1-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service
NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 25, 1978. Pursuant to §60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 15, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ARKANSAS

CABOT COUNTY

Calloway vicinity, Boone's Mounds, N of Calhoun

Calloway vicinity, Keller Site, NW of Calhoun

CLARK COUNTY

Arkadelphia, Clark County Courthouse, 4th and Crittenden Sts.

Arkadelphia vicinity, Hudson-Jones-Harris House, 10 mi. E of Arkadelphia

COLUMBIA COUNTY

Magnolia vicinity, Old Alexander House, NE of Magnolia

GARLAND COUNTY

Hot Springs, Interstate Orphans Home, 339 Contis St.

Hot Springs, Williams-Woolin House, 420 Quapaw Ave.
NOTICES

KENTUCKY
Laurinburg County
London vicinity, Wildcat Battlefield Site, 15.4 mi. N of London off U.S. 25

MISSOURI
Franklin County
New Haven vicinity, Pelzer, Wilhelm, House-Barn, S of New Haven
Lewis County
Canton, Henderson Hall, College Hill

TENNESSEE
Hollister, Downing Street Historic District, Downing St. between 3rd and 4th Sts.

NEW YORK
Dutchess County
Poughkeepsie, Poughkeepsie Almshouse and City Infirmary, 20 Maple St.

OKLAHOMA
Oklahoma County
Tulsa County
Tulsa, Phillips, Waite, Mansion, 2727 S. Rockford Rd.

PENNSYLVANIA
Chester County
Devault vicinity, Spring Mill Complex, SW of Devault at Jct. of Moore Rd. and PA 401

Huntingdon County
Huntingdon, Huntingdon County Jail, 3rd and Mifflin Sts.

Lancaster County
Lancaster, Lancaster County Courthouse, 43 E. King St.

Mercer County
Mercer, Mercer County Jail, S. Diamond St.

Philadelphia County

TENNESSEE
Dyer County
Dyerburg, LOTUSS, 917 Troy Ave.

Fayette County
Elba vicinity, Miller House, Raleigh-La Grange Rd.

Giles County
Pulaski vicinity, Mount Moriah Cumberland Presbyterian Church, W of Pulaski on Mount Moriah Rd.

Hamilton County
Chattanooga, Hamilton County Courthouse, W. 6th St. and Georgia Ave.

Marion County
Jasper, McKendree Methodist Episcopal Church, Betsy Fack Dr.

Smith County
Dixon Springs vicinity, Bradley, James, House, SE of Dixon Springs off TN 29

TEXAS
Bell County
Temple, Ferguson House, 518 N. 7th St.

Lancaster County
Lancaster County Courthouse, 4301 W. 6th St. and Georgia Ave.

Laurel County
Mount Pleasant, Mount Pleasant College Institute Historic District, E of Jct. of NC 48 and NC 73

OCTOBER

CONNECTICUT
Middlesex County
New Haven County
Waterbury, Waterbury Municipal Center Complex, 195, 235, 236 Grand St., 7, 35, 43 Field St.

ILLINOIS
Rock County
Gatesville, Gatesville Historic District, irregular pattern along Corey, Stanford, Quincy and Liberty Sts.

INDIANA
Knox County
Fremont, Fremont's Store, Carlisle and Indianapolis Sts.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
NOTICES

29, 1978, instituted investigation No. AA1921-138 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 1601(a)), to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "steel wire strand" was defined as steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the Tariff Schedules of the United States Annotated (TSUSA).

Hearing. A public hearing in connection with the investigation will be held on Tuesday, October 3, 1978, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW, Washington, D.C. 20436, beginning at 10 a.m., e.d.t. All persons shall have the right to appear in person or by counsel, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 28, 1978.


By order of the Commission,

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24902 Filed 9-1-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR
Office of the Secretary

AIRCO, INDUSTRIAL CASES, DIVISION OF AIRCO, INC., JOHNS TOWN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3514: Investigation regarding certification of eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

The increase of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production. U.S. imports of nitrogen were negligible during the period from 1972 to 1977. Likewise, imports of oxygen were negligible during the period from 1972 to 1977.

The Department of Labor conducted a survey of the sole customer of the Airco Industrial Gases plant in Johnstown, Pa. That customer indicated that they have not purchased important oxygen or nitrogen gases, nor do they have any other domestic sources of industrial gases.

The Department has previously determined that only imports of articles like or directly competitive with these products produced at the petitioning firm may be considered in determining if the increased imports contributed importantly to the sales, production, and employment declines at that firm. Airco Industrial Gases produced only oxygen and nitrogen gases. These products are not like or directly competitive with steel products as alleged on the worker's petition.

The worker's petition alleges that employees of Airco Industrial Gases may have been employed indirectly by Bethlehem Steel Corp. The Department's investigation found that the workers of Airco Industrial Gases are employed by and paid solely by Airco Industrial Gases.

CONCLUSION

After careful review, I determine that all workers of the Johnstown, Pa., plant of the Airco Industrial Gases Division of Airco, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Regulations.

[FR Doc. 78-24079 Filed 9-1-78; 2:45 am]

[4510-28]

ITA-W-3378

BEAUMONT CO., MORGANTOWN, W.VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3378: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 2, 1978, which was filed by the American Flint Glass Workers Union on behalf of workers and former workers producing glass lamp globes at the Beaumont Co., Morgantown, W.Va.

The notice of investigation was published in the Federal Register on March 23, 1978 (43 FR 12567). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Beaumont Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

The increase of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of customers of the Beaumont Co. by the Department revealed that the respondents that increased purchases of imported glass lamp globes also increased purchases from Beaumont.

Sales of the Beaumont Glass Co. increased in the period from July 1977 to March 1978 compared with the period from July 1976 to March 1977.

CONCLUSION

After careful review, I determine that all workers of the Beaumont Co.,
Morgantown, W.Va., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24887 Filed 9-1-78; 8:45 am]

[Negative Determination Regarding Eligibility To Apply For Worker Adjustment Assistance]

DIAMOND SHAMROCK CORP., HARRISON, N.J.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2668: Investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 21, 1977, which was filed by the International Union of Electrical, Radio and Machine Workers Union on behalf of workers and former workers producing chemicals/additives used in tanning and paper finishing, vitamins used in the animal health industry and chemicals used for paint additives at the Harrison, N.J., plant of Diamond Shamrock Corp.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Diamond Shamrock Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to the production of synthetic tanning materials decreased from 660 thousand pounds in 1976 to 571 thousand pounds in 1977. The import ratio of imports to domestic production of synthetic tanning materials decreased from 1.4 percent in 1976 to 0.9 percent in 1977.

The ratio of U.S. imports of surface active agents (nonbenzenoid and benzenoid) to domestic production decreased from 1.7 percent in 1975 to 1.5 percent in 1976. The imports to domestic production ratio was not available for 1977; however, this ratio has been less than 2 percent in each year during the period of 1973 to 1976.

A Department survey was conducted with customers who purchase surface active agents and tanning chemicals from Diamond Shamrock Corp. Results of the survey showed that none of the customers purchased surface active agents from foreign sources during the period 1975 to 1977. Only one customer purchased imported tanning chemicals, by means of purchases from other domestic suppliers; however, this customer's purchases from domestic sources declined in each year from 1975 to 1977.

With respect to the production of vitamin feed supplement and antibiotics in the Nutrition and Animal Health Division of the Harrison, N.J., plant of Diamond Shamrock Corp., the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of Vitamin D increased 10.1 percent and 57.8 percent in the third and fourth quarters of 1976 compared to the same quarter of 1975. In 1977, production of Vitamin D increased 61.3 percent compared to 1976. Vitamin E production increased 14.9 percent from 1975 to 1976 and increased 45.2 percent from 1976 to 1977. Production of Micro increased 31.0 percent from 1975 to 1976 and increased 13.8 percent from 1976 to 1977. Production of oxyject remained unchanged from 1975 to 1976 and then increased 104.0 percent from 1976 to 1977.

Sulfone was not produced at the Harrison, N.J., plant before January 1977. Calcium panthenolate and its complex were discontinued at the end of 1975.

Sales data were not available for the Nutrition and Animal Health Division. At the Harrison, N.J., plant, production generally equals sales. However, some inventories are maintained to meet customer demand.

CONCLUSION

After careful review I determine that all workers at the Harrison, N.J., plant of Diamond Shamrock Corp., are denied eligibility to apply for trade adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24889 Filed 9-1-78; 8:45 am]

[Negative Determination Regarding Eligibility To Apply For Worker Adjustment Assistance]

DI NO CLOTHING CO., NEW YORK, N.Y. AND OCEANSIDE, N.Y.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3171: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored clothing at the New York, N.Y. and Oceanside, N.Y., plants of Dino Clothing Co. During the course of the investigation it was established that the firm also produced ladies' blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dino Clothing Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

On January 10, 1976, workers at the New York, N.Y. and Oceanside, N.Y. plants of Dino Clothing Co. were certified as eligible to apply for trade adjustment assistance (TA-W-289). This certification expired on January 10, 1978.
Sales and production at Dino Clothing Co. are equal, and production is integrated between the two plants. Production, in value, of men's coats and ladies' blazers at the New York, N.Y. and Ocean side, N.Y. plants of Dino Clothing increased 11 percent in the first 6 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review I determine that all workers at the New York, N.Y. and Ocean side, N.Y. plants of Dino Clothing Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24809 Filed 9-1-78; 8:45 am]

[4510-28]

TA-W-35571

GARLAND CORP., BROCKTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-35571: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 223 of the act.

The investigation was initiated on April 27, 1978, in response to a worker petition received on April 14, 1978, which was filed on behalf of workers and former workers producing ladies' knitted outerwear at the Brockton, Mass., plant of Garland Corp. The Notice of Investigation was published in the Federal Register on May 18, 1978, (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Garland Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

Workers at the Brockton, Mass. plant of Garland Corp. were covered under a previous certification which expired on August 29, 1977 (TA-W-66).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements will be certified as eligibility to become totally or partially separated, or are threatened to become totally or partially separated.

Average annual employment of production workers at the Brockton, Mass. plant of Garland Corp. increased by 4 percent from 1976 to 1977 and increased by 2 percent in the first quarter of 1978 as compared to the same quarter in 1977. Average hours worked increased 1 percent in the last two quarters of 1977 compared to the same period in 1976, and increased 4 percent in the first quarter of 1978 compared to the same period in 1977.

There is no immediate threat of separations at the Brockton, Mass. plant.

CONCLUSION

After careful review, I determine that all workers of the Brockton, Mass. plant of Garland Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24832 Filed 9-1-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 29.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the worker's firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Act in accordance with the provisions of Subpart B of 29 CFR Part 29. 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 29.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing: Provided, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

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[FR Doc. 78-24873 Filed 9-1-78; 8:45 am]
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 Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing.

Provided, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

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APPENDIX

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[FR Doc. 78-24874 Filed 9-1-78; 8:45 a.m] [TA-W-3184]

M. EHRENBERG SONS, INC., PASSAIC, N.J.
Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3184: Investigation regarding the Trade Act of 1974 the Department held.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed on behalf of workers and former workers producing men's tailored jackets at M. Ehrenberg Sons, Inc., Passaic, N.J., including its wholly owned subsidiary Victor Roberts, Inc.

The Notice of Investigation was published in the Federal Register on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M. Ehrenberg Sons, Inc., its customers, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' tailored suits increased both absolutely and relatively from 1975 to 1976 and from 1976 to 1977.

All of the men's tailored jackets produced by M. Ehrenberg Sons, Inc., are assembled into men's suits for manufacturers of men's clothing. Customers of these manufacturers that were surveyed indicated that they decreased purchases of men's suits from manufacturers who were surveyed and increased purchases of imported men's suits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with men's suits produced by M. Ehrenberg Sons, Inc., Passaic, N.J., contributed importantly to the decrease in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certifications:

All workers at M. Ehrenberg Sons, Inc., Passaic, N.J., including its wholly owned sales subsidiary Victor Roberts, Inc., engaged in employment related to the production of men's and boys' tailored suits, who became totally or partially separated from employment on or after February 10, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[4510-28]

[TA-W-3195]

MANDELB AUM CLOTHING CO., INC., NEW YORK CITY, N.Y.
Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3195: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of Workers and former workers producing men's suits and sportcoats at Mandlebaum Clothing Co., Inc., New York City, N.Y.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mandlebaum Clothing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' tailored dress coats and sportcoats increased from 6,465 thousand units in 1975 to 6,965 thousand units in 1976 and then decreased to 6,269 thousand units in 1977. Imports in absolute terms in 1977 were above those
NOTICES

in the years 1973–75. The imports to domestic production ratio decreased from 28.2 percent in 1973 to 25.3 percent in 1976.

Mandlebaum Clothing Co. is a contractor that stitches men’s suitcoats and sportcoats for one manufacturer. That manufacturer reduced its contract work with Mandlebaum as a result of decreased orders from its customers. A survey of that manufacturer’s customers revealed that some had increased purchases of imports while reducing purchases from the firm during the period 1975 to 1977.

A certification applicable to the petitioning group of workers was issued on January 7, 1976 (TA-W-2825) and expired on January 7, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men’s suitcoats and sportcoats produced by Mandlebaum Clothing Co., Inc., New York City, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Mandlebaum Clothing Co., Inc., New York City, N.Y., who became totally or partially separated from employment on or after January 7, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24884 Filed 9-1-78; 8:45 am]

[4510–28]

(TA-W-2765)

M-TRON INDUSTRIES, INC., YANKTON, S. DAK., MADISON, S. DAK., HURON, S. DAK.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2765: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 16, 1978, in response to a worker petition received on February 6, 1978, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women’s knit sweaters at Noble Knit Manufacturing Co., Long Island City, N.Y. Noble Knit is a subsidiary of Fairfield Noble Corp. During the course of the investigation, it was determined that Noble Knit also produced ladies knit tops.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8882). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Noble Knit Manufacturing Co., Fairfield Noble Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

M-TRON Industries is a manufacturer of quartz crystals which were primarily used in CB and scanner radios. Mtron had three plants located in Yankton, S. Dak., and one plant each in Parkston, Huron, S. Dak. All of the plants were part of an integrated production process. Workers at the Parkston, S. Dak., plant which ceased operations in September 1976 are ineligible to apply for trade adjustment assistance as no certification may apply to any workers whose last total or partial separation from Mtron occurred before December 1, 1976, 1 year prior to the date of the petition.

During the 1973 to 1976 time period the average annual level of imports of quartz crystals was $8.6 million. Imports increased in 1977 to $10.6 million. Imports as a percentage of domestic production increased from 5.0 percent during the 1973-1976 time period to 5.1 percent in 1977.

A major customer increased purchases of imported crystals in 1977 compared to being the first quarter of 1978 compared to the first quarter of 1977 while decreasing purchases from M-tron during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with quartz crystals manufactured by Plant No. 1, Plant No. 3, and the Monitor Division Plant, Yankton, S. Dak.; the Huron, S. Dak., plant; the Madison, S. Dak., plant; and the M-tron plant in Huron, S. Dak.; plant No. 1, No. 3, and the Monitor Division Plant, Yankton, S. Dak. were ineligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24885 Filed 9-1-78; 8:45 am]

[4510–28]

(TA-W-3145)

NOBLE KNIT MANUFACTURING CO., LONG ISLAND CITY, N.Y.

Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3145: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 16, 1978, in response to a worker petition received on February 6, 1978, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women’s knit sweaters at Noble Knit Manufacturing Co., Long Island City, N.Y. Noble Knit is a subsidiary of Fairfield Noble Corp. During the course of the investigation, it was determined that Noble Knit also produced ladies knit tops.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8882). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Noble Knit Manufacturing Co., Fairfield Noble Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women’s, misses’, and children’s sweaters increased from 8,965 thousand dozen in 1975 to 9,613 thousand dozen in 1976 and then decreased to 9,520 thousand dozen in 1977. Imports increased from 816 thousand dozen in the first quarter of 1977 to 576 thousand dozen in the first quarter of 1978. The increase in imports of sweaters to domestic production in-
creased from 115.1 percent in 1975 to 141.9 percent in 1976 and then declined slightly to 140.8 percent in 1977. Noble Knit sells all of its production to the parent firm, Fairfield Noble Corp. A survey was conducted by the Department of Labor and the Department of Commerce among the retail customers of Fairfield Noble Corp. The survey revealed that several customers decreased their purchases of ladies' knitted sweaters and tops from Fairfield Noble, while increasing their purchases of imports from 1975 through the first quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's knitted sweaters and tops produced by Noble Knit Manufacturing Co., Long Island City, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certifications:

All workers at Noble Knit Manufacturing Co., Long Island City, N.Y. (a subsidiary of Fairfield Noble Corp.), who became totally or partially separated from employment on or after January 31, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES P. TAYLOR,
Director, Office of Management, Administration and Planning.

[4510-28]

ITA-W-32401

ROANE ELECTRIC FURNACE CO., ROCKWOOD, TENN.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3240: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 23, 1978 in response to a worker petition received on February 7, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing ferromanganese, ferrosilicon, siliconmanganese, and medium carbon ferromanganese at Roane Electric Furnace Co., Inc., Rockwood, Tenn.

The notice of investigation was published in the Federal Register on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of Roane Electric Furnace Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing ferromanganese and ferrosilicon, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of standard ferromanganese at the plant increased in quantity and value in the first quarter of 1976 compared to the first quarter of 1977.

Sales of ferrosilicon increased in quantity and value in 1976 from 1975, increased 33 percent in quantity and value in 1977 from 1976 and increased in quantity and value in the first 2 months of 1978 compared to the same period of 1977.

Production of ferrosilicon at the plant increased in quantity and value in 1976 from 1975, increased 44 percent in quantity and value in 1977 from 1976 and increased in quantity and value in the first 2 months of 1978 compared to the same period of 1977.

With respect to workers producing medium carbon ferromanganese, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the continuation or threat thereof, and to the absolute decline in sales or production.


With respect to workers producing siliconmanganese, all of the eligibility requirements of section 222 of the Act have been met.

Imports of SiMn increased in 1976 from 1975 and increased 10 percent in 1977 from 1976. The ratio of imports to domestic production increased from 45.5 percent in 1976 to 54.3 percent in 1977.

Customers of Roane decreased purchases of siliconmanganese from Roane and increased import purchases in 1977 and the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with siliconmanganese produced at Roane Electric Furnace Co., Inc., Rockwood, Tenn., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Roane Electric Furnace Co., Inc., Rockwood, Tenn., engaged in employment related solely to the production of siliconmanganese who became totally or partially separated from employment on or after January 31, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further conclude that workers of Roane Electric Furnace Co., Inc., engaged in employment related solely to the production of standard ferromanganese, ferrosilicon and/or medium carbon ferromanganese are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES P. TAYLOR,
Director, Office of Management, Administration, and Planning.

[4510-28]

ITA-W-3808

TRIANGLE SPORTSWEAR, BELLEVILLE, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3808: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 5, 1978, in response to a worker
petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's coats at Triangle Sportswear, Belleville, N.J. During the course of the investigation it was discovered that the correct name of the firm was Triangle Sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Triangle Sportswear, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance under Title II, Chapter 28th day of August 1978.

HARRY J. GILMAN, Acting Director, Office of Foreign Economic Research.
(FR Doc. 78-24889 Filed 9-1-78; 8:45 am)

NOTICES

[4510-28]

UNIVERSAL COAT CO., INC., BAY SHORE, N.Y.
Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3458: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 18, 1978, which was filed on behalf of workers and former workers producing fur felt hat bodies at Winchester Hat Corp., Winchester, Tenn.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Winchester Hat Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,752 thousand dozen in 1977. Imports declined from 900 thousand dozen in the first quarter of 1977 to 727 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 45.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Triangle Sportswear worked in 1975 and 1976. A manufacturer accounting for 100 percent of sales indicated reduced purchases from Triangle Sportswear in 1976 compared to 1975 and finally discontinued purchases from Triangle in 1977. Purchases of imported children's coats increased in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats, jackets, and raincoats produced by Universal Coat Co., Inc., Bay Shore, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Universal Coat Co., Inc., Bay Shore, N.Y., who became totally or partially separated from employment on or after March 3, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES P. TAYLOR, Director, Office of Management, Administration and Planning.
(FR Doc. 78-24890 Filed 9-1-78; 8:45 am)
Dress coats increased to 32.4 percent in production of men’s and boys’ tailored or production.

That increases of imports of articles like or directly competitive with articles produced by the subject firm, while increasing purchases from the subject firm, while increasing purchases of imports.

**Conclusion:**

After careful review I determine that all workers of Woodbury Manufacturing Co., Wilkes-Barre, Pa., are denied eligibility to apply for adjustment assistance.

**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 investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 6, 1978, which was filed on behalf of workers who were producing men’s and ladies’ jackets and blazers.

A previous case on Woodbury Manufacturing Co., TA-W-1009 was initiated on March 24, 1977, and denied on August 19, 1977.

The notice of investigation was published in the Federal Register on March 28, 1978 (43 FR 12697). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Woodbury Manufacturing Co., its customers, the American Textiles Manufacturers Institute, the National Cotton Council, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysis, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Woodbury Manufacturing Co., Wilkes-Barre, Pa., produces men’s and ladies’ jackets and blazers.

The ratios of imports to domestic production of men’s and boys’ tailored dress coats increased to 32.4 percent in 1976, compared with 28.2 percent in 1975. In absolute terms, imports decreased 10 percent in 1977, compared with 1976.

The ratios of imports to domestic production of women’s, misses’, and children’s coats and jackets decreased to 64.9 percent in 1977 from 65.7 percent in 1976. In absolute terms imports increased 20.9 percent in 1977, compared with 1976.

Responses to a customer survey comparing 1976 purchases to 1977 purchases revealed that those customers did not reduce purchases from the subject firm, while increasing purchases of imports.

**NOTICES**

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24892 Filed 9-1-78; 8:45 am]

**[3510-12]**

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE
FEDERAL REORGANIZATION FOR MARINE AFFAIRS
Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), Title II, chapter 2 of the Trade Act of 1974, the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a workshop on Federal reorganization for marine affairs at the Sheraton-Fredericksburg Motor Inn in Fredericksburg, Va., followed by a regular NACOA meeting at the same location. The workshop will begin on Sunday evening September 17, 1978, and conclude Tuesday afternoon September 19, 1978. The September NACOA meeting will take place from 8 a.m. until 4 p.m. on Wednesday, September 20, 1978.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1978. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation’s marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative workshop schedule follows:

**SUNDAY, SEPTEMBER 17**
4 p.m. onward—Arrival and registration at Sheraton-Fredericksburg Motor Inn, Fredericksburg, Va.
7:30 p.m.-9:30 p.m.—Introduction and orientation.

**MONDAY, SEPTEMBER 18**
6:45 a.m.-10 a.m.—Opening plenary session.
10:15 a.m.-12:30 p.m.—Working group meetings.
12:30 p.m.-1:15 p.m.—Lunch.
1:45 p.m.-4:30 p.m.—Working group meetings.
6:30 p.m.-9:30 p.m.—Cocktails and conversation.

**TUESDAY, SEPTEMBER 19**
8 a.m.-10:30 a.m.—Working group meetings.
10:30 a.m.-10:45 a.m.—Coffee.
10:45 a.m.-12 noon—Plenary session: Reports of working groups.
12 noon-1:45 p.m.—Lunch.
1:45 p.m.-4:30 p.m.—Plenary session: Discussion of key issues.
4 p.m.—Checkout and departure.

The schedule for the September meeting will be as follows:

**WEDNESDAY, SEPTEMBER 20, 1978**
0 a.m.—Review of issues in coastal zone management, Dr. Evelyn Murphy, NACOA.
9 a.m.—Recommendations regarding Federal organization for marine and atmospheric affairs, Mr. Marlin Duba, NACOA.
2 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee’s Executive Director, Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3000 Whitehaven Street NW. (Room 434, Page Building No. 1), Washington, D.C. 20235. The telephone number is 254-8418.

DOUGLAS L. BROOKS, Executive Director. (FR Doc. 78-24899 Filed 9-1-78; 8:45 am)
NOTICE

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on September 21, 22, and 23, 1978, in Room 6510, 2020 K Street NW., Washington, D.C. 20006.


The meetings will begin each day at 9:30 a.m. to discuss alternative labor force measures and appraise the concepts and definitions underlying the counting of special groups in the labor force. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:


Signed at Washington, D.C., this 29th day of August 1978.

SAR A. LEVITAN, Chairman.

[FR Doc. 78-24776 Filed 9-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

(Docket Nos. 50-413-A and 50-414-A]

DUKE POWER CO., NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1; CATAWBA NUCLEAR STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Duke Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR part 50, appendix L. This information adds North Carolina Municipal Power Agency No. 1 as co-owner of the Catawba Nuclear Station, Units 1 and 2.

The information was filed by Duke Power Co. and North Carolina Municipal Power Agency No. 1 in connection with their application for construction permits and operating licenses for the Catawba Nuclear Station, Units 1 and 2. The site for this plant is located in York County, S.C. The original antitrust portion of the application was submitted on October 27, 1972, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time For Submission of Views on Antitrust Matters, was published in the Federal Register on December 28, 1972 (37 FR 25642). The Notice of Hearing was published in the Federal Register on December 1, 1972 (37 FR 25560).


Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Municipal Power Agency No. 1, presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before October 16, 1978.

Dated at Bethesda, Md., this 28th day of July 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA, Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-22958 Filed 8-21-78; 8:45 am]

[7590-01]

(Docket No. 50-286]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for Operation of the Indian Point Nuclear Generating Unit No. 3, located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises certain Technical Specifications for operation during Cycle 2. These revisions include a reduction in the allowable peaking factor, the addition of an upper limit for the allowable axial flux difference, and the change of control rod insertion limits to those used for the determination of peaking factors for Cycle 2. In addition, the amendment adds a valve to those required to be de-energized to prevent spurious operation and clarifies the inspection requirements for the steam generators.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 7, 1978, as supplemented April 13, May 19 and 24, July 12 and 27, 1978, (2) Amendment No. 15 to License No. DPR-64, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 11th day of August, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENKER, Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-24771 Filed 9-1-78; 8:45 am]
NOTICES

[7590-01]
[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.; SEABROOK STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters


Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 6, Division of Project Management.

[FR Doc. 78-24769 Filed 9-1-78; 8:45 am]

[7590-01]
[Docket Nos. 50-289 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 43 and 42 to Facility Operating License Nos. DRP-32 and DRP-37, issued to Virginia Electric & Power Co. (the licensee), which adds license conditions related to operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Va. The amendments are effective as of the date of issuance.

These amendments specify license conditions related to service water temperature, containment temperature, containment air partial pressure, refueling water storage tank volume, and outside recirculation spray pump flow rate. Operating limits on these plant parameters were previously governed by NRC Order for Modification of License dated June 29, 1978, which is superseded by these amendments. The changes to the operating limits previously imposed for these parameters are an increase in the maximum service water temperature from 87°F to 90°F with operating parameters adjusted to compensate for the increase in maximum service water temperature. These changes are evaluated in our Safety Evaluation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 10.51(a), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 25, 1978, as supplemented August 3 and 11, 1978, (2) Amendment Nos. 43 and 42 to License Nos. DRP-32 and DRP-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Sven Library, College of William and Mary, Williamsburg, Va. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Reactors.

Dated at Bethesda, Md. this 14th day of August 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCK
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[FR Doc. 78-24770 Filed 9-1-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs, Service

AMERICAN MANUFACTURER'S PETITION

Receipt of American Manufacturer's Petition to Redress Lasted Leather Footwear Uppers

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from American manufacturers of nonrubber footwear requesting the reclassification of imported lasted leather footwear uppers, which have an insole or midsole and are formed to fit the foot.

DATES: Interested persons may comment on this petition. Comments and a preference in trivia must be received on or before November 6, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 39465

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
NOTES

On the basis of an investigation conducted pursuant to §159.47(c) of the Customs regulations (19 CFR 159.47(c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, on the exportation of oleoresins by the Spanish Government which constitute "bounties or grants." The benefits are received in the form of an overrebate upon export of the Spanish indirect tax, the "Desgravacion fiscal." The overrebate consists of two elements: (1) A number of "parafiscal taxes" which are included in the computation of the rebate and which are charges assessed for services rendered and are not directly related to the product and (2) a credit for a tax assessed on transactions between manufacturers and wholesalers which in fact is not assessed on export sales.

As discussed in its notice published in the Federal Register of June 15, 1978, in the cases of Zinc, Non-Rubber Footwear, and Bottled Olives From Spain (43 FR 25812), the Treasury does not regard the nonexcessive rebate of the cascade tax in Spain as constituting the bestowal of a "bounty or grant." This policy was adopted preliminarily that bounties or grants, both are generally identical in their purpose and economic effects. However, for the reasons published in the notice, in the Federal Register on August 29, 1978, (43 FR 38658), this policy is under review. The final determination in this case will take into account the results of the general review now being undertaken.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of oleoresins from Spain. A final determination will be made not later than February 17, 1979.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and §159.47 of the Customs regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.


[FR Doc. 78-24863 Filed 9-1-78; 8:45 am]

[4830-01]

Internal Revenue Service
COMMISSIONER'S ADVISORY GROUP
Open Meeting; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a technical correction to the notice of the Commissioner's Advisory Group Open Meeting published at 43 FR 38658.

FOR FURTHER INFORMATION CONTACT:
Ms. Lauralee A. Matthews, Assistant to the Commissioner, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, D.C. 20224, 202-566-4390, not a toll free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

NEED FOR CORRECTION
The agenda topic for Thursday, September 14, under "Forms (b)" listed an incorrect form number.

CORRECTION OF NOTICE OF COMMISSIONER'S ADVISORY GROUP
Accordingly, FR Doc. 78-24451 (43 FR 38658) is amended as follows:

In the agenda for Thursday, September 14, "(b) Proposed Form 5500" is changed to "(b) Proposed Form 990."


Lauralee A. Matthews,
Assistant to the Commissioner.

[FR Doc. 78-24991 Filed 9-1-78; 8:45 am]

[NOTICES]

[4810-40]

Office of the Secretary
(Supplement to Department Circular Public Debt Series—No. 21-78)

TREASURY NOTES OF SERIES J-1982

Interest Rate

August 30, 1978.

The Secretary of the Treasury announced on August 29, 1978, that the interest rate on the notes designated series J-1982, described in Department Circular—Public Debt Series—No. 21-78, dated August 23, 1978, will be 8% percent. Interest on the notes will be payable at the rate of 8 1/2 percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-24864 Filed 9-1-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 102]

MOTOR CARRIER TRANSFER PROCEEDINGS


Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

MC-FC-77610. By application filed August 15, 1978, FRISSELLA GLOBAL MOVING & STORAGE CO., 2517 Adie Road, Maryland Heights (St. Louis County), MO 63043, seeks temporary authority to transfer the operating rights of Preslar Moving & Storage, Inc., 3344 Greenwood Boulevard, Maplewood (St. Louis County), MO 63143, under section 210a(b). The transfer to Frisella Global Moving & Storage Co., of the operating rights of Preslar Moving & Storage, Inc., is presently pending.

MC-FC-77613. By application filed August 11, 1978, BILL H. SEVERNS AND DENISE B. SEVERNS, husband and wife, as individuals and joint tenants with right of survivorship, d.b.a. RAVALLI MOTOR FREIGHT, 250 Corvallis Road, Corvallis, MT 59828, seeks temporary authority to transfer the operating rights of Charles D. Shupe & Sibyl Shupe, husband and wife, as individuals and joint tenants with right of survivorship, d.b.a. Raval1i Motor Freight, Route 2, Box 2361, Hamilton, MT 59840, under section 210a(b). The transfer to Bill H. Severns and Denise B. Severns, husband and wife, as individuals and joint tenants with right of survivorship, of the operating rights of Charles D. Shupe and Sibyl Shupe, husband and wife, as individuals and joint tenants with right of survivorship, is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-24870 Filed 9-1-78; 8:45 am]
NOTICES

MC 116738, issued September 12, 1977, as follows: Household goods, as defined by the Commissioner, from the State of ME, on the one hand, and, on the other, points in MA and NH, between Bangor, Lincoln, and Pittsfield, ME, on the one hand, and, on the other, Winterport and Sears Point in Hancock, Kennebec, Penobscot, Piscataquis, and Somerset Counties, ME. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77801, filed August 4, 1978, Transferee: CLIFTON HILL INVESTORS LTD., 4541 Chrysler Avenue, Niagara Falls, ON, Canada L2E 3V5. Transferor: G & G Tourist Enterprises LTD., 5591 Victoria Avenue, Niagara Falls, ON, Canada L2G 3L4. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 140634, issued July 1, 1977, as follows: Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the United States boundary line on the Niagara River and extending to points in the United States (except AK and HI). Transferee holds no authority from this Commission and application has not been filed for temporary authority under section 210a(b).

MC-FC-77804, filed August 8, 1978, Transferee: SUNBELT SYSTEMS TRANSPORT, INC., 1255 La Quintra Drive, Orlando, FL 32809. Transferor: Electronic Riggers of Florida, Inc., 1255 La Quintra Drive, Orlando, Fl 32809. Representative: M. Craig Massey, Attorney at Law, 202 East Walnut Street, P.O. Drawer J, Lake- land FL 33832. Authority sought for purchase by transferee of the operating rights of transferor, as ser forth in permits MC-FC-77830, filed as follows: 1. Passenger and their baggage, in the same vehicle with passengers, between Walla Walla Island, WA on the one hand, and, on the other, Baltimore, MD, New York, NY and points in WA, IN, DE, PA, and DC, under a continuing contract or contracts with the National Aeronautics and Space Administration. Transferee presently holds no temporary authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77713, filed June 15, 1978, Transferee: GLACIER TRANSPORT, INC., I-29 and 32d Avenue South, Box 428, Grand Forks, ND 58201. Transferor: Art Greenberg, d.b.a., Glacier Transport, I-29 and 32d Avenue South, Box 428, Grand Forks, ND 58201. Representative: James B. Hoe- lense, Suite 145, 4 Profes- sional Drive, Gaithersburg, MD 20780. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate MC 136035 (Sub-4) and (Sub-7), issued March 21, 1978, September 24, 1978, respectively, as follows: Food and food products, nonwood packaging materials, labels, pallets and salt, materials and supplies used in the manufacture, production, distribution, and sale of foodstuffs, breads, cubes and crouts, with restrictions, within the States of AL, AR, CT, DE, FL, GA, IN, IL, KY, IA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. Restricted to a transportation service to be performed under a continuing contract or contracts, with Grocery Stores Products Co., and the Clorox Co., presently holding no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77758, filed July 12, 1978, Transferee: ROKO EXPRESS, INC., 1513 North Hague, Columbus, OH 43204. Transferor: ROKO Express, Inc., 2545 Parsons Avenue, P.O. Box 169, Columbus, OH 43216. Representative: Gregory A. Stayart, Attorney, 10 South La Salle Street, Suite 1000, Chi- cago, IL 60603. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificate MC 1398905 issued March 21, 1974, as follows: Such merchandise as is dealt in wholesale food business houses and, in connection therewith, equipment, materials, and supplies used in connection with such business, when moving from, to or between wholesale food business house outlets, or other facilities of such establishments, between Evansville, IN and points OH; and between Dale, IN, on the one hand, and, on the other, points in the Lower Peninsula of MI and points in OH (except Cin- cinnati). Application presently holding no temporary authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

NOTICES

DE 19803. Representative: Michael N. Castle, Esq., P.O. Box 1852, 710 Bank of Delaware Building, 300 Delaware Avenue, Wilmington, DE 19899. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit MC 113856, issued October 7, 1978, as follows: Regular routes, between Augusta, ME and points in cities and towns in ME on and south of U.S. Hwy 64 to Council Bluffs, IA, and then across the Missouri River to Omaha. From Audubon over U.S. Hwy 71 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Omaha. General commodities, with exceptions from Omaha to Audubon over U.S. Hwy 71 to and from intermediate and off-route points within 25 miles of Audubon. Transferee holds authority in MC 62601 and subs thereunder, and MC 135133. Application has not been filed for temporary authority under section 210(a(b).

MC-FC-77787, filed August 1, 1978. Transferee: BASIL S. KINSON, d.b.a. KINSON BUS LINES, 6 Railroad Avenue, Georgetown, MA 01830. Transferor: Ramsey’s Inc., Haverhill, MA 01830. Representative: Arthur M. White, 2 Pleasant Street, P.O. Box 2547, Framingham, MA 01701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificates MC-FC-77795, and MC-FC-77796 (Sub-1), issued March 28, 1949, and October 14, 1949, respectively, as follows: Passengers and their baggage, in charter operations, from Haverhill and Lawrence, MA and points in cities and towns in MA and NH, and RI, and those in ME on and south of ME Hwy 28, and return, and passengers and their baggage, and newspapers in the same vehicle with passengers, over regular route, between Hempstead, NE and Haverhill, MA, over specified routes, serving all intermediate points. Transferee holds no authority from this Commission and application has not been filed for temporary authority under section 210(a(b).

MC-FC-77886, filed August 8, 1978. Transferee: SERVICE EQUIPMENT & TRUCKING, INC., Box 162, East Route 316, Mattitcob, IL 61932. Transferor: Harry D. Diepholz, d.b.a. Diepholz Trucking, P.O. Box 240, East Route 316, Mattitcob, IL 61932, Representative: Robert T. Lowley, 300 Reisch Building, Springfield, IL 62701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in corrected certificate MC-FC-77786, issued September 15, 1974, as follows: Roll-over protective structure (except commodities in bulk), from points in the United States (except AK and HI) to points in the United States (except commodities in bulk), in the United States (except AK and HI); commodities used in the manufacture of roll-over protective structure (except commodities in bulk), from points in the United States (except AK and HI) to points in the United States (except AK and HI); and transferor presently holds no authority to provide all or part of the service described above and of shipments taken in trade on the commodities described above, uncrated. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(a(b).

MC-FC-77788, filed August 4, 1978. Transferee: DAN R. LARSON, d.b.a. LARSON TRANSPORT, P.O. Box 162, Seeley Lake, MT 59868. Transferor: John Yochim and Daniel Yochim, d.b.a. Yochim & Yochim Transport, P.O. Box 3149, Missoula, MT 59806. Representative: Daniel Yochim, P.O. Box 3149, Missoula, MT 59806. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in corrected certificate MC-118783, issued June 6, 1974, as follows: Roll-over protective structure (except commodities in bulk), from Mattoon, IL to Portland, OR, and vice versa. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Tube-Lok Products of Mattoon. Authority presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(a(b).

MC-FC-77789, filed July 29, 1978. Transferee: ALBERT L. KING, RONALD J. KING, BERNARD J. KING, and ANDREW C. KING, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Transferor: H. F. Jorgenson, Audubon, IA 50025. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68105. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in corrected certificate MC-FC-77790, issued September 18, 1974, as follows: General commodities, with the usual exceptions, over regular routes, between Missoula and Seeley Lake, MT serving the intermediate points of Potomac, Greenough, and Wilsall, MT, and the Anaconda Lumber Camp at Woodworth. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(a(b).

H. G. Hoerner, Jr., Acting Secretary.

[FR Doc. 78-24371 Filed 9-1-78; 8:45 am]

[7035-01]

[Decisions Volume No. 2]}

DECISION-NOTICE


The following applications are governed by Special Rule 247 of the Commission's rules of practice (49 C.F.R. § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations of fault or negligence generally. A protest should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by jolnder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named in the protest. If protestant desires a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualified as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision notice (or, if the application later becomes opposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Clanton, Joyce, and Jones (Review Board Member Joyce not participating).

H. G. Homke, Jr., Acting Secretary.

MC 999 (Sub-32F), filed July 31, 1978. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Oeborn, P.O. Box 83228, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, and those points in PA on and west of PA Hwy 209. (Hearing site: Norfolk, VA, or Charleston, WV.)

MC 2850 (Sub-171P), filed June 30, 1978. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vincland, NJ 08360. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Containerized shipments of such commodities having a prior or subsequent movement in interstate commerce, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization, or unpacking, uncrating and decontainerization of such shipments. (Hearing site: Chicago, IL.)

MC 3800 (Sub-3F), filed June 15, 1978. Applicant: PACIFIC STORAGE CO., a corporation, 517 North Hunter Street, Stockton, CA 95210. Representative: Edward J. Hegarty, 100 Bush Street, 21st floor, San Francisco, CA 94104. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used household goods, in containers, between points in Sierra, Glenn, Butte, Mendocino, Yuba, Yolo, and Santa Barbara Counties, CA. Restricted to the transportation of shipments having a prior or subsequent movement in interstate commerce, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization, or unpacking, uncrating and decontainerization of such shipments. (Hearing site: San Francisco, CA.)

MC 13134 (Sub-52P), filed June 16, 1978. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burkh, 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plywood, particleboard, hardboard, gyspsumboard, and molding, from the facilities of Weyerhaeuser Co., at or near Chesapeake, VA, to points in KY, OH, WV, those points in IN on and north of Interstate Hwy 70, and those points in PA on and west of PA Hwy 209. (Hearing site: Norfolk, VA, or Charleston, WV.)

MC 2860 (Sub-41P), filed July 6, 1978. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57110. Representative: Bruce E. Mitchell, Fifth Floor—Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen potato products, from Sioux City, IA, Fairmont, MN, and Fremont, NE, to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. (Hearing site: Sioux Falls, SD.)

MC 29910 (Sub-111P), filed July 11, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cello Chemical Co., at or near Havre de Grace, MD, as an off-route point in connection with another applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 33919 (Sub-16P), filed July 28, 1978. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, WA 98907. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic containers and closures therefor, from the facilities of Owens-Illinois, in Salano, Riverside, and Los Angeles Counties, CA, to points in ID, MT, NM, OR, UT, and WA. (Hearing site: Seattle, WA.)

MC 35890 (Sub-47P), filed July 6, 1978. Applicant: BLODGETT FURNITURE SERVICE, INC., 3801 36th Street SE, Grand Rapids, MI 49506. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from the facilities of Jasper Novelty Furniture, at Jasper, IN, to points in CT, DE, IL, IA, MD, MA, MI, MN, NY, PA, RI, VA, WI, and D.C. (Hearing site: Chicago, IL, or Washington, DC.)

MC 35890 (Sub-48P), filed July 13, 1978. Applicant: BLODGETT FURNI-
TURE SERVICE, INC, 5650 Foremost Drive SE, Grand Rapids, MI 49508.
Representative: Ronald C. Nesmith, P.O. Box 4459, Chicago, IL 60680.
To operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from the facilities of Yorktowne Kitchens, Division of Wickes Corp., at or near Mifflinburg, PA, to points in IL, IN, MI, MO, and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 59420 (Sub-8F), filed June 19, 1978. Applicant: Le ROY AND RORY PRINGS, d.b.a. PRINGS TRUCKING, Rushmore, MN 56186. Representative: Marshall D. Becker, Suite 610, 1711 Mercy Road, Omaha, NE 68106. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fertilizer, from Point Madison and Whiting, IA, to Luverne, MN. (Hearing site: Omaha, NE or St. Paul, MN.)

MC 49858 (Sub-152F), filed August 4, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC, A Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80215. Representative: Lee E. Lucero (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs and canned goods, from the facilities of Skyland food Corp., at or near Delta, CO, to points in AZ, CA, CO, IL, IA, KS, NE, OK, NM, MO, and TX. (Hearing site: Denver, CO.)

MC 49858 (Sub-153F), filed August 4, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC, A Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80215. Representative: Lee E. Lucero (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Rubber articles and plastic articles, from points in Dallas County, TX, to points in AZ, AR, CA, CO, IL, IN, IA, KS, MO, NE, NV, NM, OH, OK, UT, and WY; and (2) materials and supplies used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 52460 (Sub-217F), filed July 6, 1978. Applicant: ELLE TRANSPORTATION, INC, 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at or near Lakeland, FL, to points in LA, MO, MS, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Jacksonville, FL, or Oklahoma City, OK.)


MC 52729 (Sub-26F), filed July 27, 1978. Applicant: FIOROT TRUCKING, INC., West Main Street, Box 43, Pen Argyll, PA 18072. Representative: Dominic J. Ferraro, 124 South Main Street, Nazareth, PA 18064. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Agricultural fertilizers, (1) from Baltimore, MD, and Wilmington, DE, to points in NJ, NY, and PA, and (2) from Allentown, PA, to points in MD, NJ, and NY. (Hearing site: Easton or Allentown, PA.)

MC 52858 (Sub-121F), filed August 4, 1978. Applicant: CONVOY COMPANY, A Corporation, 3300 NW Yeon Avenue, P.O. Box 10185, Portland, OR 97210. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Automobiles and trucks, in secondary movements, in truckaway service, between points in CO, on the one hand, and, on the other, points in KS and NE. (Hearing site: Denver, CO or San Francisco, CA.)

NOTE.—The person or persons who it appears may be engaged in common control must either file a corresponding statement under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 55899 (Sub-48F), filed July 21, 1978. Applicant: AAC TRUCK TRANSPORTERS, Inc., Post Office Box 2207, Dothan, AL 36301. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a common carrier, by motor vehicle, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment), between Birmingham and Auburn, AL; From Birmingham over U.S. Hwy 280 to Opelika, AL, then over U.S. Hwy 29 to Auburn, and routes requiring no intermediate points. (Hearing site: Birmingham, AL, or Washington, DC.)

NOTE.—The purpose of this application is to convert applicant's existing Sub 39 irregular-route authority between Birmingham and Auburn, AL to regular routes.

MC 59150 (Sub-131F), filed July 17, 1978. Applicant: PLOOF TRUCK LINES, INC, 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and fiber products, from the facilities of Holly Hill Lumber Co., at or near Kelly Hill and Walterboro, SC, to points in AL, FL, LA, MS, NC, SC, TN, and VA. (Hearing site: Jacksonville, FL or Savannah, GA.)

MC 59150 (Sub-132F), filed July 18, 1978. Applicant: PLOOF TRUCK LINES, INC, 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Lumber, particleboard, and pulpboard, from the facilities of MacMillan Bloedel, Ltd., at or near Pine Hill and Opelika, AL, to points in AL, FL, GA, MS, NC, SC, and TN, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL.)

MC 64820 (Sub-12F), filed July 6, 1978. Applicant: PARADIS TRANSFER & STORAGE CO, INC, 922 Whitman, Medford, OR 97501. Representative: Robert R. Rollins, 400 Pacific Building, Portland, OR 97204. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Corrugated fibe cartons, between Salem, OR, on the one hand, and, on the other, points in Modoc and Siskiyou Counties, CA. (Hearing site: Portland or Salem, OR.)

MC 85255 Sub 61F, filed July 19, 1978. Applicant: PUGET SOUND TRUCK LINES, INC, P.O. Box 24526, Seattle, WA 98124. Representative: Clyde H. Rockey, 1500 Peoples National Bank Building, 1415 Fifth Avenue, Seattle, WA 98117. To operate as a common carrier, by motor vehicle, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment), between Olympia and Chehalis, WA, over Interstate Hwy 5, serving no intermediate points, as an alternate route to existing. The applicant's otherwise authorized regular-
route operations, restricted against the transportation of traffic originating at or destined to Chehills, WA. (Hearing site: Seattle, WA or Portland, OR.)

MC 103490 (Sub-72F), filed July 14, 1978. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum and petroleum products, in bulk, in tank vehicles, from points in Jefferson County, TX, to Bayonne, NJ, and (2) disosobutylene, in bulk, in tank vehicles from Houston, TX, to points in PA, NY, NJ, and CT. (Hearing site: New York, NY.)

Note.—Dual operations may be at issue in this proceeding.


Note.—Dual operations may be at issue in this proceeding.

MC 105813 (Sub-241F), filed July 17, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 SW. 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) such commodities as are dealt in by grocery houses, hardware stores, and drug stores, in containers, and (2) materials and supplies used in the manufacture of the commodities named in (1) above (except commodities in bulk), between Atlanta, GA, on the one hand, and, on the other, points in TX and FL. (Hearing site: Chicago, IL.)

MC 107227 (Sub-134F), filed July 5, 1978. Applicant: INSURED TRANSPORTERS, INC., P.O. Box 1807, Fremont, CA 94538. Representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, CA 94104. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles (except trailers) in secondary movements, in truck or van service, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, restricted against the transportation of traffic between points in a single state. (Hearing site: San Francisco, CA.)

MC 107227 (Sub-135F), filed July 5, 1978. Applicant: INSURED TRANSPORTERS, INC., P.O. Box 1807, Fremont, CA 94538. Representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, CA 94104. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles (except trailers) in secondary movements, in truck or van service, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, restricted against the transportation of traffic between points in a single state. (Hearing site: San Francisco, CA.)

MC 109692 (Sub-62F), filed July 6, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 15, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel products and inputs of the Nucor Steel Division of Nucor Corp., at or near Norfolk, NE, to points in IL, IN, MI, OH, and WI. (Hearing site: Omaha, NE or Kansas City, MO.)

MC 110525 (Sub-1251F), filed July 20, 1978. Applicant: CHEMICAL TRANSPORT LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O’Brien (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Sulphuric acid, in bulk, in tank vehicles, from Clarkesville, TN, to points in AL, AR, GA, IL, IN, KY, MS, MO, NC, OH, and SC. (Hearing site: Atlanta, GA.)

MC 111812 (Sub-579F), filed June 30, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1235, Sioux Falls, SD 57110. Representative: Ralph H. Jinks (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Potash, Bauxite, in bulk, in tank vehicles, from Nestle Co., at or near Springfield, OR, to Bayonne, NJ; to points in MN, IA, MO, KY, VA, WI, IL, IN, MI, OH, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, and DC; (2) equipment, materials, and supplies used in the manufacture, distribution of paper products (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Mobile, AL, Washington, DC, or Chicago, IL.)

MC 114569 (Sub-237F), filed July 30, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingston, PA 18072. Representative: M. L. Cummins (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, in containers, from Delta, CO, to points in AZ, CA, IA, IL, KS, MO, NE, NM, OK, and TX. (Hearing site: Denver, CO, or Washington, DC.)

Note.—Dual operations may be at issue in this proceeding.

MC 115531 (Sub-462F), filed July 5, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 250 St. Clair Avenue, East St. Louis, IL 62201. To operate as a common carrier, by motor vehicle, over irregular routes transporting: Di- calcium phosphate, in bulk, from Marselles, IL, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 115651 (Sub-44F), filed July 5, 1978. Applicant: KANEY TRANS-
PORTATION, INC., 7222 Cunning-

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or near Norfolk, 

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representative: Irene Warr, 430 Judge

Applicant: ECK MILLER

TRANSPORTATION CORP., a Ken-

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materials and supplies used in the manufacture and distribution of structural and fab-

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mixed loads with the commodities in (1) above, from points in Allegheny, Armstrong, Beaver, Butler, Lawrence, Washington, and Westmoreland Coun-
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MC 123407 (Sub-478F), filed June 20, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat products, and articles distributed by meat packing houses as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 768, (except hides and commodities in bulk), from points in Burlington County, MI, to points in FL, GA, MS, AL, TN, NC, and SC. (Hearing site: Detroit, MI or Washington, DC.)

MC 124284 (Sub-3F), filed June 29, 1978. Applicant: WALKER TRANSFER, INC., P.O. Box 1154, Durham Road, Roxboro, NC 27573. Representative: Mark Galloway, 35 Abbott Street, P.O. Box 601, Roxboro, NC 27573. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1a) Aluminum siding, storm doors, storm windows; and (b) hinges, locks, and hardware for storm doors and storm windows, from the facilities of Loxcreen Co., Inc., at or near Roxboro, NC, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and DC; and (2) materials and supplies used in the manufacture of the commodities in (1) above in the reverse direction, under continuing contract with Loxcreen Co., Inc., of Roxboro, NC. (Hearing site: Raleigh, NC or Richmond, VA.)

MC 124679 (Sub-94F), filed July 31, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cheese, cheese products, and synthetic cheeses, from the facilities of L. D. Schreiber Cheese Co., at Logan, UT, to points in MT. (Hearing site: Salt Lake City, UT.)

Note.—Applicants state that shipments are destined to points within the Provinces of ON, PQ, NB, and NS, Canada.

Note.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the Federal Register on December 5, 1974, and supplemented on November 19, 1976. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the Federal Register and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void having no force or effect.

MC 124170 (Sub-95F), filed June 19, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 6060 Interstates Drive, Suite 122, Oak Brook, IL 60521. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products and meat by-products, and articles distributed by meat packing houses as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 768, for sale or distribution, to several plants in the United States and Canada in NY, MI, MO, MT, NE, NM, NV, OR, OK, SD, TN, TX, UT, and WY. (Hearing site: Denver, CO.)

MC 123744 (Sub-41F), filed June 28, 1978. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 18851. Representative: Christian V. Graf, 407 North Frofit Street, Harrisburg, PA 17110. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Refractories from Saint Charles, PA, to points of entry on the International Boundary line between the United States and Canada in WI, MI, VT, NH, and ME. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Washington, D.C.)

Note.—Applicants state that shipments are destined to points in the Provinces of ON, PQ, NB, and NS, Canada.

Note.—Dual operations may be at issue in this proceeding.

MC 124679 (Sub-95F), filed July 28, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs (except in bulk), (1) from Ashton, RI, points in CT, DE, and those in NY on and east of NY Hwy 12, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA; and (2) from New York, NY, points in MD, NJ, Suffolk County, NY, those in PA on and east of U.S. Hwy 15, and those in MA on and east of MA Hwy 12, to points in the United States (except AK, HI, KS, LA, NE, ND, OK, SD, and TX). (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be at issue in this proceeding.

MC 124572 (Sub-21F), filed July 5, 1978. Applicant: WILLCOXSON TRANSPORT, INC., Rural Route No. 1, Kahoka, MO 63445. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Othuwa, IA 52501. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Sand, gravel, and limestone, from the facilities of Kaiser Construction Co., in Clark and Scott Counties, IA, to points in IA. (Hearing site: Chicago, IL or Kansas City, MO.)

MC 127818 (Sub-5F), filed June 29, 1978. Applicant: BLUE STEM TRUCK LINE, INC., 816 West 4th Street, Hutchinson, KS 67501. Representative: Clyde M. Christy, Kansas Credit Union Building, 101 Tyler, Suite 110-1, Topeka, KS 66612. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Portable aluminum can recycling machines, between Hutchinson, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 128205 (Sub-53F), filed July 19, 1978. Applicant: BULKMATIC TRANSPORT CO., a corporation, 1260 South DuPage Ave., Downers Grove, IL 60618. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60691. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Natural Silica sand, in bulk, from Qtawta, Utica, Wedron, Rockton, Serena, and Oregon, IL, to Wooster, Zanesville, Sandyville, and Cortland, OH, and Bradford and Indiana, PA. (Hearing site: Chicago, IL.)

MC 128304 (Sub-12F), filed June 30, 1978. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, TN 37917. Representative: James N. Chy III, 2700 Sterick Building, Memphis, TN 38103. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Iron and steel articles, from the facilities of Accor Corp., in Knox County, TN, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MO, MS, NC, OH, OK, PA, SC, TX, VA, WI, and WV; and (2) materials and supplies used in the manufacture of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Knoxville or Nashville, TN.)

MC 129319 (Sub-2F), filed July 27, 1978. Applicant: NICHOLAS MOVING & STORAGE, INC., P.O. Box 669, Postcard, ID 83201. Representative: Timothy R. Slivers, P.O. Box 162, Boise, ID 83701. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Telephones, (2) equipment, and materials used in the installation and operation of telephones, between Pocatello and Idaho Falls, ID, on the one hand, and, on the other points in Bear Lake, Caribou, Franklin, Onida, Bannock,
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Power, Bingham, Bonneville, Butte, Jefferson, Madison, Fremont, and Teton Counties, ID. (Hearing site: Boise, ID.)

MC 133455 (Sub-22F), filed July 19, 1978. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1029 Ninth Street, Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth Street NW., Washington, DC 20036. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food stamps, in armored vehicles escorted by armed guards, between points in the United States (except AK and HI). (Hearing site: Providence, RI.)


MC 134692 (Sub-265F), filed June 27, 1978. Applicant: B. J. Mcdamans, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fatty acid esters of vegetable, fish, and animal oil, dry laundry bleach, breadmaking compounds, baking compounds, and chemical compounds, from Williamsport, PA, to points in CA and TX. (Hearing site: Washington, DC, or New York, NY.)

C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Union Packing Co., at or near Omaha, NE, to points in SD, NE, IA, MN, WI, MI, OH, PA, and VT, WV, and DC. (Hearing site: Omaha, NE.)

MC 134945 (Sub-385F), filed July 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dublin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in or used by a manufacturer and distributor of paper and plactic products, from Shelbyville, IL, to points in CO, KS, OK, NE, IA, and MO. (Hearing site: Washington, DC.)

MC 134949 (Sub-40P), filed July 7, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Representative: James B. Howland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Packaged meats and meat products, in vehicles equipped with mechanical refrigeration, from Chicago and Lansing, IL, to points in ND. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 140370 (Sub-6P), filed June 29, 1978. Applicant: V.G.H. TRUCKING, INC., P.O. Box 183, Audubon, MN 56511. Representative: Gene F. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, from Grand Forks, ND, to points in IA, IL, MN, MO, OH, PA, and WI, under a continuing contract with International Paper Co., of Grand Forks, ND. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—The person or persons it appears may be engaged in common control must either file an application under section 52(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 142364 (Sub-2P), filed June 26, 1978. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper, paper articles, and supplies used in the manufacture of paper articles, from the facilities of Inland Container Corp., at or near Fort Smith, AR, on the one hand, and, on the other, points in KS, LA, MS,
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MO, OK, TN, and TX. (Hearing site: Washington, DC, or Indianapolis, IN.)

MC 142539 (Sub-4P), filed July 26, 1978. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Charles J. Williams, 1113 Front Street, Scranton, PA 18507. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in or used by retail department stores, from the facilities of Nordstrom, Inc., at or near Seattle, WA, and Melville and Hicksville, NY, under a continuing contract in (1) and (2) above, with Unity Buying Service, Inc., of Hicksville, NY. (Hearing site: New York, N.Y.)

MC 142564 (Sub-4P), filed June 30, 1978. Applicant: RONAR TRANSPORTATION, INC., 142559 (Sub-33F), filed July 19, 1978. Representative: William J. Lippman, Suite 330 Steele Park, 50 South Steele Street, Denver, CO 80209. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Containers, container closures, and container accessories, and (2) materials and supplies used in the manufacture and distribution of the commodities in (1) above, between those points in the United States in and east of MN, IA, MO, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Crown Cork & Seal, and restricted against the transportation of commodities in bulk. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be at issue in this proceeding.

MC 142598 (Sub-3P), filed August 3, 1978. Applicant: MASTEX TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21535 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, in vehicles equipped with mechanical refrigeration, from the facilities of Fred Sanders, Inc., at or near Detroit, MI, to the facilities of Westinghouse Electric Corp., at or near Fairmont, WV, restricted in (1) and (2) above, with Clairol, Inc. (Hearing site: Detroit, MI.)

MC 142605 (Sub-19F), filed July 27, 1978. Applicant: HOPPY LINES, INC., P.O. Box 1417, Hagerstown, MD 21740. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs, in vehicles equipped with mechanical refrigeration, from the facilities of Fred Sanders, Inc., at or near Detroit, MI, to the facilities of Westinghouse Electric Corp., at or near Fairmont, WV, restricted in (1) and (2) above, with Clairol, Inc. (Hearing site: Detroit, MI.)

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that it has been in full compliance with the
requirements of the Interstate Commerce
Act and this Commission's regulations.

MC 144639 (Sub-2F), filed July 27, 1978. Applicant: WAR EAGLE EXPRESS, INC., 2014 Steel Drive, Tucker, GA 30084. Representative: Ralph Armstead (same address as applicant). To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Glass bottles, from Atlanta, GA, to the facilities of Royal Crown Cola at Orlando, Fla., and Miami, FL; and (2) soft drinks, in cans, from Orlando, FL, to Waycross, Dublin, Savannah, Macon, Valdosta, Tifton, Albany, and Columbus, GA, under a continuing contract in (1) and (2) above with Royal Crown Bottlers of Florida, Inc., of Orlando, FL. (Hearing site: Atlanta, GA.)

MC 144927 (Sub-2F), filed June 28, 1978. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Moberly, T.L., 17th Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Dry milk products, from Louisville, KY, to points in the United States (except AK, HI, and KY); and (2) soya flour, corn flour, and (b) powdered milk when moving in the same vehicle and at the same time with soya flour and corn flour, from points in the United States (except AK, HI, and KY), to Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

Note.—Dual operations may be at issue in this proceeding.


MC 145109F, filed July 25, 1978. Applicant: BOWLING GREEN BEVERAGES, INC., P.O. Box 3390, Bowling Green, KY 42101. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Brush blocks, wood flour, in bags, folding director chairs, tables, stools, and loungers, from Bowling Green, KY, to Milwaukee, WI, Detroit, MI, San Antonio, TX, Evansville and Fort Wayne, IN, Chicago, IL, Chattanooga and Columbus, OH, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Nashville, TN.)

Note.—In view of the General and Tote polices (See e.g., 49 C.F.R. 399.45) (August 2, 1976), applicant must satisfy the Commission that its operations will not result in objectionable private or for-hire operations.

MC 145138F, filed June 29, 1978. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 208, Roberts, ID 83444. Representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84110. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Beer, from St. Louis, MO, and Milwaukee, WI, to points in WI. (Hearing site: Rock Springs, WY, or Idaho Falls, ID.)

Note.—Dual operations may be at issue in this proceeding.

MC 145119F, filed July 26, 1978. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairport, 2014 Steel Drive, Moberly, MO, 65273. To operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Tires; and equipment and materials used in the manufacture, distribution, and repair of tires and inner tubes, between the facilities of the Firestone Tire & Rubber Co., at Des Moines, IA, on the one hand, and, on the other, Rock Island, IL; and points in NE, under a continuing contract with the Firestone Tire & Rubber Co., of Akron, OH. (Hearing site: Des Moines, IA, or Chicago, IL.)

PASSENGER AUTHORITY

MC 61120 (Sub-21F), filed June 16, 1978. Applicant: TEXAS, NEW

MEXICO & OKLAHOMA COACHES, INC., 1313 13th Street, Lubbock, TX 79401. Representatives: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a common carrier, by motor vehicle, transporting: (1) passengers and their baggage, and (2) general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) restricted (a) to the transportation of shipments in the same vehicle with passengers, and (b) against the transportation of packages or art weighing more than 100 pounds in the aggregate from one consignee at one location to one consignee at one location during a single day, between Sweetwater, and Abilene, TX, over Interstate Hwy 20, serving no intermediate points. (Hearing site: Lubbock or Dallas, TX.)

MC 82565 (Sub-4P), filed July 29, 1978. Applicant: AMADOR STAGE LINES, INC., 213-13th Street, P.O. Box 15701, Sacramento, CA 95813. Representative: Raymond A. Greene, Jr., 101 Pine Street, Suite 2500, San Francisco, CA 94110. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Passengers and their baggage, in the same vehicle with passengers, in round trip character operations, beginning and ending at points in El Dorado, Placer, Yuba, Sutter, and Nevada Counties, CA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: San Francisco, CA.)

BROKER AUTHORITY

MC 130504F, filed July 3, 1978. Applicant: BARNEY RAPP AGENCY, INC., d.b.a. BARNEY RAPP TRAVEL, Lower Arcade, Carey Tower, 441 Vine Street, Cincinnati, OH 45202. Representative: Stanley Goodman, 1016 Fourth and Walnut Building, 36 East Fourth Street, Cincinnati, OH 45202. To engage in operations in interstate commerce as a broker, at Cincinnati, OH, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in round trip special and charter operations, beginning and ending at Cincinnati, OH, and extending to points in the United States, including AK and HI. (Hearing site: Cincinnati, OH.)

FREIGHT FORWARDER AUTHORITY

FF 512F, filed June 30, 1978. Applicant: AMERICAN HOLIDAY TRANSPORTATION, INC., 2395 Chipman Street NE, Knoxville, TN 37717. Representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, DC 20036. To operate as a freight forwarder, through the use of the facilities of common carriers by

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...
railroad or motor vehicle, in the transportation of: (1) Used household goods and unaccompanied baggage, and (2) used automobiles, restricted in (2) to export and import traffic, between points in the United States (including HI, but excluding AK). (Hearing site: Knoxville, TN.)

Note.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 78-24872 Filed 9-1-78; 8:45 am]
sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the “Government In the Sunshine Act” (Pub. L. 94-407, 5 U.S.C. 552b(6)(3)).

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND PLACE: 9:30 a.m. (eastern time), Wednesday, September 6, 1978.

PLACE: Chairman’s Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Amendment of fee schedule for Freedom of Information Act requests.
2. Modification of fiscal year 1978 funds allocated to three State agencies.
3. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations; Matters closed to the public under the Commission’s regulations at 29 CFR 1017.13.

NOTE—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued August 30, 1978.

[S-1765-78 Filed 8-31-78; 8:14 am]

[6740-02] 2

August 30, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 6, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—169TH MEETING, SEPTEMBER 6, 1978, REGULAR MEETING (10 A.M.)

CAG-1. Docket No. RP74-129, Stingray Pipeline Co.
CAG-2. Docket No. RP74-109 (PGA Nos. 78-7 and 78-9a), National Fuel Gas Supply Corp.
CAG-5. Texas Oil & Gas Corp.
CAG-6. Docket No. CP78-381, Northwest Pipeline Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket Nos. RP72-127 and R&ID 75-12, Northern Natural Gas Co.

II. PRODUCER MATTERS


III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP77-216, Districts of Massachusetts Corp.
CP-3. Docket No. CP78-404, Delhi Gas Pipeline Corp. and Oklahoma Natural Gas Co.

MISCELLANEOUS AGENDA—169TH MEETING, SEPTEMBER 6, 1978, REGULAR MEETING

M-1. Docket No. R178-12, Incentive Rate of Return for the Alaska Natural Gas Transportation System.
M-4. Refund Monitoring.

POWER, AUGUST—169TH MEETING, SEPTEMBER 6, 1978, REGULAR MEETING

CAP-1. Docket Nos. ER76-460 and ER76-483, the Potomac Edison Co.
CAP-5. Project No. 5, Montana Power Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. EL78-1, Public Service Co. of Indiana, Inc.
ER-2. Docket No. ER78-515, Gulf States Utilities Co.
ER-3. Docket No. ER77-311, Utah Power & Light Co.

II. LICENSED PROJECT MATTERS

P-1. Docket No. 5-555, the Metropolitan Water District of Southern California.
P-2. Project No. 2655, Reeves Brothers, Inc.
P-3. Project No. 349, Alabama Power Co.
P-4. Project No. 2535, Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas.
P-5. Project No. 2749, Southside Electric Cooperative.

KENNETH F. PLUMB, Secretary.

[S-1765-78 Filed 8-31-78; 11:14 am]

[7590-01] 3

NUCLEAR REGULATORY COMMISSION.

“FEDERAL REGISTER” CITATION OF PREVIOUS ANNOUNCEMENT: To be published.


PLACE: Commissioners’ Conference Room, 1717 H Street NW, Washington, D.C.
SUNSHINE ACT MEETINGS

-STATUS: Open (changes).
-CHANGES IN THE MEETING:

1. The meeting titled "Discussion of Piping Examination in Foreign Facilities" (approximately one-half hour, closed—exemption 1) scheduled for approximately 10:30 a.m. has been cancelled.

CONTACT PERSON FOR MORE INFORMATION:
Roger Tweed, 202-634-1410.
ROGER M. TWEED, Office of the Secretary.

[S-1766-78 Filed 8-31-78; 11:14 am]

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:
To be published.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

CHANGES IN THE MEETING:

1. The meeting titled "Discussion of NMSS Organization" (approximately 1% hours, public meeting) will begin at 2 p.m. on Thursday, August 31, instead of 1:30 p.m. as previously scheduled.
2. The meeting titled "Briefing on Status of Improving Nuclear Power Plant Licensing and Implementing Certain Study Group Recommendations" (approximately 1 hour, public meeting) scheduled for 10:30 a.m. on Tuesday, September 5, will begin at 11 a.m. that same day.

CONTACT PERSON FOR MORE INFORMATION:
Roger Tweed, 202-634-1410.
ROGER M. TWEED, Office of the Secretary.

[S-1767-78 Filed 8-31-78; 11:14 am]

NUCLEAR REGULATORY COMMISSION.


STATUS: Open.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 6; 9:30 A.M.

1. Discussion of provision for protection of individuals who provide information to NRC (approximately 1 hour, public meeting).
2. Presentation of Certificates of Appointment to Harold R. Denton and William J. Direks (approximately 10 minutes, public meeting).
3. Discussion of role of use of deadly force in safeguarding strategic SNM (approximately 1 hour, public meeting).

WEDNESDAY, SEPTEMBER 6; 2 P.M.

1. Discussion of licensing procedures for geologic repositories for high level waste (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:
Roger Tweed, 202-634-1410.
ROGER M. TWEED, Office of the Secretary.

[S-1768-78 Filed 8-31-78; 11:14 am]
CIVIL AERONAUTICS BOARD

DOMESTIC PASSENGER FARE INVESTIGATION
Normal Fare Price Competition
RULES AND REGULATIONS

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER F—POLICY STATEMENTS

PART 399—STATEMENTS OF GENERAL POLICY

Domestic Passenger-Fare Level Policies, Domestic Passenger-Fare Structure Policies and Discount Fare Policy


AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is modifying its current passenger fare policies developed in the “Domestic Passenger-Fare Investigation” (DPFI) to allow carriers the flexibility to engage in normal-fare price competition relatively free from the intervention of Government regulatory barriers. These new policies are designed to stimulate market-by-market price competition among the airlines, encourage more efficient operations, produce lower normal fares, and lead to greater consumer satisfaction.

Under the new rules, carriers will no longer be required to file identical fares for all markets of equal distance; instead, they will be allowed to experiment with fares tailored to their individual costs and markets over a broad range without the likelihood of suspension. The ceiling of the range will be the coach fare formula now used by the Board in evaluating general fare increases. The carriers will, however, be allowed the flexibility to price their services above the ceiling by 10 percent in certain presumptively workably competitive markets. Also, to encourage peak/off-peak pricing, the Board will allow the carriers the discretion to increase their fares in other markets by 5 percent of a number of peak days throughout the year. The floor of the range will be 50 percent of the ceiling fare level; for purposes of off-peak pricing, carriers will also have the discretion to reduce their fares to 70 percent below ceiling fares on 40 percent of their available seat miles per week. Within this entire zone, carriers will be able to file fares with the Board without submitting an economic justification; and the Board will not suspend these fares on the grounds that the level was unreasonable unless an opponent can show that the fare imminently threatened a substantial and irreparable harm to competition. Finally, the carriers will no longer be required to maintain minimum first-class fares. The Board is also changing its tariff regulations and procedural rules governing the economic justification for tariff filings and the procedures for filing complaints against them.

These rules resulted from the Board’s reexamination of the DPFI pricing and fare structure policies in light of the potential certification of new carriers seeking to provide low-fare service in individual markets and the developing tendency by incumbent carriers to engage in normal-fare price competition.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTAL INFORMATION:

A. INTRODUCTION

The Civil Aeronautics Board has decided to relax its pervasive regulatory control over the pricing of the air transportation industry by vacating several of the ratemaking policies developed in the Domestic Passenger-Fare Investigation (DPFI). In their place, we are adopting new policies designed to create a climate conducive to normal-fare price competition by allowing the carriers the flexibility to price their services on a market-by-market basis relatively free from Government intervention. The maturity of this industry as well as our experience under the DPFI convince us that primary reliance on the competitive marketplace (instead of Government price control) is the most effective way to fulfill our statutory responsibilities under the act, particularly our duty to develop an air transportation system properly adapted to the transportation needs of the nation (section 102(a)(1)); to foster the domestic commerce (102(a)(2)); to promote the interest of the public at the lowest cost consistent with the furnishing of service (102(a)(3)); and to provide for the needs of the traveling public at the lowest cost consistent with the furnishing of that service (102(b)(1)).

The policies we now adopt were proposed in our notice of proposed rulemaking, EDR-355/PDR-52/PSDR-51, dated April 13, 1978, (notice), 43 FR 16503, April 19, 1978, FSDR-49, 42 FR 42229, August 22, 1977. In which we announced our overall reevaluation of the normal-fare pricing rates, 42 FR 5023, May 13, 1977. Toward this end, we tentatively decided to revoke several of the tight restraints on normal-fare competition established in the DPFI.

We proposed to vacate the phrase 9 requirement that carriers establish uniform coach fares by mileage on a formula basis; to eliminate the phrase 9 finding prescribing first-class fares at a fixed percentage over formula coach fares; and to remove the requirements established in phase 5 of that discount fares be justified on the basis of the profit impact test and contain an expiration date not to exceed 18 months. Similarly, we proposed allowing the carriers a broad range for coach fare increases. In addition, we proposed allowing the Board to rely on the competitive marketplace relatively free from Government intervention. The ceiling of the range would be the coach fare formula now used by the Board in evaluating general fare increases. All fares above the ceiling would have to be justified and would be subject to suspension and investigation.

This notice was issued following our analysis of public comments submitted in response to advance notice of proposed rulemaking, FSDR-49 (August 17, 1978) in which the Board requested views on ways to encourage normal-fare price competition within the industry but did not propose any specific changes to the DPFI.

In fact, our goal of reducing the DPFI established first-class fare levels is already being realized. Following the issuance of the notice, the trunkline carriers proposed to reduce normal first-class fares for travel within the 48 contiguous States from the prescribed DPFI levels of 153 percent to 135 percent of normal coach fares to a uniform 135 percent. We approved the proposal in order 78-5-41, adopted May 8, 1978.

We also proposed allowing the carriers to engage in normal-fare price competition within the industry but did not propose any specific changes to the DPFI.

In fact, our goal of reducing the DPFI established first-class fare levels is already being realized. Following the issuance of the notice, the trunkline carriers proposed to reduce normal first-class fares for travel within the 48 contiguous States from the prescribed DPFI levels of 153 percent to 135 percent of normal coach fares to a uniform 135 percent. We approved the proposal in order 78-5-41, adopted May 8, 1978.

Finally, the carriers will no longer be required to maintain minimum first-class fares. Two possibilities were sug-

This test requires that discount fares generate sufficient traffic to more than offset the diversion of full fare traffic and the added noncapacity costs associated with the generated traffic less any savings in costs attributable to the nature of the services provided to the discount traffic.

Further changes in our discount fare policies are being considered in docket 30891.

We also tentatively decided to adjust ceiling fares on the basis of published revenues alone, adjusted by our DPFI fare level standards.

The Board also requested comments on the desirability of allowing carriers the flexibility to raise fares above the ceiling by a fixed percentage without first obtaining Board approval. Two possibilities were sug-

Footnotes continued on next page
the range would be 50 percent of the ceiling formula fare. Within this zone, carriers would be free to offer fares that would be set for certain
frequencies in markets that have significant intercity competition (as defined in regulation 120). In such instances, carriers could be
free to charge peak/off-peak fares, for example, to encourage
competition in markets with significant intercity competition.

4. The Board tentatively decided to set the joint fare pres-
scriptions for markets in which two or more carriers are au
torized to serve the market. The Board proposed setting the
lower floor at 60 percent of the ceiling fare (as defined in regu-
lation 120) and the upper ceiling at 150 percent of the ceiling fare. These levels were intended to provide carriers in
these markets with flexibility to raise their fares. As explained
in the notice, however, the joint fare ceiling rules now required
to be used to construct joint fares.27 Under these policies, carriers will be allowed the flexibility to increase joint fares.
fared constrained by either the point beyond or hidden city rule by 5 percent per year for 2 years. After this period, these rules will be extended.

These changes in our previously proposed rules, for the most part, involve limited expansion of the zone; but we believe that they are in harmony with our goal to reduce the normal fare at the lowest cost consistent with the savings to pass cost savings on to the consumer. A more detailed explanation of the reasoning underlying these modifications and the legality of the procedures we have used to adopt these new policies is set forth below.

B. THE BOARD'S AUTHORITY TO ADOPT THESE Ratemaking POLICIES BY INFORMAL RuleMaking

Several commentators have challenged the legality of the Board's use of non-hearing rulemaking procedures to develop these new policies. They argue that due process, the Federal Aviation Act (Act) and the Administrative Procedure Act (APA), relevant case law, and the highly complex and controversial issues involved require that we hold full evidentiary hearings before adopting the proposed rule. We disagree. The informal rulemaking procedure we have employed is, in our judgment, the better method for resolving the policy issues involved.

The carriers would be entitled to these increases in addition to the other allowed increases. They have also challenged the legality of the specific rules, especially the "no suspend" zone. We will deal with these contentions when discussing the particular policies involved.

See, e.g., comments of Brantl, pp. 5-3 (** ** rulemaking format precludes the kind of thorough consideration * that due process, simple concepts of fairness and the Federal Aviation Act require"; comments of Delta, p. 9 ("The Board's attempt to ignore recent history and, in fact, to erode it without opportunity for hearing are (sic) * * * open to serious challenge"; comments of Eastern, pp. 24-41 ("Without such a formal factual record, the Board cannot make certain that a court will regard the Board's conclusions as supported by substantial evidence in the record")); reply comments of National, p. 1 (** ** incoherent to National that the Board would attempt to reach such final decisions without an oral evidentiary hearing on the normal fare consequences of the Board's pricing proposals ** **); reply comments of Southern, p. 2 ("proper (legal) foundation cannot be laid in absence of a full evidentiary proceeding")); comments of World, p. 7 (** * what the Board is really doing is once again engaging in agency rulemaking without following the statutory procedures"; and ACTOA, p. 1 ("The Board has mechanistically walked through the rulemaking procedures prescribed by the APA while ignoring the purpose of this law.")).

Here, at the very least, it is less time consuming and less costly than a full blown evidentiary investigation. And, as the Supreme Court has recently observed, administrative agencies have wide discretion to fashion suitable procedures for fulfilling their many responsibilities. Absent our institutional constraints or extremely compelling circumstances, "the administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties." (Citations omitted.)

Even the fact that our current ratemaking policies were developed for the most part in trial-type proceedings does not bind us to those same procedures for modifying the policies or establishing new ones. We also reject the argument that an adjudicatory proceeding is necessary to satisfy the hearing requirements of section 1002(d), the relevant provisions of the APA, or due process. The policy issues involved are not adjudicative in nature, and do not require a trial-type hearing for their resolution. Indeed, this proceeding clearly meets the criteria the courts consider to be rulemaking. First, it deals with issues involving one or a few parties that have been labeled rulemaking, where, as here, broad principles are being developed. See, e.g., American Airlines, Inc. v. CAB, 395 F. 2d 624, 629 (D.C. Cir. 1969). Second, the issues involve questions of law and policy that were not finally determined in prior proceedings; and, while some prior proceedings may suffer economically, does not require an adjudicatory hearing. A rulemaking is "valid even if its effect is to drive some operators out of business" (Lee v. Oney Insurance Association of United States, 344 U.S. 238, 232), or the results are "of immediate and grave economic import to petitioner" (Capitol Air, Inc. v. CAB, 323 F. 2d 755, 758 (D.C. Cir. 1961)).

"In determining the difference between legislative and adjudicatory facts, Professor Davis writes: Adjudicative facts usually answer the questions of who did what, where, when, how, why, with what motive or intent, adjudicative facts are roughly the kinds of facts that go to a jury in a jury case (adjudicatory facts). Legislative facts do not usually concern the immediate parties but are generally facts which help the tribunal decide questions of law and policy and discretion. K. Davis, Administrative Law Treatise, section 7.02 (1958).

Clearly, this proceeding must be classified as a rulemaking; and, while we often conduct such proceedings using the trial-type procedures outlined in sections 556 and 557 of the issues involve policy questions more akin to legislative and administrative facts. The following resolution of disputed facts of the kind that go to a jury in a jury case (adjudicatory facts).

Sec. 551(4) includes the following description in the definition of a rule: "The approval of a prescription for the future of rates." Courts have adopted the validity of the classification that certain rights established in a statutorily required adjudication are affected. See, e.g., American Airlines, Inc. v. CAB, 369 F. 2d 624, 628 (D.C. Cir.), cert. denied, 385 U.S. 843 (1966); Law Motor Freight, Inc. v. CAB, 394 F. 2d 139, 142 (1st Cir. 1967).

"* * * involving expert opinions and forecasts, which cannot be decisively resolved by testimony. (They are the kinds of issues) where a year of hearings, American Airlines, supra at 633.

Act (Act) and the Administrative Pro-
dures we have used to adopt these new service at the lowest cost consistent
level and our duty under section 1002(e) of the Act to insure adequate service at the lowest cost consistent with that service. The carriers should be able to improve their efficiency and reduce the normal fare at the lowest cost consistent with the savings to pass cost savings on to the consumer. A more detailed explanation of the reasoning underlying these modifications and the legality of the procedures we have used to adopt these new policies is set forth below.

B. THE BOARD'S AUTHORITY TO ADOPT THESE Ratemaking POLICIES BY INFORMAL RuleMaking

Several commentators have challenged the legality of the Board's use of non-hearing rulemaking procedures to develop these new policies. They argue that due process, the Federal Aviation Act (Act) and the Administrative Procedure Act (APA), relevant case law, and the highly complex and controversial issues involved require that we hold full evidentiary hearings before adopting the proposed rule. We disagree. The informal rulemaking procedure we have employed is, in our judgment, the better method for resolving the policy issues involved.

The carriers would be entitled to these increases in addition to the other allowed increases. They have also challenged the legality of the specific rules, especially the "no suspend" zone. We will deal with these contentions when discussing the particular policies involved.
APA. It is equally clear that we are not required to do so. The Supreme Court has limited this requirement to instances where the agency's statute specifically provides for a "hearing on the record." Since section 1002(d) does not contain these words, the Board has the discretion to use either the notice-and-comment or public hearing procedures of section 553 of the APA relating to rulemaking or a more formal method for developing its rulemaking policies.

At the minimum, the Board may establish the policies it will publish in a notice of the proposal in the Federal Register and providing all interested persons the opportunity for presenting their written views (section 553 of the APA). In this proceeding, of course, we have gone far beyond what is minimally required, giving all persons a significantly greater opportunity to present their views. In an advanced draft proposal or rulemaking, we sought advice about the areas to be advanced notice of proposed rulemaking, which empowers the Board to present their views. In an administrative conference, we have gone far beyond what is minimally required, giving all persons the opportunity for present-
tual material and experience under the DPFI. Obviously, Eastern's real complaint is not that we are not selecting cases, however, "a theory of ratemaking must be reasonably explained, and supported, but it is not subject to the same substantiation principle as the substantial evidence test applicable to factfinding. "Although this is a finding, it is in the area of prediction and projection as to which particular latitude is an agency." (citation omitted) Continental Airlines, Inc. v. CAB, 551 F. 2d 1293, 1301 (D.C. Cir. 1977). Because our procedures were more than the minimum called for under section 553 of the APA and we have fully explained the reasons for our action, we cannot accept the argument that this proceeding runs afoul of the principle of Mobil I.

We also reject the contention espoused by Eastern and other commenters that an evidentiary hearing is necessary because we are updating the record, which was itself developed in adjudicatory type proceedings. The fact that our DPFI policies were developed in evidentiary type proceedings does not bind us to those procedures for changing those policies. Moreover, the characterization of this proceeding as merely a continuation of the DPFI is wrong; it is a separate proceeding and is based upon our continuing evaluation of the competitive nature of the airline industry and the effectiveness of the DPFI policies.

Finally, we establish our policies reflecting the Board's current view of the public interest standards of the act (section 102), exercising our general ratemaking authority under § 204. We intend to apply these policies with regard to particular pricing situations as they are presented to us. This approach has been approved recently by the Supreme Court in a case involving similar statutory provisions under the Federal Communications Act: 5

It is clear that the regulations at issue are based on permissible public interest goals and, so long as the regulations are not an unreasonable means for seeking to achieve these goals, they are within the general ratemaking authority.

In sum, the Board has not erred by using its ratemaking powers to consider the issues involved here. Indeed, we are effectuating our statutory responsibilities, rather than abrogating them, by using the proper and available procedures to resolve the issues before us promptly and efficiently. Therefore, we reject the notion that a ratemaking proceeding of this type is improper or even undesirable.

C. THE BOARD'S NEW RATERMAKING POLICIES

1. INTRODUCTION

Our primary objective in this proceeding is the development of a regulatory climate in which carriers will be able to compete in normal fares relatively free from government intervention. While "the possible benefits of (price) competition do not lend themselves to detailed forecast," it cannot be disputed that competition is the most effective way to encourage efficient operations and provide for the needs of consumers.

The policies we adopt here are designed to encourage this competition by placing the pricing decisions and the consequences of those decisions back where they belong—in the marketplace and hands of carrier management. The Board will no longer dictate the exact normal fare level for all markets; we will, however, prevent excessive fares in those markets where competition is an insufficient check and insure that the new pricing freedom does not lead to inadequate service or predatory behavior.

Some of these policies are controversial, with several commenters raising objections to the fact that they may have produced a great deal of speculation about what changes in the air transportation system will result from their adoption. We, of course, cannot know exactly what will happen but this much is clear: the ratemaking principles we now establish are not radical; they are, to a large extent, a codification of our current fare policies, which we have been developing during the past year. Nor will these policies destroy the air transportation system; indeed, our current policies have helped create a rather healthy group of air carriers. And, finally, the adoption of these policies is essential, if we are to achieve our goal of producing a more free and competitive air transportation industry. We now turn to a discussion of the policies themselves, focusing on the objections raised against them and the modifications we have made after considering the written comments and oral arguments. 6

2. CEILING FARE POLICY

a. Fare uniformity. The major regulatory obstacle to market-by-market fare competition was the Board's decision in phase 9 that carriers establish an inflexible normal-fare structure for coach service using industry average costs by length of trip on a formula basis. 7 This requires identical fares for all markets by equal distance; and a proposed reduction of normal coach fares in a particular market must be rejected even if it is cost justified. 8 While this requirement is designed to treat passengers moving at various distances equally, it severely restricts competition in normal fares. We therefore proposed in the Notice to eliminate this uniform fare requirement.

Our proposal was supported by most of the commenters. Only Eastern favored continuation of the current system, arguing that the abandonment of fare uniformity would produce inequitable results. 9 According to Eastern, only passengers in high volume markets would benefit from the elimination of this requirement, while passengers in other markets would receive a lower quality of service at higher

June 30, 1978, was among the highest of all the industries surveyed. Business Week, August 21, 1978.

As discussed above, no one specifically disagreed with our proposal to vacate the phase 9 prescription of minimum first-class fares and our decision to remove the requirements that discount fares be justified on the basis of the profitability of the markets; they contain an expiration date not to exceed 18 months. No further discussion of these issues therefore is necessary.

The formula is cost related, producing fares below industry average costs (as computed by the Board) in short-haul markets and fares above these costs in long-haul markets.

The only permissible lower fares under this system are either restricted selective discounts or are tied to a wholly new class of service, e.g., off-peak, higher density seating, or no-frill. Of course, a carrier can seek an exemption from this phase 9 requirement if it desires to engage in price competition by offering lower normal fares in a particular market. This was the strategy employed by Western in its Miami-Los Angeles market (order 78-3-106, March 23, 1978). But this procedure is both cumbersome and costly, stifling the carriers' incentives to engage in normal-fare price competition.

Eastern's comments, p. 16. Apparently National and Allegheny also favored retention of the fare uniformity requirement. But neither advanced any specific argument to support its position.
fares than they now receive. Thus, anomalies would result, severely disrupting the integrated nature of the air transportation system.

This argument is unpersuasive. Indeed, it rests upon the truth that the requirement of fare uniformity imposes a harsh penalty on both passengers and carriers. Because it restricts price competition, passengers are denied the opportunity to pay the lowest fares consistent with the cost characteristics of each market and each individual carrier. They are denied also the benefit of the incentive price competition would give carriers constantly to improve their efficiencies. Carriers are denied an important tool—price—with which to improve their market shares and are forced instead to compete for passengers on the basis of schedules and amenities.

Eastern overlooks those rather egregious defects of the current system, choosing instead to concentrate on the equity-fare curves. However, the elimination of the fare uniformity requirement, rather than its preservation that should contribute to equity, since fares will be based on the actual cost in particular markets rather than on broad industry averages. Eastern’s argument in favor of maintaining the status quo, therefore, is without merit, and we have decided to adopt our proposal vacating the fare uniformity requirement of phase 9.

b. Establishment of ceiling fares. We have decided also to make final our tentative decision establishing ceiling fares in all markets. Where entry into an industry is restricted, as it is here, price ceilings are necessary to protect the public from monopolistic and oligopolistic overcharging.

The Board, of course, is developing new policies easing the currently severe restrictions on the ability of new and existing carriers to enter and leave markets. Although these policies are just now evolving, some commenters are apparently already prepared to proclaim the industry “workably competitive.” These commenters, therefore, oppose the establishment of ceilings, except in monopoly markets, as unnecessary.

Undoubtedly, certain markets may now be workably competitive. We will therefore allow the carriers some upward fare flexibility in those markets that can reasonably be so characterized, partly to show that we fully intend to relax our regulatory controls over prices as we move toward freer entry. Just as our goal is eventually to eliminate price ceilings as markets become sufficiently competitive, so it is logical to take at least a modest step in that direction in markets that it seems may already approximate that standard. At this point, however, we are not prepared to allow the carriers unfettered discretion to raise fares in all markets for the simple reason that there remain substantial residues of monopoly power, which this would leave them free to exploit. Our entry program is still under development, and significant procedural barriers to quick and easy entry still exist. Under section 401 of the act, new and existing carriers wishing to enter new markets must first apply to the Board, and we must then process those applications. Those commenters who argue against the establishment of ceilings would have us ignore these facts; announce that this industry is workably competitive (except in monopoly markets); and remove all regulatory controls over fares. Consistently with our statutory obligation to protect the public, we must closely coordinate our fare and entry policies, as we move from a highly regulated industry to a more freely competitive one; and until we are satisfied that competitive restraints are fully installed, we must impose price ceilings in all markets.

c. Methodology for Computing Ceiling Fares. Having decided to impose a fare ceiling in all markets, the next question is how to compute it. In the Notice, the Board tentatively decided to use the current phase 9 fare formula, adjusted by the Board’s fare level standards. Although we announced that we would reexamine this ceiling in the second phase of this rulemaking, we felt that its use in the interim was reasonable. Carriers are in a position to recover their costs in a way that is in a position to recover their costs in a way that is in a position to recover their costs. Consistently with our statutory obligation to protect the public, we must closely coordinate our fare and entry policies, as we move from a highly regulated industry to a more freely competitive one; and until we are satisfied that competitive restraints are fully installed, we must impose price ceilings in all markets.

Among the commenters, the Departments of Justice and Transportation, ACAP, and several of those representing civic interests support our tentative decision. Of course, we realize that, most of the carriers oppose it; and while their arguments differ, they all recognize that there remain substantial residues of monopoly power, which this would leave them free to exploit.

Among the commenters, the Department of Commerce, of Justice and Transportation, ACAP, and several of those representing civic interests support our tentative decision. Of course, we realize that, most of the carriers oppose it; and while their arguments differ, they all recognize that there remain substantial residues of monopoly power, which this would leave them free to exploit.

The DPFI ratemaking standards and phase 9 fare formula are incompatible with a system of fare flexibility. The ratemaking standards, especially the discrete fare adjustment and reexamination by penalizing innovators. Moreover, the fare formula was never designed to serve as the top side of the fare curve; rather it is based upon industry average costs in both high- and low-cost markets, and together with the Board’s “artificial” ratemaking standards produces short-haul fares below and long-haul fares above their respective average costs. Under the Board’s present policies, the industry is in a position to recover its costs since long-haul fares cross subsidize service in short-haul markets. Under the new policies, this cross-subsidy would disappear; carriers would reduce their long-haul fares closer to costs while the ceiling would prevent them from increasing their short-haul fares to cover.

These carriers contend, therefore, that our proposal to use the DPFI formula to establish ceiling fares would unlawfully and unfairly deny them the opportunity to negotiate an adequate overall return, and several have suggested alternatives or modifications to it. For instance, United proposes that the Board simply eliminate all of the DPFI ratemaking standards (except those established in Phases 1, 2, and 3) and instead compute a “standard industry fare level” for each market based upon the actual industry average costs per ASM. Delta suggests that the Board use the DPFI rate of return standard of 12 percent to judge the lawfulness of fare proposals; however, it agrees with United that the remaining DPFI standards (except those established in Phases 1, 2, and 3) should be abolished. Eastern argues that if the DPFI fare formula is converted into a ceiling, then the Board must first calculate the fare level without any discount fare adjustment.

See Comments of Braniff, pp. 4-5; Oral Argument of Continental, TR. 114; Oral Argument of Delta, TR. 111; Comments of Eastern, pp. 13-17; Comments of Pan-American, pp. 5-6, 419. Comments of Braniff, pp. 30-34 and Reply Comments of Braniff, pp. 16-17; Comments of Braniff, pp. 4-5; Comments of Allegheny, p. 2; Frontier, p. 5; and Comments of Southern, pp. 39-41 and replies.

Several carriers expressed concern about this very possibility. See, e.g., Reply Comments of Pan-American, TR. 116. We observe that, paradoxically, some of those who oppose our ceiling fare policy in one market favor increased entry policies. This combination of views is indefensible.
will discuss in the next section, we will allow the carriers some additional limited flexibility to raise fares above the ceiling without the likelihood of suspension.

For these reasons, we see no need to adopt any of the fare level proposals of the carriers, all of which would significantly increase the permissible maximum fares. We especially do not believe it necessary to remove the impact of the discount fare adjustment before establishing ceiling fares. Essentially, the carriers' argument for removing its impact is that the discount fare adjustment penalizes them for offering discount fares, thereby inhibiting them from doing so. But this argument has no basis in reality as the great many discount fare offerings over the past year demonstrate. In principle, all the discount fare adjustment does is to raise the load factor the carriers must achieve in the aggregate to earn their target return. Also, since the method we will use for updating future will be based on costs alone, changes in the ceiling will no longer be affected by the introduction of discount fares.

d. Fare Flexibility Above the Ceiling. The most contentious in this proceeding, and the one that has given us the most difficulty, is the question of upward fare flexibility. As discussed in the Notice, the Board recognized the force of the argument that in a more competitive environment, some prices must be free to rise as others fall. But we felt that regulatory restraints on price increases were necessary to prevent the carriers from raising coach fares to unreasonable levels in markets where the Board's past entry policies have given them market power. Our maximum ceiling fare proposal, under which we would suspend any coach fare filed above it, but with exceptions permitted on justification, was designed to balance these conflicting considerations.

In addition, we requested comments on the desirability of allowing carriers the flexibility to raise fares above the ceiling in order to assure them sufficient incentive to provide adequate service, especially during peak periods. We suggested two alternatives. Under the first, they would have the discretion to raise their fares by five percent above the ceiling in individual markets without submitting an economic justification. Fares within this range would not be suspended except in extraordinary circumstances. Alternatively, they would be allowed to raise their fares by 15 percent above the ceiling on 52 peak days of the year per market, subject to a ceiling adjustment.

The positions of the commenters on the issue were divided. California, the

Las Vegas Parties, the Seattle Parties, ACAP and DOJ opposed any flexibility above the ceiling. Most of the carriers, as well as the FTC and DOT, favored some form of upward fare flexibility. Their arguments were essentially as follows: The opponents believe that entry is sufficiently liberalized to check monopolistic abuses; the proponents argue that costs vary significantly by market and because the phase 9 formula is based on average costs, it is logical that in some market costs will be above that level; and they also assert that for the Board to permit deviations from the average only on the downside would be to deny them an opportunity to earn the fair return embodied in that average.

The Board concludes that the carriers should be allowed some discretion to raise their fares above the ceiling without first seeking our approval. Essentially, there are two reasons for our decision.

First, in unregulated, competitive industries, the responsibility for pricing decisions, both up and down, is placed in the hands of individual firms and the marketplace, where it belongs. Firms setting prices below cost may encourage new companies to enter the field, offer the same product at a more reasonable price and capture a share of the market. By the same token, prices competition will help companies to improve their efficiency or be driven from the market. In other words, in competitive industries, firms will be penalized for unreasonable pricing strategies or inefficient operations.

"Comments of California, pp. 7-8; Oral Argument of Las Vegas (TR. 81); Reply Comments of Seattle, pp. 2-6; Comments of ACAP, pp. 5-6; and Oral Argument of DOJ (TR. 16-17). Also, World apparently believes that upward flexibility should not be allowed, since it would be expected to subsidize low-fare competition by above-cost fares in other markets. Reply Comments of World, p. 2.

"See, e.g., Comments of American, pp. 7-11; Comments of Braniff, pp. 2; Comments of Continental, pp. 4-6; Oral Argument of Delta, pp. 62-63; Comments of Eastern, pp. 20-23; Oral Argument of National (TR. 123); Reply Comments of TWA, pp. 16-17; Comments of United, pp. 2; Comments of Frontier, pp. 2; Comments of Ozark, pp. 2-3; Comments of Southern, pp. 2-3; Comments of PTC, pp. 13-17; and Comments of DOT, p. 9.

"The FTC takes a somewhat different approach, arguing that three or more carrier markets are "workably competitive" and do not require maximum fare regulation. It suggests, therefore, that the Board adopt a so-called "bright line" test to determine whether to relax regulatory controls over price increases either completely or partially. Carriers in "workably competitive" markets would not be subject to ceiling fares or at the very least would be given additional discretion to raise and lower fares. In other markets, ceilings would be imposed; but the FTC believes that in these markets upward fare flexibility is also desirable.

"See also, Comments of Continental, pp. 2-4.

"Alternatively, TWA argues that if the Board adopts a rigid ceiling fare policy, it should be based on the costs incurred in higher cost markets.

"The fare curve intersects the trip basis cost curve somewhere between 900 and 700 miles. It intersects the non-stop cost curve at approximately 250 miles.
As our entry program develops and we move over time toward easing entry, we expect that most markets will become workably competitive. Carriers will be required to maintain reasonable prices and improve efficiency or face immediate competition from lower cost carriers. Thus, the imposition of ceilings in those markets will become unnecessary and, as we stated in the notice, we will begin allowing upward pricing flexibility.

The development of our entry policies will, of course, take time; but we see no need to wait until they are finally established and working to begin easing constraints on upward pricing. Our entry and pricing programs should evolve together, and as we authorize more carriers to enter particular markets, we should begin easing upward pricing restrictions in them. As we have already observed, if we intend to avoid pricing flexibility as, over time, markets become effectively competitive, it is logical that we do so in markets that have already achieved that status. This will have the additional advantage of permitting us to observe how prices behave in these circumstances and test the validity of the criterion of competitiveness that we apply.

The second reason for permitting some upward pricing flexibility is to encourage the carriers to develop peak/off-peak pricing schemes. Although charging all passengers the same average fare has the appearance of fairness, it is both economically discriminatory and inefficient. It costs more to supply users at the peak than off-peak. Passengers flying during peak periods, therefore, should be required to pay these higher costs; otherwise, off-peak passengers will be forced to pay to subsidize peak period travelers.

Higher prices at the peak will, or course, cause some passengers to shift to off-peak periods, reducing peak period demand and costs. By the same token, demand in off-peak periods will rise, increasing utilization of capacity, thereby reducing unit costs in these periods. Thus, peak/off-peak pricing plans will enable the carriers to reduce their overall costs and, with our policies promoting competitive pricing, they will be able to pass those cost savings on to all passengers.

The rule has been carefully designed to balance the desirability of allowing upward flexibility with the fact that barriers to entry into this industry still exist. Specifically, carriers in markets that appear to be workably competitive will be permitted to establish fares up to 10 percent above the ceiling without submitting an economic justification. As with our downward zone, fares within this upward range will not be suspended on grounds of the reasonableness of the level absent demonstrated ability to be as conservative as, over time, markets become effectively competitive, it is logical that we do so in markets that have already achieved that status. This will have the additional advantage of permitting us to observe how prices behave in these circumstances and test the validity of the criterion of competitiveness that we apply.

The last aspect of our ceiling fare policy requiring discussion is the method we will use to adjust the ceiling for changes in costs. As we stated in the Notice, the current method of comparing revenues adjusted to remove price effects, adjusted to reflect load factor, seating, utilization and depreciation standards) to determine whether a fare increase is needed is not adaptable to a system of ceiling fare adjustments without undue complication. We therefore proposed to adjust the ceiling on the basis of changes in costs alone, adjusted for rate-making standards. We found that this method would produce approximately the same results as the current one, achieving them in a far less complex fashion.

Only a few commenters discussed this issue; and they generally opposed our proposed method. For instance, Eastern argues that the Board's decision to update the ceiling on the basis of costs alone is inconsistent with section 1002(e)(5) of the act, which enjoins us to consider the "need of each carrier for revenue." Similarly, California urges us not to ignore carrier revenue adjustments, suggesting that increases in the ceiling fare levels be based on the cost of service and revenue needs of the particular carriers involved. United suggests that the Board adjust the fare level in each market on the basis of unadjusted costs per ASM excluding any rate of return element, while Delta asks us to abolish the DPFR fare level standards of load factor, seats and utilization and judge the reasonableness of carrier-initiated fares on the basis of the 12 percent DPFR rate of return standard.

The Board has decided to adopt the updating technique proposed in the notice. It is a relatively simple method, well suited to a system of fare flexibility. And, as noted, it produces approxi-
mately the same result as the rather complex approach used today. Nor is the fact that we will base increases on costs alone at odds with 1002(e)(5) of the act. Our updating technique is not confiscatory; indeed, carriers will continue to enjoy the same opportunity they now have to charge fares high enough to recover their costs reasonably incurred plus a 12 percent return on investment.

3. FARE FLEXIBILITY BELOW THE CEILING

a. Legality of the "Suspend-Free" Zone: In addition to eliminating the uniform fare requirement of Phase 9, the major change in our ratemaking policies proposed in the notice was the creation of a "suspend-free" zone ranging from one percent below the ceiling fare level. Under this policy, carriers would be free to either lower or raise their fares within the zone without submitting the data now required by our economic regulations (14 CFR, Parts 221-165) to justify them; and fares would not be suspended on grounds of the reasonableness of the level.10 Unless a complainant could demonstrate that the injury to competition from allowing the allegedly unconstrained fares to be effective during investigation was greater than the injury to the traveling public from depriving them of the benefit of the reduced fares.91 In order to make this demonstration and secure the suspension of a fare, the complainant would have to show: (1) that there was a high probability that it would be found to be unlawful (i.e., that the complainant would prevail on the merits) after investigation; (2) that there is no substantial reason to believe it is predatory, so that allowing it to go into effect could create the substantial likelihood of immediate and irreparable harm to competition (as distinguished from harm to an individual competing carrier); (3) that such harm to competition would be more substantial than the injury to the traveling public arising from the unavailability of the proposed fare; and (4) that the suspension would not otherwise be contrary to the public interest.82

As explained in the notice, the zone would remove several of the direct impediments to normal-fare competition, at least over a limited range. Carriers would no longer have the burden of justifying their fare proposals in advance to the Board, revealing their pricing strategies and analyses to their competitors. And carriers would no longer face the prospect of reduced fares on level grounds, unless the fares presented an immediate and irreparable danger to competition.

Most of the commenters generally support our proposal to establish a "no-suspend" zone, although some have suggested certain modifications.44 A few, however, challenge both the wisdom and legality of various aspects of it, particularly our proposal eliminating the requirement that fares be accompanied by an economic justification and our proposed suspension standard. These arguments, however, are without merit and clearly do not prevent us from adopting the proposals.

For example, ACTOA argues that the elimination of fare justifications violates the burden of proof provision of section 556 of the APA. According to it, this burden would shift from the proponent of a fare to the complainant, who would have the responsibility for showing that a fare is unreasonable.84 But complainants have this responsibility today; they must show why a particular fare proposal may be unlawful and should be suspended pending investigation. Similarly, in an evidentiary investigation, while a proponent of a fare has the burden of producing all the evidence in its possession on the issue of lawfulness,9 an opponent must rebut that evidence, demonstrating that the fare is unlawful. Thus, the elimination of fare justifications will not shift the relative evidentiary burden between the parties.

It will, however, relieve the carriers of the burden of attempting to predict the results of innovative fare proposals to the Board's satisfaction; and it will relieve them also of an unnecessary burden since experience over the past year has shown that fares within the zone are economically viable in scheduled operations without any deterioration in service to the traveling public. We would abdicate our public interest responsibilities by refusing to change policies which experience and our continuing evaluation of the airline industry have taught us are no longer needed. Indeed, "of the most significant advantages of the administrative process is its ability to adapt even the most flexible manner." Thus, we have decided to adopt our tentative finding in the notice eliminating the requirement for filing economic justifications for fares within the zone.83

9Section 506 of the Board's Procedural Regulations (14 CFR 302.506) places the burden of going forward with the evidence at a hearing upon the proponent of a fare. We are of the view that the former standard is too flexible. In our judgment, whether any change is necessary to make it absolutely clear that the burden is as we have stated.

While a fare within a zone is presumed to be lawful, this presumption is rebuttable. "ACTOA contends that we would ignore our ratemaking responsibilities by adopting the no-suspend zone, apparently assuming that we have established a conclusive presumption for fares within the zone.85

The Commonwealth of Puerto Rico requests that we extend the policies we adopt for the 48 contiguous States to the mainland-Puerto Rico/Virgin Islands market. We have decided not to do so in this proceeding primarily because we did not propose it in the notice. Thus, we have created a separate proceeding leading toward the establishment of these policies in other ratemaking entities, including Puerto Rico/Virgin Islands.

4We will deal with these suggestions below.

5This section provides, in part, that a proponent of a rule or order has the burden of proving its terms, however, apply to hearings which are required by the agency's rules to be held on the record. American Trucking Ass'n v. U.S., 344 U.S. 326, 318-320 (1953). This is not the case under the Federal Aviation Act in rulemaking proceedings such as this one. For a more complete discussion, see pages 10 through 19 above.

6"Comments of ACTOA, pp. 3-6; oral argument of ACTOA, p. 520. Eastern argues that without justifications, an opponent of a fare will be unable to demonstrate the unreasonableness of the complainant's part of Eastern, p. 5; Southern makes a similar argument, Comments of Southern, pp. 5-6. Because we will allow complainants the opportunity to file a reply to the carriers' answer, this argument is without merit.

Footnotes continued on next page
Eastern challenges our proposed standard for deciding whether to suspend a fare within the zone arguing that the four-part test is vaguely defined and impossible to prove. Yet, it is no more indefinite or difficult than the test on which it is modeled, that is, the one used by the courts in determining whether to grant a stay or preliminary injunction. And, after all, a suspension is not unlike these judicial remedies. Litigants seemingly have little difficulty in arguing to a court of law that a stay or preliminary injunction should be granted; and we would not expect that opponents of a fare proposal will experience little trouble in devising similar arguments to us in their complaints and replies.

Eastern also suggests that our suspension standard is rather harsh, exceeding even the standards of prevailing antitrust laws. The thrust of its complaint appears to be that we will not be able to prevent an irreparable harm to competition as distinguished from harm to individual competitors in deciding whether to suspend a fare. It relies on language in the notice to show that the antitrust laws are concerned with harm to individual competitors and reach discriminatory pricing that gradually erodes competition. Eastern also contends that these cases are misplaced. In fact, in one of the cases it cites—Utah Pie v. Continental Baking—the Supreme Court emphasized that the antitrust laws do not forbid price competition which will probably injure or lessen competition by eliminating competitors, discouraging entry into the market or enhancing the market share of dominant sellers. Similarly, the 10th circuit has recently interpreted its decision in Atlas Building Products, supra, which Eastern cites for the proposition that Board must concern itself with harm to individual competitors, stating:

We believe there are fundamental flaws in the trial court's application of the Sherman Act. The court's holding that (defendant's) conduct was predatory is based on its effect as a competitor rather than its effect on competition. While the Consumer Products Building Co. v. Diamond Block & Gravel Company: "Antitrust legislation is concerned primarily with the health of the competitive process, not with the health of the individual competitor who must sink or swim in the competitive enterprise." In a two firm industry, the exclusion of one firm necessarily results in a monopoly. That does not mean the survivor necessarily violates the antitrust laws. (Footnote and citation omitted.)

We therefore do not accept the contention that our suspension standard is at odds with the antitrust laws. We also reject as premature at best the notion implied in Eastern's argument that our new policies will inevitably lead to destructive price competition or even unreasonable and unjust fares. We will, of course, closely monitor our new policies, as we explained in the notice, we do not believe the fear of destructive price competition is a realistic one in this industry. In any event, rather than prevent price competition on the basis of speculation that it will injure the competitive process, we will take action when and as harm to that process becomes imminent or actually occurs. Finally, we admit that our suspension standard for fares within the zone may be difficult to meet. But its rela-

tive difficulty does not render it illegal. Indeed, it has been purposely designed to discourage frivolous complaints. In our view, carrier management should devote their time and energy in developing new and competitive pricing strategies for competing in the marketplace, rather than in complaining against each other's fares.

For these reasons, we have decided to modify the suspension standards proposed in the notice.

B. MODIFICATIONS TO THE "NO SUSPEND" ZONE BELOW THE CEILING

The Board's objective in this proceeding of relaxing the pervasive regulatory control over the pricing behavior of the industry and encouraging normal-fare price competition must, of course, be balanced by our duty to insure that too rapid a transition to competitive pricing does not result in the inability of carriers in the market to provide adequate service to the public. Our no-suspend zone represents the trade-off. It is a modest transitional step from the present rigid regulatory system to a more freely competitive one.

Some of the commenters believe that we should go further, suggesting, for example, that we lower the floor or eliminate it completely, or that we tighten the standards for obtaining suspensions on grounds of unjust discrimination and undue preference and prejudice. Others argue that the zone represents too radical a step and suggest that we retrace by narrowing the zone, limiting it to discount fares, or placing restrictions on the carrier's ability to change fares within it. With the exception of lowering the floor for off-peak periods, we have decided to reject these various suggestions: Our reasons are set forth below.

1. Level of the floor—As explained in the notice, we have chosen a 50 percent reduction from DPF1 fares as the floor of the zone because existing discount fares in the off-peak periods and fares at and below this level have been used successfully by interstate and intrastate carriers. Establishing a narrow-
er zone by raising the floor, therefore, could inhibit the offering of many fares which we know from this experience are sustainable in scheduled service, and are beneficial to the traveling public and the carriers.

Some commenters suggest, however, that we establish a higher floor, arguing, generally, that it is necessary to guard against predation. This argument ignores the fact that fares at or even below the 50-percent level are offered today in scheduled service. It ignores, also, that our new rules provide sufficient protection against anticompetitive behavior since parties will be able to secure suspensions or investigations of fares they can show are likely to be predatory. And, in any event, we have tools to deal with predatory behavior if it occurs. Such an approach is far preferable to constraining competition from the start.

American, on the other hand, recommends that the Board not establish a floor at all. It points out that a lower limit on fares creates a natural impetus for carriers to set fares at that level, whether they are justified or not. As we discussed in the notice, a "suspend-free" zone should go as low as possible, since there are wide differences in the costs of different flights and in the nature of demand in different markets. A zone of flexibility gives the carriers the ability to fine-tune their prices accordingly. Thus, American's suggestion has some appeal. Nevertheless, we believe a floor is necessary as we introduce our new policies, so that we can be satisfied that the movement toward competitive pricing does not result in a deterioration in service. We, of course, do not expect it to occur; and, once we are assured by experience that fares below the floor will not lead to inadequate service, we should be able to eliminate the floor completely.

We recognize, of course, that service in many markets may be profitable at fares below this level, especially during off-peak periods. Southwest points out, for example, that it typically offers off-peak fares on a profitable basis at levels 60 to 70 percent below DPFI fares on about 40 percent of its seats. It suggests, therefore, that we lower the floor of the zone for these periods. We agree. Off-peak pricing will enable the carriers to increase their efficiency during these periods, thereby lowering their unit costs and reducing the overall normal fare level. Indeed, Southwest observes that were it not for its increased productivity during these periods, its overall fare level would be significantly higher.

For this reason, we have decided to widen the "no-suspend" zone for off-peak pricing, allowing the carriers the flexibility to reduce their fares down to 70 percent below the ceiling fares on 40 percent of their total weekly available seat miles. We choose the 70-percent floor and the 40-percent limit because we know from Southwest's experience that a-fare structure including off-peak fares down to this level and on this share of the ASM's can be highly successful without burdening either the carrier or higher rated traffic. Defining uniform off-peak periods for the entire air transportation system would be a difficult if not impossible task. Rather than attempt it, therefore, we believe it reasonable and far easier to rely upon the ratio of off-peak to total operations observed in

Southwest's highly successful experience in its Texas markets. 2. Scope of the rule.—As proposed in the notice, the "no-suspend" zone would apply to both normal and discount fares and in all markets in the 48 contiguous States. Eastern and Allegheny suggest that we limit its applicability to discount fares only. This suggestion would simply maintain the status quo and is at odds with our current policies to encourage price competition in normal fares. We therefore reject it.

We also reject World's recommendation that the Board exclude markets receiving low-fare competition from the coverage of the rule. Apparently, World fears that new entrants will be the target of predatory moves by incumbent carriers. Such fears are speculative at best, and we will deal with predation if it occurs. As with any competitive enterprise, World should depend upon the abilities of its management, not a Board rule that would restrict carriers' options to compete. We see no reason to shield World from the rigors of the competitive process, provided we preserve our ability and will to protect it from predation.

3. Price competition within the zone.—We have emphasized throughout this proceeding that the purpose of the zone is to encourage price competition by allowing the carriers the freedom to raise and lower fares within it and to experiment with various price-quality options. Some commenters, however, would have us limit this freedom.

For instance, California suggests that we closely control price increases within the zone requiring carriers to justify them. California believes that this rule is necessary to prevent predatory behavior. We will not adopt this recommendation. Only through experimentation will carriers be able to respond to the demand characteristics of the market, arriving at the optimum price/service mix; and in doing so, they will necessarily make mistakes. They must have the freedom promptly to correct these errors. Otherwise, they simply might not engage in price competition at all. In any event, California's fears about predation are premature; the Board fully intends to use its suspension power to

Southwest also suggests that we modify the time requirements for might coach fares established in our decision in the Domestic Night Coach Fare Investigation, order 77-4-133 (reconsideration denied, order 77-6-118). There is simply no need to do so. Under our new rules, carriers will be able to offer off-peak fares during the less busy times of the day, rather than limit these fares to the hours specified in that decision.


We also believe that the floor should vary with the ceiling. Therefore, we reject California's suggestion that the floor be kept at 50 percent of the current ceiling (comments of California, p. 7). On the other hand, we see no need to adopt TWA's suggestion (comments, p. 39) of forcing a carrier to raise or justify any fare that, although originally within the zone, falls below it as the ceiling increases.

"Id." Comments of Southwest, pp. 1-2.

"Id." at p. 2.

"As documented in the Board's opinion in Chicago-Midway Low Fares Route Proceeding, in the period 1972-1976 Southwest's traffic grew at a compound annual rate of 49.4 percent, its revenues increased from $20 million to $30 million, its net income from $1.6 million to $4.9 million and its earnings per share from $2.00 to $3.13. Order 78-7-40 at p. 44.

Comments of California, pp. 5-6.
prevent such anticompetitive behavior.

We also reject the suggestion of World that we restrict the ability of carriers to respond to the fares of their competitors by not allowing them to match the price without matching the service. In unregulated industries, of course, companies are free to match the prices of their competitors even though they may offer a slightly different product or service. This is exactly the way competition is supposed to work and the consumer is given a wide range of price/service offerings from which to pick. Adopting a rule such as World suggests would require us to decide in practically every case whether the response of a carrier to an offering of its competitor was sufficiently close so that the same price could be charged. We believe our energies are better spent in developing policies to produce a more freely competitive airline industry. Thus, we affirm our tentative decision to allow carriers the freedom to respond competitively to the low fares of their competitors both within and below the market.

Finally, Omaha and Nashville argue that the Board must devise some mechanism for insuring that low fares are offered in all markets where they are economically justified; otherwise, the Board would be ignoring its statutory responsibilities of preventing undue preference and prejudice and unjust discrimination.

We recognize, of course, that a low fare offered in selected markets appears to be unfair and discriminatory to passengers in other markets. But we also know from experience that through the competitive process, these low fares tend to spread to other markets where they are economically justifiable. We do not believe it necessary to devise elaborate machinery to insure that low fares are offered in all markets where they are justified by costs; we are convinced that competition and the marketplace will achieve that result.

3. JOINT FARES

In the notice, the Board proposed to modify the joint fare prescriptions set forth in phase 4 of the DFFI so that the required joint fares would be based upon ceiling fares (less a terminal charge) or the sum of the actual local fares, whichever is less. While several commenters apparently support this proposal, some have suggested that we should examine the question of whether our current joint fare policies are compatible with a system of fare flexibility. Because we will deal with these policies on joint fares in the second phase of this rulemaking, we need not reach this question now. Two matters raised by the commenters require further discussion, however.

First, there appears to be some confusion about the method of division of joint fares based on the sum of the actual local fares. The local service carriers argue that the application of the current cost-prorated division formula to these joint fares produces an unfair and inequitable result, since a carrier reducing its local fare could receive more than that fare as its share of the joint fare revenue, with the other carrier receiving substantially less. The local service carriers have simply misread our proposal. We never prescribed a method of division for joint fares based on the sum of the local fares, preferring instead to leave it to the negotiation between the carriers involved. To avoid any doubt, however, we will prescribe that, in the absence of an agreement, each carrier should receive its local fare as its share of these joint fares when they are based on the sum of the actual fares.

The second issue deals with the question of the point beyond and hidden city fare ceilings. There may now be required to be used to construct joint fares. An explanation of these rules (with examples) is set forth in appendix C; but, generally, they work to constrain the maximum permissible joint fares. The point beyond rule requires that a joint fare to a point cannot be higher than a joint fare to a point more distant via the same route; the hidden city rule requires that in constructing joint fares, a carrier must use the combination of fares that produces the lowest fare regardless of routing. We have decided to adopt policies leading toward the elimination of these rules, while their use under a uniform mileage-related fare formula is perhaps logical and equitable, these rules are simply rules of thumb with a policy of allowing the carriers the discretion to price their services on a market-by-market basis. Their application in a system of fare flexibility may lead to fare reductions in a large number of markets which are not related to the costs incurred in those markets. Not only could this inhibit the carriers from exercising the pricing flexibility we are extending to them, it may even reduce their ability to provide adequate service.

We are concerned, however, that the immediate elimination of these rules may lead to sudden increases in fares in many markets creating a financial burden for a great number of passengers. We, therefore, will eliminate them gradually over the next 2 years. Carriers will be required to maintain for 2 years joint fares no higher than those currently constrained by the point beyond and hidden city construction rules, except that they will be allowed to raise any of them up to 5 percent in each year in addition to any other allowed increases (not to exceed other fare ceilings). Otherwise,

102 Comments of World, p. 6; oral argument of World, Tr. 4-8. See also oral argument of Delta, Tr. 165.

103 A carrier will not, however, be allowed to match the fare of its competitor on short notice. See comments of TWA, p. 41. The innovator of a low-fare service should be allowed to enjoy the fruits of his innovation for a short time.
the point beyond and hidden city rules will not longer apply.

In sum, we have decided to adopt the joint fare policy as proposed in the notice, as modified here.136

D. ENVIRONMENT AND ENERGY

NEPA establishes broad national goals to promote efforts for protecting and enhancing the environment. The Board, like other Federal agencies, is committed to developing and administering its policies in a manner consistent with these goals (part 312 of the Board's procedural regulations). Section 102(2)(c) of NEPA requires a detailed environmental impact statement (EIS) for every major Federal action significantly affecting the quality of the human environment. Under § 312.13, the staff must prepare an EIS when the proposed major action may reasonably be expected to have this effect.

While the Board has always considered the environmental consequences emanating from the award of new route authority (e.g., Chicago-Midway Low-Pare Route Proceeding, order 78-7-40), it generally has not viewed changes in fares as having any measurable environmental impact (see 312.2(a)). Nonetheless, a staff committee decided that an analysis of the environmental consequences appeared to be necessary, since the rule, by permitting the carriers to restructure their fares to reflect an impact on both the volume and flow of traffic. The Board, therefore, delayed its decision until this evaluation could be prepared:

The staff, with the assistance of Greiner Engineering Sciences, Inc. (environmental consultants to the Board), has now completed this analysis and has prepared an environmental impact assessment report (report).137 After careful review of the analysis contained in the report, the staff has concluded that the proposed DPFI rule is not a major Federal action, significantly affecting the environment.

The Board affirms and adopts this conclusion, and we incorporate by reference the report prepared by the staff into this rule.

National Airlines was the only commenter to challenge the Board's action on environmental grounds. It postulates that the shift from uniform mileage tariffs to individual city-pairing pricing "accommodated to costs and densities will have enormous consequences for the structure of all transportation system" (National's comments at p. 7). National contends that the Board is obliged to consider these changes not only by sections 102(a) and 102(c)(3) of the Federal Aviation Act, but also by the NEPA. In support of this thesis, National submitted an environmental analysis intended to demonstrate additional environmental burdens at certain airports. We postulate that in constructing Joint fares, a carrier will, in all likelihood, be able to reduce any adverse environmental impacts. In any event, any possible negative environmental impact at certain points may be lessened by the fact that these rules will promote economic efficiency.138

As the Board recently pointed out in the Chicago-Midway Low-Fare Route Proceeding, order 78-7-40, July 14, 1978, much of today's system is the product of yesterday's aircraft technology reinforced by a regulatory environment that fosters service competition, which in turn creates incentives for individual carriers to break from the pack and perhaps lose out on connecting traffic. The Board further noted that under a system of limited price competition, this concentration of operations was perfectly rational management behavior, but did not necessarily represent the best pattern of service for travelers. The experience of Southwest Airlines at underutilized airports at Dallas and Houston and the similar experience of PSA at Oakland indicates that many travelers would prefer to use less crowded and more convenient facilities. To the extent that increased service to underutilized airports reduces service to highly congested ones, it would be an important environmental benefit.

We are already starting to see the beginnings of a changing system in response to the Board's current pricing and entry policies. We have, for example, two new carriers planning to institute service at Chicago's Midway Airport, the announcement of United Airlines that it intends to establish new hubs at Kansas City and Memphis, and a recent application by Piedmont to use Nashville as a gateway hub from its points in the south to Denver, Phoenix and Las Vegas. Changes of this type will be encouraged by the DPFI revision for several reasons. First, market pricing should tend to lower fares in the long-haul dense markets. As fares in these markets go down, there will be less cross-subsidization of feeder traffic. This could lead to less nonstop service in the longer haul markets, fed by more turnarounds at these terminals. The Board's regulations at about 25 major hub airports.

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The report being issued concurrently with this final rule. Copies will be available for inspection at the CAB's Public Reference Room, Room 100, 1825 Connecticut Avenue, Washington, D.C. Those interested persons not residing in the Washington area may obtain a copy by sending a card request for FS-40, Distribution Section Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20425.

Comments of National, p. 8.

See section VIII of the report. Because the Board is prohibited by the act from directly regulating airline scheduling or equipment used at the airports, the Board's ability to control environmental impacts is limited. Environmental grounds.139 It should also point out that the changes in price and service will, in all likelihood, be able to reduce any adverse environmental impacts. In any event, any possible negative environmental impact at certain points may be lessened by the fact that these rules will promote economic efficiency.139
promoting people to travel at less busy hours and days.

It is impossible to predict the changes that will occur across the system or at particular airports in a substantially degree of assurance. Nonetheless, certainly in the generic terms that we are evaluating here, we can reasonably conclude that a regulatory change that promotes efficiency, else held constant, will be environmentally beneficial. This is clearly true for energy consumption.

Section 382(b) of the Energy Policy and Conservation Act (EPCA) (Part 313 of the procedural regulations) define a major regulatory action as one that "may cause a near-term net annual change in aircraft fuel consumption of 10 million gallons or more compared to the probable consumption of fuel were the action not to be taken."

The report contains an analysis of the projected fuel consumption of the year 1980 with and without adoption of these new policies. It indicates that fuel consumption could possibly increase by approximately 45 million gallons as a result of this rule. This is based, however, on a demand elasticity of -2.0. A more realistic projection using a demand elasticity of -1.0 shows that fuel consumption would actually decline by approximately 148 million gallons if these rules are adopted.

There is little doubt that the adoption of these rules will lead to more efficient operations, and with, therefore, promote greater energy conservation. In the first place, they will promote physical efficiency—getting the maximum output from a unit of input. Price competition will increase breakeven load factors leading to more passenger miles per gallon in the long run. In the second place, these rules will lead to the most economical use of scarce resources since competition will result in prices for air transportation which reflect their marginal costs.

Finally, even if under these rules net fuel consumption should rise, this does not mean that our adoption of these rules will violate the Energy Act. Energy conservation simply does not mean nonuse, as we observed in our Midway decision: 142

The Energy Act 143 does not suggest any such narrow conception of conservation. For one thing, Congress recognized that simple nonuse does not make sense as a social policy. Not using a particular resource is not costless; typically, it merely means using some other resource; in this sense, absolute conservation proves to be impossible. On the contrary, the only possible intelligent social policy is wise use, including a balancing of the respective values of more today and having less for tomorrow, on the one hand, and using somewhat less today and having more tomorrow—a process that is already accomplished in the market.

It is the policy of the Board that the fare would be found to be unlawful after investigation;

The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

The harm to competition would be greater than the injury to the traveling public if the proposed fare were unavailable; and

The suspension is in the public interest;

Carriers should be free to set rates below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level the proposed fare reductions will result in an inability of the carriers in the market to provide adequate service to the public or the fares are otherwise unlawful; and

Each carrier should have the opportunity to set fares above the ceiling fares as follows:

In markets where four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, 144 each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, 145 each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 110 days throughout the year; and

In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extraordinary circumstances.

2. Section 399.33 is amended to read as follows:

§ 399.33 Domestic passenger fare-structure policies.

The Board’s policy on the structure of passenger fares for scheduled services by trunk and local service carriers in markets within the 48-contiguous states and the District of Columbia is as follows:

Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

142 Chicago-Midway Low-Fare Route Proceeding, supra at 72-73.
PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS


AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in PS-80, published elsewhere in this part II, the Board is modifying the fare policies developed in the domestic passenger fare investigation to allow carriers the flexibility to engage in normal-fare price competition in individual markets. In conjunction with these policies, the Board has decided to relieve the carriers from the burden of submitting economic justifications for fares filed within specified zones. This amendment of §221.16, of the Board’s economic regulations reflects that decision.


FOR FURTHER INFORMATION CONTACT:


Accordingly, the Civil Aeronautics Board amends part 221 of the economic regulations (14 CFR Part 221) as set forth below. The Board finds that because this amendment relieves restrictions on competition and public benefits will be derived from putting it into effect without delay, an immediate effective date is in the public interest.

Section 221.165 is amended by adding a new subparagraph (d)(4) to read as follows:

§221.165 Explanations and data supporting tariff changes and new matter in tariff publications.

(d) Exceptions: * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to fares for scheduled passenger service within the 48-contiguous States and the District of Columbia which are within the zones set forth under part 339.31 of this title.

(Secs. 204, 403, 404, 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765, and 768, as amended; 49 U.S.C. 1324, 1373, 1374, 1482; 5 U.S.C. 555.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLO, Secretary.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
tion 1002(g) of the act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed at least thirty-three (33) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date.

(b)(2) A complaint requesting suspension pursuant to 1002(g) of the act of a fare for the scheduled air transportation of persons within the 48-continuous States and the District of Columbia which is within the zones set forth in §399.31 of this title, will not be considered unless made in conformity with this section and filed at least thirty-nine (39) days before the effective date of the tariff or, in the event a posting date is printed on the tariff, unless a complaint is filed six (6) days after said posting date.

(f) Answers to complaints shall be filed within six (6) days after the complaint is filed: Provided, however, That answers to complaints seeking suspension of a tariff pursuant to section 1002 (j) of the act shall be filed within five (5) calendar days after the complaint is filed: Provided, further, That answers to complaints requesting suspension of a fare for scheduled air transportation of persons within the

Rules and Regulations

39537

FR Doc. 78-24853 Filed 9-1-78; 8:45 am
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority with Respect to the Comprehensive Planning Assistance Program
NOTICES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

(Docket No. D-78-506)

REGIONAL ADMINISTRATORS; ET AL.

Redelegation of Authority with Respect to the Comprehensive Planning Assistance Program

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development is amending the redelegation of authority published February 27, 1976 (41 FR 8526) with respect to the Comprehensive Planning Assistance Program pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461), and as amended, pursuant to the Housing and Community Development Act of 1974 (42 U.S.C. 5301), which withdrew certain authority and responsibility from the area offices and conferred the authority upon the Assistant Regional Administrators for Community Planning and Development. This redelegation of authority is thus issued to amend the February 27, 1976, redelegation of authority and to facilitate the carrying out of various program requirements in HUD area offices.

EFFECTIVE DATES: This redelegation of authority shall be effective upon publication.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: A redelegation of authority from the Assistant Secretary for Community Planning and Development was published in the Federal Register February 27, 1976, at (41 FR 8526) with respect to the Comprehensive Planning Assistance Program pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461), and as amended, pursuant to the Housing and Community Development Act of 1974 (42 U.S.C. 5301), which withdrew certain authority and responsibility from the area offices and conferred the authority upon the Assistant Regional Administrators for Community Planning and Development. This redelegation of authority is thus issued to amend the February 27, 1976, redelegation of authority and to facilitate the carrying out of various program requirements in HUD area offices.

Section A. Authority redelegated: In regions I, II, III, V, VI, VII, IX, and X, each Regional Administrator, Deputy Regional Administrator, Director of Regional Community Planning and Development, each Area Manager and Deputy Area Manager, except the Area Manager and Deputy Area Manager in regions IV and VIII, to exercise the power and authority of the Assistant Secretary for Community Planning and Development. Accordingly, the Assistant Secretary for Community Planning and Development redelegates authority as follows:

(a) Approve grants and establish the terms thereof;
(b) Execute agreements for grants and amendments thereof;
(c) Approve requisitions for funds and third-party contracts;
(d) Approve authorizations for letters of credit and amendments thereof; and
(e) To take such action as required by statutory or administrative regulations including approval and disapproval of land use and housing elements authorized under section 600.78(c).

Each Regional Administrator is further authorized to suspend the power and authority specified in this section, of any area manager within the region through execution and publication of appropriate notice.

Section B. Authority excepted. There is excepted from the authority redelegated under section A of this redelegation the authority under section 701(d).


ROBERT C. EMBRY, Jr.
Assistant, Secretary for Community Planning and Development.

[FR Doc. 78-24787 Filed 9-1-78; 8:45 am]
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Tentative Final Order
In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the office of the hearing clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, after deletion of a small amount of trade secret information.

The Commissioner presents his conclusions and recommendations for OTC emetic active ingredients in this document. The conclusions include a restatement of the Panel's recommendations and constitute the Commissioner's adoption of the Panel's findings, as modified by him on the basis of the comments and the Food and Drug Administration's (FDA) independent evaluation of the Panel's report. In addition to substantive modifications in the Panel's findings, the restatement includes changes for clarity and regulatory accuracy, and also include any new data or information that has come to the Commissioner's attention. The Commissioner advises that the conditions included in the monograph that OTC emetic drug products are generally recognized as safe and effective and are not misbranded (category I) will become effective 30 days after the date of publication of the monograph in the FEDERAL REGISTER.

The Commissioner's conclusions for laxative, anti-diarrheal, and antiemetic active ingredients will be published in a later issue of the FEDERAL REGISTER.

I. THE COMMISSIONER'S CONCLUSIONS ON THE COMMENTS AND REPLY COMMENTS

A. GENERAL COMMENTS

In response to the proposal, 10 comments and reply comments were received, including 9 comments from drug manufacturers and 1 from a consumer. A summary of these comments and the Commissioner's conclusions are as follows:

1. One comment objected to the Panel's recommendation that the quantities of each active ingredient be stated in OTC drug labeling, on the grounds that section 502(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)(1)(A)) provides for quantitative ingredient labeling only for prescription drugs. The Commissioner agrees that other than for certain specifically named substances the act currently requires quantitative ingredient labeling only for prescription drugs. The tentative final monograph does not require quantitative active ingredient labeling. However, the Commissioner advises that the Panel's recommendation is consistent with that of the National Advisory Drug Committee, which advocates that all OTC drugs be labeled with a quantitative statement of the active ingredients. It is also consistent with the recommendation in 21 CFR 330.1(j) that the labeling of an OTC product contain the quantitative amount of each active ingredient, expressed in terms of the dosage unit stated in the directions for use. Thus, the Commissioner also urges manufacturers to comply voluntarily with this recommendation because of its intrinsic merit.

2. Several comments objected to the Panel's recommendation that all inactive ingredients be listed on the label, arguing that such a listing would be meaningless to most consumers, confusing, and misleading.

The Commissioner advises that neither the March 21, 1975 proposed monograph nor the monograph in this tentative final order requires that all inactive ingredients be listed in OTC drug labeling. However, the Commissioner agrees with the Panel's recommendation for full inactive ingredient labeling. Consumers may need to know about the ingredients in OTC drugs because they may be allergic to certain ingredients or unable to tolerate them for other reasons. The Commissioner urges manufacturers to voluntarily list all inactive ingredients, as suggested by the Panel.

3. One comment stated that the proposed monographs violate the objectives and philosophy of the OTC Drug Review in that this Panel appeared to be intent on undermining the concept of self-medication with OTC laxatives, anti-diarrheals, antiemetics, or emetics, and that the Panel failed to discharge its obligations.

The comment provides no basis for its allegations and the Commissioner rejects the comment. The Commissioner believes the Panel's recommendations and this tentative final monograph for OTC emetic drug products are fully in accord with the objectives of the OTC Drug Review to develop monographs based on the most up-to-date scientific knowledge and data available.

4. The comments contend that FDA does not have the authority to establish substantive rules.

This subject was dealt with in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug published in the Federal Register of May 11, 1972 (37 FR 9464), and the Commissioner reaffirms the conclusions stated there. Subsequent court decisions have confirmed the Commissioner's authority to issue substantive regulations by rulemaking. See, e.g., National Nutritional Foods Association v. Weinberger, 512 F. 2d 688, 696-98 (2d Cir. 1975).

5. Several comments urged a greater role for pharmacists in the sale of OTC drugs. One comment recommended that OTC drugs be available...
only through pharmacies, and two suggested that any labeling suggesting consultation with a physician should mention a pharmacist as a viable alternative.

The Commissioner fully discussed these issues in the preamble to the proposal to revise requirements for drug interaction warnings on OTC drugs (see the Federal Register of June 4, 1974 (39 FR 19880)). These views will not be restated here. However, the Commissioner notes that §337.50(c)(2) requires that labeling for OTC drugs include a warning to seek professional assistance in case of accidental overdose. The pharmacist is one of the health professionals that a consumer might choose to consult.

B. GENERAL COMMENTS ON EMETICS

6. A comment asserted that infants under 1 year of age do not have a developed gag reflex. For infants in this age group, the comment stated that emesis was attempted only under the supervision of a physician.

The Commissioner concurs that professional advice should be sought before administering ipecac syrup, but disagrees with the contention that a physician must be present when ipecac syrup is administered to an infant under 1 year of age. The existence or nonexistence of a gag reflex in infants has not been positively established, but a gag reflex is recognized because ipecac acts directly on the vomiting reflex center in the brain to produce vomiting. More important, the Commissioner believes that the immediate availability of an emetic for use in poisoning (including in infants) is critical because rapid treatment may be the difference between life and death. The Commissioner finds that the proposed §337.50(c)(1) (21 CFR 337.50(c)(1)) label statement warning physicians to seek professional advice before administering ipecac is adequate to protect from irrational use of ipecac syrup in infants.

7. Proposed §337.50(c)(1) contained the warning “Before using, call physician, Poison Control Center, or hospital emergency room for advice.” The Advisory Review Panel on OTC Miscellaneous Internal Drug Products, while reviewing drug products for acute toxic ingestion at its meeting on May 5, 6, and 7, 1978, recommended that the word hospital be deleted from the warning because of the current trend of some emergency rooms being established outside of hospitals and because some hospitals do not have emergency rooms. The Commissioner concurs that the word hospital is not needed in this warning, and proposed §337.50(c)(1) has been revised accordingly.

8. Proposed §337.50(c)(2) contained the warning “Do not use in unconscious persons.” The Commissioner concludes that the labeling for ipecac syrup should also warn against use in persons who are unconscious. Proposed §337.50(c)(2) has been revised accordingly.

9. A comment suggested that the term “gastric lavage” may not be well understood by consumers. Even if it is understood, the comment expressed doubt that the average consumer would be able to perform the procedure. The comment asserted that the term is not appropriate on consumer labeling and that the labeling of the product should refer the consumer to either a physician or a poison control center.

The Commissioner recognizes that consumers would be unable to perform a “gastric lavage” procedure. Accordingly, the reference to “gastric lavage” has been deleted and instead the consumer is directed to call a physician, Poison Control Center, or emergency room immediately if vomiting does not occur within 20 minutes after a second dose of ipecac syrup is given.

10. At its May 5, 6, and 7, 1978 meeting, the Advisory Review Panel on OTC Miscellaneous Internal Drug Products also recommended that an additional warning be added to the labeling of ipecac syrup, i.e., “Do not administer milk or carbonated beverages with this product.” Milk has been reported to reduce the effectiveness of ipecac syrup and carbonated beverages could cause distention of the stomach.

The Commissioner concurs, and proposed §337.50(c) has been revised accordingly.

11. The Commissioner is aware that activated charcoal is recognized by some people as a general purpose antidote for drug poisoning and that some physicians may recommend its use following use of ipecac syrup. Activated charcoal adsorbs ipecac syrup and may reduce its effectiveness. The Commissioner therefore concludes that a drug interaction statement in the labeling should warn that if both ipecac syrup and activated charcoal are to be used, vomiting must be induced with the ipecac syrup before administering activated charcoal. Proposed §337.50(d) is added to require such a statement in the “Drug Interaction Precautions” section of the labeling.

12. A comment suggested that labeling information include the need to follow the administration of ipecac with water, because emesis may not occur if the stomach is empty.

The Commissioner agrees that to avoid loss of medication, should be taken following the administration of ipecac syrup and has revised the directions for use in proposed §337.50(c) (originally proposed as §337.50(d)).
or emergency room for advice before using the product and to call immediately if vomiting does not occur within 20 minutes after a second dose has been given. To conform with existing FDA regulations (21 CFR 201.308(c)(1)), the warning is to be conspicuous and in red letters. The labeling also warns against the use of ipecac in semiconscious or unconscious persons, or in cases where strychnine, corrosives (alkalies (Iye) and strong acids), or petroleum distillates (kerosene, gasoline, paint thinner, or cleaning fluid) have been ingested.

The labeling for all OTC drugs used for oral administration is required to contain the general warning "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." In view of the fact that the labeling for ipecac syrup already requires a warning about contacting a physician, Poison Control Center, or emergency room (see proposed §337.50(c)(1)), the Commissioner believes that the warning required by §330.1(g) concerning overdose would be repetitive and thus will not be required on the labeling for ipecac syrup.

The Commissioner advises that the existing regulation in §201.308 will be superseded and withdrawn at the time this monograph becomes effective.

References


The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 505, 506, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1056-1059 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 245 as amended (5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is issuing as a tentative final order new part 337 to read as follows:

PROPOSED RULES

PART 337—EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec. 337.1 Scope.

337.3 Definitions.

Subpart B—Active Ingredient

337.10 Emetic active ingredient.

Subpart C—[Reserved]

Subpart D—Labeling

337.50 Labeling of emetic products.

Subpart E—[Reserved]

Subpart F—Labeling

337.35 Labeling of emetic products.

337.33 Definitions.

(a) Age. Infant (under 2 years of age), child (2 years to under 12 years of age), and adult (12 years of age and older).

(b) Emetic. An agent that causes vomiting (emesis).

Subpart B—Active Ingredient

337.10 Emetic active ingredient.

The active ingredient of the product is powdered ipecac. It is marketed as ipecac syrup, U.S.P. XIX, in the quantity of 1 fluid ounce (30 milliliters) only.

Subpart C—[Reserved]

Subpart D—Labeling

337.50 Labeling of emetic products.

(a) Statement of identity. The labeling of the product contains the established name of the drug, if any, and identifies the product as an "emetic."

(b) Indications. The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase "to cause vomiting (emesis) in case of poisoning." This phrase is conspicuously boxed and in red letters.

(c) Warnings. The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Call a physician, Poison Control Center, or emergency room for advice before using, and call immediately if vomiting does not occur within 20 minutes after a second dose has been given. This warning should be conspicuously boxed and in red letters.

(2) "Do not use in semiconscious or unconscious persons."

(3) "Ordinarily, this product should not be used if strychnine, corrosives such as alkalies (Iye) and strong acids, or petroleum distillates such as kerosene, gasoline, paint thinner, or cleaning fluid have been ingested."

(4) "Do not administer milk or carbonated beverages with this product."

(5) The warning required by §330.1(c) concerning overdoses is not required on ipecac syrup products.

(d) Drug interaction precautions. The labeling of the product contains the following statement under the heading "Drug Interaction Precautions": "Activated charcoal will absorb ipecac syrup. If both activated charcoal and ipecac syrup are to be used, give the activated charcoal only after successful vomiting has been produced by the ipecac syrup."

(e) Directions. The labeling of the product contains the following statements under the heading "Directions":

(1) Infants under 1 year of age: Oral dosage of ipecac syrup is 1 teaspoonful (5 milliliters) to a maximum of 2 teaspoonfuls (10 milliliters) followed by % to 1 glass of water (4 to 8 ounces) or as directed by a physician. If vomiting does not occur within 20 minutes, the dose is repeated once.

(2) Infants over 1 year of age, children, and adults: Oral dosage of ipecac syrup is 1 tablespoonful (15 milliliters) followed by 1 to 2 glasses of water (8 to 16 ounces) or as directed by a physician. If vomiting does not occur within 20 minutes, the dose is repeated once.

Interested persons may file written objections and/or request an oral hearing before the Commissioner regarding this tentative final order on or before October 5, 1978. Requests for an oral hearing must specify points to be covered and time requested. All objections and requests shall be submitted (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) to the hearing clerk (12th Fl., Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857), and shall be supported by a brief statement of the grounds therefor. Objections and requests may be served in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Note:—The Food and Drug Administration has determined that this action will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11935) and OMB Circular A-107. A copy of the economic impact assessment is on file with the hearing clerk, Food and Drug Administration.


SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FPR Doc. 78-24841 Filed 9-1-78; 8:45 am]
INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Revision of Forms, Reports and Regulation
Addressers: Interested persons should submit their views and comments on the items of forms N-1 and N-2 specified below in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should be filed to No. 57-697, and will be made available for public inspection at the Commission’s Public Reference Room, Room 1601, 1100 L Street NW., Washington, D.C. 20549. Registrants that object to the publication of the information reported in part II of current form N-IR should file their objections with Ms. Alice Latimer, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting:

(1) Revised form N-8A (17 CFR 274.10), a revision of the present form for notification of registration under the Investment Company Act of 1940 (“1940 Act”), new registration statement forms for registration of open and closed end management investment companies under the 1940 Act and of their securities under the Securities Act of 1933, a revised annual report form for submission of annual reports under the Securities Exchange Act of 1934 and the 1940 Act, and a new rule under the 1940 Act requiring an annual update of the 1940 Act registration statement. The Commission is also soliciting public comment on certain items in the registration statement forms which have been substantially rewritten from the version proposed for comment. In addition, the Commission is notifying registrants of its intention to make public, pursuant to requests under the Freedom of Information Act and without further notice, all information contained in part II of the current annual report form under the 1940 Act, with the sole exception of the information contained in the item relating to the 10 largest dealers in an investment company’s shares.

EFFECTIVE DATE: January 1, 1979, for management investment companies registering with the Commission after that date. Effective for fiscal years ending after January 1, 1979, for those management investment companies registered with the Commission before that date. Comments on the items specified below by October 16, 1978.

39548

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978

RULES AND REGULATIONS

[8010–01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

(Release Nos. 33-5964, 34-15094, IC-10378, File No. 8010-01)

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Revision of Forms, Reports, and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rule and forms.

SUMMARY: The Commission is adopting a rule and forms which create an integrated registration and reporting system designed to reduce both the number of forms and the duplicative information filed by management investment companies. Specifically, the Commission is adopting a revised notification of registration under the Investment Company Act of 1940 (“1940 Act”), new registration statement forms for registration of open and closed end management investment companies under the 1940 Act and of their securities under the Securities Act of 1933, a revised annual report form for submission of annual reports under the Securities Exchange Act of 1934, and the 1940 Act, and a new rule under the 1940 Act requiring an annual update of the 1940 Act registration statement. The Commission is also soliciting public comment on certain items in the registration statement forms which have been substantially rewritten from the version proposed for comment. In addition, the Commission is notifying registrants of its intention to make public, pursuant to requests under the Freedom of Information Act and without further notice, all information contained in part II of the current annual report form under the 1940 Act, with the sole exception of the information contained in the item relating to the 10 largest dealers in an investment company’s shares.

EFFECTIVE DATE: January 1, 1979, for management investment companies registering with the Commission after that date. Effective for fiscal years ending after January 1, 1979, for those management investment companies registered with the Commission before that date. Comments on the items specified below by October 16, 1978.

an appendix which discusses the changes made to the above forms pursuant to comments received by the Commission on the proposed integrated reporting system, which was released for public comment in Securities Act Release No. 5829 (May 31, 1977) (42 FR 29716, June 9, 1977).

The text of the forms is printed in full in the SEC docket in which this release is published.

BACKGROUND AND PURPOSE

The Commission is adopting an integrated registration and reporting system under the Investment Company Act of 1940 and the Securities Act of 1933 for most management investment companies. The system is designed to reduce the number of filings made with, and duplicative information reported to, the commission, while at the same time improving the availability to both the public and the commission of material information about such companies. The object of today’s action by the Commission is to change the structure of the reporting and registration requirements to which management investment companies are subject. In the future, the Commission will propose more substantive revisions in the disclosure requirements contained within this release.

Management investment companies currently must file a notification of registration on form N-8A under the 1940 Act (17 CFR 274.10), a registration statement on form N-1R under the 1940 Act (17 CFR 274.11), and a registration statement on form S-4 (17 CFR 239.14) (closed end companies) or S-5 (17 CFR 239.15) (open end companies) under the 1933 Act. Thereafter, they must file quarterly (form N-1Q) (17 CFR 274.106), semiannual, and annual reports (a two-part form N-1R with a narrative and an EDF section (17 CFR 274.101, 113 and 114, as well as as proxy material, if applicable, and sales literature. In addition, open end companies making a continuous offering of their shares must normally update their 1933 Act registration statements annually.

The basic reporting requirements for management investment companies now have three areas of extensive duplication. First, the separate registration statement forms under each Act require much of the same information in different formats. Second, most of the information required in a notice-

3The Commission’s actions set forth herein, other than revised form N-8A, are not intended to apply to small business investment companies licensed as such by the U.S. Small Business Administration.

4To a large extent, the actions being taken by the Commission result from recommendations made by the SEC Advisory Committee on Investment Companies and Investment Advisers to Improve Reporting and Reduce Paperwork (December 1972).

The text of the forms is printed in full in the SEC docket in which this release is published.

BACKGROUND AND PURPOSE

The Commission is adopting an integrated registration and reporting system under the Investment Company Act of 1940 and the Securities Act of 1933 for most management investment companies. The system is designed to reduce the number of filings made with, and duplicative information reported to, the commission, while at the same time improving the availability to both the public and the commission of material information about such companies. The object of today’s action by the Commission is to change the structure of the reporting and registration requirements to which management investment companies are subject. In the future, the Commission will propose more substantive revisions in the disclosure requirements contained within this release.

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The basic reporting requirements for management investment companies now have three areas of extensive duplication. First, the separate registration statement forms under each Act require much of the same information in different formats. Second, most of the information required in a notice-

3The Commission’s actions set forth herein, other than revised form N-8A, are not intended to apply to small business investment companies licensed as such by the U.S. Small Business Administration.

4To a large extent, the actions being taken by the Commission result from recommendations made by the SEC Advisory Committee on Investment Companies and Investment Advisers to Improve Reporting and Reduce Paperwork (December 1972).
The primary purpose of today's action by the Commission is to establish a workable structure to avoid unnecessary paperwork and duplicative reporting. To that end, the Commission has undertaken the various registration and reporting requirements under the 1933 and 1940 Acts. The revised form, although some exhibits may be requested to include in those forms now being adopted and, where appropriate, will propose substantive changes in the scope and quantity of disclosure required by these forms. In terms of method, it would appear preferable to concentrate on selected areas of related disclosures, thus avoiding a piecemeal approach of examining each item individually, on the one hand, and on the other hand, the difficulty of examining all the items at once. This approach would also permit better coordination of revisions in disclosure requirements with any changes that may result from the current staff review of the regulatory structure under the 1940 Act.

The Commission expresses the hope that the substantive revisions that have been made in the forms making up the integrated reporting system will encourage increased freedom of expression and format on the part of registrants. In many cases, significant disclosure items (but not examples of "acceptable" disclosure) from the guidelines for the preparation of forms S-4 and S-5 ("S-5 guidelines") (Investment Company Act Release No. 7720, June 9, 1972) (37 FR 12790, June 29, 1972) and the guidelines for the preparation of form N-8A-1 ("N-8A-1 guidelines") (Investment Company Act Release No. 7221, June 9, 1972) (37 FR 12790, June 29, 1972) have been integrated into the forms. It should be noted that the S-4 guidelines and the S-4A-1 guidelines by their terms do not apply to forms N-1 and N-2. Thus, registrants in completing these new forms should not feel compelled to follow the "acceptable" disclosure language set forth in these guidelines. Furthermore, registrants completing new forms N-1 and N-2 will no longer be requested to include in those forms the undertaking specified in the S-5 guidelines. However, since these guidelines set forth a number of regulatory positions that will be applicable to forms N-1 and N-2, and because forms S-4, S-5, and N-8A-1 will continue to be filed until the effective date of the integrated reporting system, the Commission at this time is not withdrawing the guidelines. In addition, certain disclosure items from the checklist for forms N-8A, N-8A-1, S-4, and S-5 (Investment Company Act Release No. 5632, March 12, 1969) (34 FR 5547, March 22, 1969) have been integrated into the forms adopted today.

**INTEGRATED REPORTING SYSTEM FOR MANAGEMENT INVESTMENT COMPANIES**

**FORM N-8A**

Revised form N-8A, the notification of registration, is an instructional form which is structured so as to require the registrant to furnish only that information which the Commission has determined to be necessary or appropriate at the time of initial filing under the 1940 Act. An investment company filing its registration statement concurrently with its form N-8A will be required to state in the revised form N-8A only its name, business address and telephone number, and to indicate that a full registration statement is being filed simultaneously. Where the form N-8A is filed without the accompanying registration statement, the revised form will require some additional information. The informational requirements which have been deleted from current form N-8A have been included in the new registration statement forms.

A new instruction (Instruction 6) has been added to form N-8A to put registrants on notice that the staff may take action to terminate the registration of any investment company which does not file its registration statement within 90 days of the filing of form N-8A, as required by rule 8b-15 under the 1940 Act (17 CFR 270.8b-15). The possible consequences of a failure to file a registration statement include a proceeding to revoke or suspend the registration of a registered management investment company under section 8(e) of the 1940 Act (15 U.S.C. 80a-8(e)) or deregistration of the company under section 8(f) of the 1940 Act (15 U.S.C. 80a-80f).

The Commission received comments from one commentator concerning the content of the proposed revision of form N-8A. The revised form adopted today contains two changes from the proposed form made as a result of comments. First, the language in general instruction 4(d) of the form has been revised to state that an investment company cannot change from the status of a diversified investment company without the "vote of a majority of its outstanding voting securities." Second, a definition of the term "sub-adviser" has been added to footnote 2 of the form.
The Commission is adopting two new registration statement forms: (1) Form N-1 to be used by open end management investment companies and (2) Form N-2 to be used by closed end management investment companies. These forms are the vehicles by which management investment companies may (a) register securities under the 1933 Act, (b) file a registration statement under the 1940 Act or (c) accomplish both of the above objectives.  

As with existing 1933 Act registration statement forms, new forms N-1 and N-2 consist of two parts. Part I contains the prospectus which requires most of the items of information currently required in investment company prospectuses by forms S-4 and S-5. Part II is similar to part II of current forms S-4 and S-5 and consists of a list of exhibits, list of financial statements and other information currently required in registration statements filed by investment companies with the Commission, but not required in the prospectus. In addition, there are summary prospectus instructions.  

With the exception of a few items of additional information which are included in a registration statement filed only under the 1933 Act, all management investment companies filing a registration statement with the Commission on new form N-1 or N-2 will complete both part I and part II of the forms whether they are being filed under the 1933 or 1940 Act, or both of these acts.

Forms N-1 and N-2 have been designed to give registrants increased freedom to develop their own disclosure format. Notable changes are the elimination of much of the prospectus cover page disclosure required by the “S-5 guidelines,” the imposition of a requirement that a synopsis of information concerning the key investment policies, and information about the company appear in the forepart of the prospectus, and relaxation of requirements for placement in the prospectus of other information. In addition, the summary prospectus instructions no longer require that the registration statement be effective prior to use of the summary prospectus.

The new forms both include items which will require increased disclosure about investment advisers and other entities that provide services to investment companies as advisers or otherwise (item 13 in part I of form N-1 and item 15 in part I of form N-2). The public should also note that the items in the registration statement forms relating to brokerage allocation practices (item 7 in part I of form N-1 and item 9 in part I of form N-2) which require disclosure of brokerage information substantially similar to that which currently appears in investment company registration statements—may change after adoption of new rules under section 28(e) of the 1934 Act (15 U.S.C. 78bb(e)), or in light of other developments in this area.

Several items which now appear in form N-SB-1 have been deleted from the new registration statement forms. It does not appear that the investing public needs the detailed, technical information specified in these items in order to make an informed investment decision; the information, however, useful to the Commission in the performance of its regulatory function and most of the information is thus included in the revised computerized annual report form for management investment companies (form N-1R).

The Commission received comments from 29 commentators concerning the content of proposed forms N-1 and N-2. The registration forms adopted today contain a number of changes from the proposed registration statement forms. The specific changes which have been made in forms N-1 and N-2 are discussed in the appendix to this release. There have also been some rearrangements and minor modifications of items once presented forms N-1 and N-2 were issued for comment, which are set forth in the appendix.

RULE 8b-16

The integrated reporting system adopted today is based on the assumption that there will be annual updating of 1940 Act registration statements. This will be required by new rule 8b-16 under the 1940 Act, which provides that all management investment companies that file form N-1R must update their form N-1 or N-2 filed under the 1940 Act within 120 days of the end of their fiscal year. The main impact of this requirement will be on closed end companies, since they will now have to amend their registration statement on form N-2 on an annual basis. Because most open-end companies currently update their registration statements under the 1933 Act on an annual basis in order to be able to offer their securities continuously to the public, there should be no significant additional registration burden on them. They will simply file the update of their form N-1 simultaneously under both the 1933 and 1940 Acts on an annual basis. The annual amendments of the registration statements required by rule 8b-16 will permit elimination of the separate narrative annual reports currently required to be filed as part of form N-1R. The annual update required by rule 8b-16 will also help insure that the staff and the public will have access to complete and reasonably up-to-date information about all open-end and closed end management investment companies registered with the Commission.

In order to lessen the increased reporting burden that may be associated with the requirements of rule 8b-16, general instruction E of forms N-1 and N-2, as they may be revised in the future, will state that incorporation by reference of information into forms N-1 and N-2 will be allowed in accordance with rules 411, 412, 422, and 447 of the general rules and regulations under the 1933 Act, all management investment companies registered with the Commission using this liberal incorporation practice will be allowed to refer to the Commission. Thus, in submitting the annual updates of their form N-1 or N-2, registrants using this liberal incorporation practice will have to report only the changes that have occurred in their operations. This should significantly reduce the increased reporting burden associated with filing the updates required by rule 8b-16.

The Commission received comments from ten commentators concerning the adoption of rule 8b-16. In general, the commentators objected to the increased reporting burden which would be imposed on the investment company industry by rule 8b-16, particularly that on closed end companies. The commentators stated that the additional information which would be filed pursuant to the requirements of rule 8b-16 did not justify the additional costs which will be incurred as a result of gathering and reporting such information. Several commentators also stated that they would not be able to submit the annual update of forms N-1 and N-2 contained in proposed rule 8b-16 (90 days after the close of the
fiscal year) did not allow management investment companies sufficient time for preparation of the necessary amendments to their registration statements. The Commission has carefully considered these comments. While recognizing the heavier reporting burden imposed by the rule, the Commission believes that any resulting from the rule, particularly the increased availability of current information about closed end companies, justifies its adoption. In addition, by allowing investment companies to make use of the Freedom of Information Act in order to get the information presently appearing in the notice of registration statements, the Commission has decided to set the filing deadline contained in the rule at 120 days after the close of the fiscal year.

FORM N-1R

Form N-1R has been revised to develop a computerized reporting format that will generate statistics and regulatory information needed by the staff to fulfill its regulatory responsibilities. The proposed form, N-1R, would substantially eliminate the reporting burden resulting from the necessity to prepare the amended registration statements, the Commission has decided to set the filing deadline contained in the rule at 120 days after the close of the fiscal year.

In connection with the adoption of revised form N-1R and the elimination of the public-nonpublic format of the form, the Commission hereby notifies all registrants as required by general instruction I.F. of the registration statement, that it intends to release to the public, pursuant to the Freedom of Information Act, all information contained in part II of form N-1R that is not information filed on current registration statements or amendments to their registration statements, which information is required to be furnished in part II of form N-1R, except item 2.B. (ten largest dealers in registrant's shares). The rules adopted today constitute the cornerstone of an integrated filing system.

RULES AND REGULATIONS

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RULES AND REGULATIONS

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system for management investment companies. Although implementation of an integrated investment company reporting system may initially result in additional costs to both the Commission and the investment company industry, the Commission believes that the benefits of such a system to the Commission, the industry and investors will in the long run far exceed those additional costs.

From the viewpoint of the Commission, adoption of an integrated system will significantly reduce the paperwork which must be reviewed and processed. Adoption of an integrated system should also benefit the investment company industry. Once the industry becomes accustomed to operating under the integrated system, the costs of preparing the forms and reports required to be filed with the Commission should be significantly reduced. While investment companies will be required under the new integrated reporting procedure to update annually their registration statements, this requirement, as noted above, should impose little added burden on most open-end companies, and the additional burden imposed on closed-end companies should prove comparatively minor since, under the liberal incorporation by reference procedure, they will have to report in the annual amendment only the changes which have occurred in their operations. The industry also should benefit from having to submit only one form of annual report (a computerized document) rather than the current narrative form N-1R and computerized EDF attachment.

Adoption of the proposed integrated investment company reporting system should also benefit the investing public by improving the quality and comprehensibility of information disclosed. Requiring all management investment companies to update annually their registration statements will help ensure that accurate and reasonably up-to-date information is available to the investing public on all management investment companies registered with the Commission. Moreover, we believe that the substantive changes being made in investment company registration statements will improve the utility of the prospectus to investors. Elimination of excess verbiage and "legalese" from investment company prospectuses together with the requirement that a synopsis appear in the forepart of the prospectus should make the prospectus a more useful document to investors.

WHEN TO FILE

The new reporting system will become effective on January 1, 1979, for management investment companies registering with the Commission after that date. However, management investment companies registered with the Commission before January 1, 1979, must comply with the requirements of the new reporting system for the reports filed with the Commission containing information about fiscal years ending after January 1, 1979. Upon the effective date of the new reporting system, all registrants seeking to register securities under the 1933 Act or to file a registration statement under the 1940 Act, or both, will be required to use forms N-1 or N-2, as applicable. In addition, when the new reporting system becomes effective, management investment companies which filed revised form N-1R will have to meet the requirements of rule 8a-16. When management investment companies currently registered with the Commission become subject to the requirements of rule 8a-16, they should update their existing 1940 Act registration statements within 120 days of the close of their fiscal years on form N-1 (for open-end companies) or form N-2 (for closed-end companies). Furthermore, management investment companies currently registered with the Commission may use form N-1 or N-2 to update their existing 1933 Act registration statements. Companies filing form N-1 or N-2 for purposes of updating their existing 1933 or 1940 Act registration statements will be deemed to be filing amendments to form N-1 or N-2, and should so state on the facing sheet of such form.

REQUEST FOR COMMENT, FORMS N-1 AND N-2

While, as noted herein, the Commission is of the view that the changes in the forms adopted today from those published for comment in Securities Act release No. 5829 are either technical in nature or are less burdensome than current requirements, the Commission desires to provide interested persons an opportunity to comment on the requirements of items 8, 12, and 13(o) of part I and items 1(b)(14) and 8 of part II of form N-1, and items 10, 14, and 15(c) of part I and items 4(b)(15) and 9 of part II of form N-2.

Item 13(o) of part I and item 8 of part II of form N-1 and item 15(c) of part I and item 9 of part II of form N-2 specify the disclosure that should appear in registration statements of open-end and closed-end management investment companies concerning pending legal proceedings. The content of these items has been changed in its entirety in response to numerous comments on the comparability of disclosure as required in proposed forms N-1 and N-2. As required by SEC regulations, the disclosure scheme for pending legal proceedings contained in the proposed forms has been abandoned, and in its place the disclosure pattern contained in item 9 of current form N-8B-1 has been substituted. The only substantive modification made in the current disclosure requirements is that items 8 and 10, unlike item 9 of current form N-8B-1, will require disclosure of material pending legal proceedings to which the investment adviser or principal underwriter of a registrant is a party, in addition to material pending legal proceedings to which a registrant or any of its subsidiaries is a party. It should be noted that this modification of the provisions of item 9 of current form N-8B-1 was included in the pending legal proceeding items of proposed forms N-1 and N-2 on which public comments were solicited.

Item 10(b)(14) of part II of form N-1 and item 4(b)(15) of part II of form N-2 require additional exhibits to be
filed as part of registration statements on those forms. In response to the comments received on item 16(a)(5) of proposed form N-1, which questioned the need for disclosure in registration statements of open-end management investment companies which register with the Commission before January 1, 1979, so that such companies will not be subject to unreasonable reporting requirements. However, those management investment companies which register with the Commission before January 1, 1979, will have to comply with the requirements of rule 8b-16, forms N-1 and N-2 and revised forms N-8A and N-1R for all reports they file with the Commission.

The Commission strongly encourages early completeness with the disclosure requirements of forms N-1 and N-2, and believes that where practical registrants should follow the requirements of those forms prior to their effective date because of their usefulness to investors. Thus, when filing registration statements on forms S-4 and S-5 or post-effective amendments to such registration statements, registrants will be deemed to comply with the requirements of forms S-4 and S-5 to the extent they follow the requirements of forms N-1 and N-2.

The Commission finds that the changes in the forms adopted today from those published in Securities Act Release No. 5829 have already been generally subject to comment and are either technical in nature or less burdensome than current requirements so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

**CERTAIN FINDINGS**

As required by section 23(a)(2) of the 1934 Act (15 U.S.C. 78w(a)(2)), the Commission has considered the impact that form N-1R adopted herein under the 1934 and 1940 Acts would have on competition and has concluded that it imposes no significant burden on competition. Furthermore, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of this form to investors and registrants.

**AUTHORITY, EFFECTIVE DATE**

The Commission hereby adopts forms N-1 and N-2, revised forms N-8A and N-1R and rule 8b-16, pursuant to the provisions of sections 6, 7, 8, 10, and 16(a) of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a)), sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d) and 78w(a) and sections 6, 30, and 38(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29 and 80a-37(a)).

The Commission is aware that new reporting and disclosure provisions adopted shortly before the end of the calendar year may impose additional burdens on registrants. Therefore, with respect to management investment companies which have registered with the Commission before January 1, 1979, the Commission is making rule 8b-16, forms N-1 and N-2 and revised form N-1R effective only for reports filed with the Commission containing information after fiscal years ending after January 1, 1979, so that such companies will not be subject to unreasonable reporting requirements. However, those management investment companies which register with the Commission before January 1, 1979, will have to comply with the requirements of rule 8b-16, forms N-1 and N-2 and revised forms N-8A and N-1R for all reports they file with the Commission.

The Commission strongly encourages early completeness with the disclosure requirements of forms N-1 and N-2, and believes that where practical registrants should follow the requirements of those forms prior to their effective date because of their usefulness to investors. Thus, when filing registration statements on forms S-4 and S-5 or post-effective amendments to such registration statements, registrants will be deemed to comply with the requirements of forms S-4 and S-5 to the extent they follow the requirements of forms N-1 and N-2.

The Commission finds that the changes in the forms adopted today from those published in Securities Act Release No. 5829 have already been generally subject to comment and are either technical in nature or less burdensome than current requirements so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

**Commission Action**

1. In consideration of the above, part 270 of chapter II of title 17 of the Code of Federal Regulations, rules and regulations, Investment Company Act of 1940, is hereby amended by adding a new §270.8b-16 as follows:

**PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

§270.8b-16 Amendments to registration statements.

Every registered management investment company which is required to file an annual report on the form prescribed in rule 30a-2(a) (17 CFR 270.30a-2(a)) shall amend the registration statement required pursuant to rule 8b-16, not more than 120 days after the close of each fiscal year ending on or after the date upon which such registration statement was filed, the appropriate form prescribed for such amendments.

2. In consideration of the above, the Commission is amending and revising the following sections of part 274, chapter II, title 17 of the Code of Federal Regulations, under the Investment Company Act of 1940:

**PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940**

A

§274.10 Revised form N-8A, for notification of registration [Amended]

(By amending: (1) the facing sheet of form N-8A; (2) revising and renumbering general instructions, 1, 2, 4, and 5, and adding new general instructions 3 and 6 to form N-8A; (3) revising and renumbering items 1, 2, 3, 4, 5, 6, 7, 8, 9(a), 9(b), and 13 to form N-8A; (4) deleting items 4, 9, 10, 11(b), 11(c), and 12 of current form N-8A; (5) adding new Items 9(c), 9(d), 9(e), 10, and 11 to form N-8A; and (6) revising the signature page.)

The text of the revised form is printed in the SEC Docket in which this release is published.

B

§274.11 Form N-1, registration statement of open end management investment companies.

Form N-1 shall be used as the registration statement to be filed pursuant to section (b) of the Investment Company Act of 1940 by open end management investment companies other than companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form shall also be used for registration under the Securities Act of 1933 of the securities of all open end management investment companies. This form is not applicable for small business investment companies which register pursuant to §§293.24 and 274.6 of this chapter.

C

§274.11a-1 Form N-2, registration statement of closed end management investment companies.

This form shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by closed end management investment companies other than companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form also shall be used for registration under the Securities Act of 1933 of the securities of all closed end management investment companies. This form is not applicable for small business investment companies which register pursuant to §§239.24 and 274.5 of this chapter.

FEDERAL REGISTER, VOL. 43, NO. 172—TUESDAY, SEPTEMBER 5, 1978
§ 274.11 [Rescinded]
(Section 274.11, form N-8B-1, is hereby rescinded. The text of forms N-1 and N-2 is printed in the SEC docket in which this release is published.)

D

§ 274.101 [Amended]

By amending (1) the facing sheet of form N-1R; (2) deleting all general instructions to form N-1R; (3) deleting items 1.01 through 1.33 of form N-1R, and the instructions therefor; (4) deleting part II of form N-1R, including the deletion of items 2.01 through 2.32 and the instructions therefor; (5) deleting the EDP attachment for form N-IR of registered open end management investment companies; (6) deleting the EDP attachment for form N-1R of registered closed end management investment companies; (7) adding EDP items 1 through 65 to form N-1R; (8) adding EDP item 66 (which will receive confidential treatment) to form N-1R; (9) adding EDP items 67 through 69 to form N-1R; and (10) removing all instructions in a separate instruction book. The narrative public and nonpublic N-1R forms, including EDP attachments, are hereby rescinded. The text of forms N-1 and N-2 are printed in the SEC docket in which this release is published.

* * * * *

E

§§ 274.101a-1 and 274.101a-2 [Deleted]
Section 274.101a-1 and § 274.101a-2 are deleted.

3. Further, in consideration of the above, the Commission is amending and revising the following sections of Part 249, Chapter II, Title 17 of the Code of Federal Regulations under the Securities Act of 1934:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

A


(By amending (1) the facing sheet of form N-IR; (2) deleting all general instructions to form N-IR; (3) deleting items 1.01 through 1.33 of form N-IR and the instructions therefor; (4) deleting part II of form N-IR, including the deletion of items 2.01 through 2.32 and the instructions therefor; (5) deleting the EDP attachment for form N-IR of registered open end management investment companies; (6) deleting the EDP attachment for form N-IR of registered closed end management investment companies; (7) adding EDP items 1 through 65 to form N-1R; (8) adding EDP item 66 (which will receive confidential treatment) to form N-1R; (9) adding EDP items 67 through 69 to form N-1R; and (10) removing all instructions to the items of form N-IR and enclosing new instructions in a separate instruction book. The narrative public and nonpublic N-1R forms, including EDP attachments, are hereby rescinded.)

The text of the revised form N-1R and the instructions booklet are printed in the SEC docket in which this release is published.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.


SUMMARY OF CHANGES

FORM N-1

General Instructions

With respect to the general instructions, six changes have been made. First, a paragraph has been added to general instruction E specifying what information can be incorporated by reference into form N-1. This addition has been made to call registrants' attention to the large volume of information that can be incorporated by reference into the form. Second, the requirement that disclosure regarding tax status follow the condensed financial information (item 3) has been deleted. This deletion has been made to allow registrants more flexibility in the design and format of their prospectuses, and because there is no compelling reason for such a requirement.

The third change made in the general instructions is to add a reference to section 24(f) of the Investment Company Act of 1940 (1940 Act) (15 U.S.C. 80a-24(f)) to general instruction F. 2 and 3, thereby allowing amendments to a registration statement or amendment under the Securities Act of 1933 (1933 Act) filed on form N-1 to contain only the information specified in these instructions.

The fourth change, again made pursuant to comments, is with respect to instruction G.1.a, preparation of the registration statement or amendment. The wording of the instruction has been rearranged in order to clarify its meaning. The instruction now contains a blanket statement that the information required by the form N-1 items need not be set forth in any particular order, with two exceptions: (1) Items 1, 2, and 3 of part I must be presented in the prospectus in the same order in which those items appear in the N-1, and (2) item 3, "Condensed Financial Information," must appear with the first five pages of the prospectus, and must not be preceded by any other chart or table. An insertion

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"Unless otherwise noted, references to item numbers are to items in the forms as adopted.

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has also been made for clarification purposes that the condensed financial information may be preceded by the table of contents.

The fifth change made in the general instructions relates to instruction G.6a., which, for the instructions for charts, graphs, tables, and sales literature. The instruction as originally proposed contained a reference to the Statement of Policy of the Commission Relating to Advertising and Sales Literature Used in the Sale of Investment Company Shares ("Statement of Policy"), to the effect that a registration statement should not contain any charts or graphs prohibited by the Statement of Policy. The reference to the Statement of Policy has been deleted because the Statement of Policy, as letters of comment noted, is a set of guidelines rather than a prohibition against certain types of disclosure formats. The language of this instruction has been revised to state that no chart or graph presented should be misleading. Finally, instructions on how to use form N-1 to register an indefinite number of shares under the 1933 Act have been added to the instructions on the facing sheet and the general instructions.

Part I

Item 1 (cover page). Three basic changes have been made pursuant to comments. Added to subpart (a) of the item, which asks for the name, address, and investment objectives of the registrant, is a requirement that the registrant furnish a brief statement as to how it proposes to achieve its investment objectives. Second, subpart (e) of the item has been amended to allow registrants, at their discretion, to include on the cover page the name of each principal underwriter of the registrant and/or such attention-getting device as they are not misleading. Third, the reference in subpart (e) of the item to the Statement of Policy has been deleted, for the reasons set forth above.

Item 2 (synopsis). Two phrases have been deleted from the opening paragraph of the item. The opening statement to the item, which stated that the information required by the item was to be set forth immediately following the cover page and table of contents, has been deleted since this requirement is already stated in the general instructions to the form. In addition, the instruction contained in the proposed form N-1 stating that the synopsis should be set forth "in a carefully organized series of concise paragraphs" has been deleted, in order to allow a registrant at its discretion to use a question and answer format. A reference to the question and answer format has been inserted in the last part of the paragraph in order specifically to allow such a format.

Another change made in Item 2 is the omission of the requirement in subpart 2(g) that the registrant disclose the investment adviser's experience and the following information has been deleted because it would require too much detail in the synopsis, and because such information is adequately dealt with in the body of the prospectus. Subpart 2(h), which originally called for disclosure concerning principal risk or speculative factors concerning the registrant, is further clarified so as to require disclosure of only those factors that are "peculiar to the registrant." Subpart 2(j) has been revised to permit inclusion in the synopsis of any additional material information describing the operations of the registrant that the registrant wants to highlight. The subpart originally called for disclosure of all material or unusual features that the registrant wanted to disclose.

Item 3 (condensed financial information). The instructive language as to the language contained in subpart 3(a) was deleted to avoid duplication of the instruction already contained in general instruction G.1.d. In addition, pursuant to letters of comment which pointed out that the American Institute of Certified Public Accountants Industry Audit Guide ("Audit Guide") contained certain language to which the form N-1 should conform, lines 5 and 6, which contained the term "net realized gains," have been revised to contain the term "net realized gains." Another more significant revision in Item 3 has been made, pursuant to comments which recommended conforming the audit requirements of the form N-1 to the Audit Guide with respect to the 10-year audit requirement. Pursuant to these comments, the audit period required by Item 3 has been reduced to a period of not less than 5 years. However, the audit report is not meant to encourage those registrants which currently have their Item 3 information audited for more than 5 years to reduce the number of years for which such information is audited. Those portions of instruction 11 and instruction 12(a) of Item 3, which deal with average net assets and portfolio turnover rate, respectively, have been modified. The new instructions contain no requirement as to the end of the preceding quarter because, as a number of letters of comment pointed out, such exception is not applicable to open end investment companies. In addition, a new subinstruction 12(d) has been added specifying that short sales and put and call options expiring more than 1 year from the date of acquisition are to be included in purchases and sales for purposes of calculating portfolio turnover rate.

Item 4 (general information and history). Originally the item called for disclosure of information on the State in which the registrant was organized. The item has been revised to call for disclosure of the State in which the registrant is organized.

Item 5 (investment objectives and policies). Subpart 5(b) has been in part modified by deleting the requirement that the registrant disclose the extent to which it has engaged in activities pursuant to its fundamental policies. This deletion has been made in response to a number of letters of comment which noted the great difficulty that would be involved in summarizing this information, with little corresponding return to the investor in the way of useful information. The clause in subpart 5(b)(5) of proposed form N-1 which stated, "no information need be given in response to this item as to securities of companies whose investments in real estate are incidental to their primary line of business (i.e., banks)," has been deleted. In addition, subpart 5(b)(1) of proposed form N-1 has been split into two parts: clause (b)(1) now asks for disclosure regarding a registrant's fundamental policy with respect to issuance of senior securities, and new clause (b)(2) requires disclosure on any particular fundamental policy with respect to short sales, purchases on margin and option writing, even though they may be considered "senior securities."

Subpart 5(c) no longer calls for a recital of the registrant's "investment activities and techniques," but now asks for a description of the registrant's "significant investment policies which are not deemed fundamental and which may be changed without shareholder approval." This change has been made because numerous commentators noted that the phrase "investment activities and techniques," was unduly vague and could not be easily defined. In addition, the instruction to this subpart has been modified to require only disclosure of the extent to which the registrant may engage in its significant investment policies. Under the new instruction the registrant is not locked into a set formula with regard to following its investment policies. In addition, a number of letters of comment properly pointed out that requiring disclosure as to the extent to which the registrant will engage in each investment policy (as the proposed form N-1 mandated) required an underlying forecast of future market conditions which was inappropriate for inclusion in a registration statement. Subpart 5(d), "Portfolio Turnover," has been revised so as to require an explanation of any sig-
significant variation in the registrant's portfolio turnover rates over the last 2 fiscal years, and, if the registrant anticipates such a variation, to disclose in the portfolio turnover rate from that reported for its most recent fiscal year, a statement to that effect. In addition, in the case of a new registration, this section has been deleted because it merely repeats the language of the Section 12(b) statement provided for in earlier forms. This section has been revised to require disclosure of the registrant's policy in deciding when to pay dividends from its net investment income and when to make distributions of any realized capital gains. This section has been moved intact from Item 14(c) without any changes in its text, in response to a comment that it fit better into Item 6 disclosure. In addition, Item 6(a) has been revised to obtain disclosure in the case of a new registration of a registrant's proposed tax status.

Item 7 (brokerage allocation). Subpart (a)(1) of the proposed form N-1 requiring disclosure of the aggregate dollar amount of purchases and sales of the registrant's portfolio securities other than Government securities has been deleted in its entirety. In addition, the last sentence of Instruction 1 to clause (a)(2) has been deleted because it merely repeated the requirement of the text. Item 8 (pending legal proceedings). In response to numerous comments, the Commission has chosen to abandon the disclosure pattern for pending legal proceedings contained in Item 8 of the proposed form N-1, and in its place to substitute the disclosure scheme of Item 9 of current form N-8B-1. The only substantive modification made in the current disclosure requirements is that new Item 8, unlike Item 9 of current form N-8B-1, requires disclosure of material pending legal proceedings to which the investment adviser or principal underwriter of the registrant is a party, in addition to material pending legal proceedings to which the registrant or any of its subsidiaries is a party. As a result of this change, registrants should be able to provide the information requested by this item with a minimum of difficulty.

Item 9 (control persons and principal holders of securities). The last part of subsection (a), requiring disclosure of the basis of control by parents of each control person and the basis of control by the parent of each such parent, has been deleted. In addition, clause (ii) of the definition of control set forth in the instruction to subpart 9(a) has been revised to read "the acknowledgment of control by either the controlled or controlling party of the existence of control."

Item 10 (directors, officers, and advisors). An additional instruction has been added to obtain disclosure of those directors who are interested persons of the registrant within the definition of section 16(a) (15 U.S.C. 78p(a)-2(a)(19)). This instruction was added in response to a comment noting that this information is appropriate for prospectus disclosure. In addition, the item has been revised to require disclosure of "officer" positions instead of "executive officer" positions, in response to a comment that the same terms should be used throughout the forms. Furthermore, column No. 4 in the table required by Item 10 has been deleted, and in its place subpart (b) has been added to the item, requiring a description either in the table or in separate text following the table of any positions held with affiliated persons or principal underwriters of the registrant by each officer, director, and member of the advisory board.

Item 11 (remuneration of directors and others). Disclosure concerning officer remuneration has been limited to three highest paid officers. The purpose of this change is to bring the item into line with current Commission disclosure practice, as evidenced by other registration statement forms currently in effect. The other change has been the deletion of subpart 11(c) which called for disclosure of remuneration for each principal underwriter. This change was made because the subpart was duplicative of disclosure already called for in Item 16 of the form.

Item 12 (custodians of portfolio securities, transfer agent, and dividend-paying agent). The item no longer calls for a description of the services to be provided by a depository if, in fact, the arrangements authorize the use of a central depository. This was accomplished by the deletion of old instruction 1 in the form. Letters of comment properly pointed out that the mere authorization in the custodian agreement of a central depository is not per se a material fact. Second, the item has been modified to require disclosure about transfer agents and dividend-paying agents similar to that required of custodians. This change was made because it was believed that this information was material to investors, and

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custodian, transfer agency services, or dividend disbursing functions. Legal and auditing services are also excluded, as are bona fide contracts for personal employment entered into with the registrant in the ordinary course of business. Finally, no information need be given in response to the item with respect to the services of mailing proxies or periodic reports to shareholders.

Revisions have also been made to subpart 13(d). This subpart calls for disclosure of information pertaining to individuals other than the investment adviser, directors, or officers who regularly furnish investment advice to the registrant, and has been modified in part to conform to the language in section 2(a)(20) of the 1940 Act (15 U.S.C. 80a-2(a)(20)), which defines the term “investment adviser” of an investment company. It should be noted that information regarding the registrant’s investment adviser is not required under this subpart because item 13(a) calls for disclosure of appropriate information regarding such adviser. Item 13(d)(3) has been revised to require that renumeration for individuals described in item 13(d) be disclosed for the previous 3 fiscal years.

The instruction to item 13(d) states when information need not be included in response to an item. New subparts (iii)-(v) have been added to the instruction to exempt companies which are excluded from the section 2(a)(20) definition from having to make the specified disclosures. This exemption was added pursuant to letters of comment which noted that exemptive language to this effect was included in item 1.24 of the form N-1, the item on which item 13(d) is based.

Item 14 (capital stock and other securities). Pursuant to a number of letters of comment, the negative disclosure provisions retained in the proposed form with regard to stock rights have been deleted. This change was made because negative disclosure in this regard did not appear useful to investors in regard to an instruction which has been added to the item pointing out that disclosure regarding conversion rights, sinking fund provisions and liability to further calls or to assessment by the registrant will be applicable only to those companies which have received orders of the Commission exempting them from the provisions of section 18(f) of the 1940 Act. Furthermore, as pointed out under item 6 above, instruction 3 in item 14 of the proposed form, calling for disclosure of information concerning the registrant’s dividend policy, has been moved to item 6.

Item 15 (pricing of registrant’s securities). The obligatory language of item 15(c) requiring the registrant to disclose to investors that there will be charges for the sale of its shares through broker-dealers has been changed so that the registrant will state only that charges “may be made” for such sales. This revision was made pursuant to a number of letters of comment which noted that, while a registrant can state that a redemption fee is or is not charged, the registrant does not have access to information concerning what brokers charge their clients. Accordingly, it has been determined that such third-party arrangements and costs should not be subjects of required disclosure.

Item 16(a)(5) of part I of item 16(a)(3), requiring disclosure of the aggregate amount of management commissions, has been revised to require disclosure of the amount of commissions retained by the principal underwriter for each of the last three fiscal years. Item 16(a)(5), which requires disclosure of requirements of retirement plans, has been modified pursuant to letters of comment to require only a statement by the registrant as to where further information on such plans can be obtained. This instruction has also been added to subpart (a) of the item to require disclosure with respect to withdrawal plans of the minimum purchase requirement for shareholders who seek simultaneously to purchase additional fund shares while having a withdrawal plan in effect. Subpart (b) and the instruction therefor have been rewritten to eliminate the second sentence of the instruction, which repeats the text. Finally, the revision of subpart (c) of this item has been revised to require the information requested therefor only in the case where the principal underwriter who is an affiliated person of the registrant or an affiliated person of such an affiliated person.

Item 17 (financial statements). First, the reference to article 6 of regulation S-X in the lead paragraph of the instructions to this item has been deleted. Second, paragraph (d) of instruction 16 has been deleted since the information contained in that paragraph is set forth in the lead paragraph of the instructions to this item.

Part II

Item 1 (financial statements and exhibits). Copies of all powers of attorney are no longer required to be filed as exhibits to the form. Copies of all model retirement plans with which the registrant offers its securities (such model plans to disclose the costs and fees charged in connection with such plans) are now required to be filed as exhibits. The former change was made because rule 402(c) under the 1933 Act (17 CFR 240.402(c)) currently requires powers of attorney to be filed with the registration statement. The latter change came as a result of the above revision to item 16(a)(5) of part I with respect to retirement plan disclosure. The new filing requirement on the model plans will allow the staff to evaluate proposed retirement plan disclosure more thoroughly. In addition, opinions, appraisals, and rulings and consents of the use thereof which are rolled on in the preparation of form N-1 now must be filed as exhibits only if they were also required by section 7 of the 1933 Act (15 U.S.C. 77g) (item 16(b)(11)).

Item 3 (number of holders of securities). The item as proposed required disclosure of the number of beneficial holders of the registrant’s securities. As a result of a number of letters of comment indicating that this information may not be available to registrants, and since deletion of this information from the form would not adversely affect the work of the staff of the Commission, this requirement has been deleted from the item.

Item 6 (principal underwriters). A new subpart, item 6(c), requires disclosure of certain information respecting all commissions and other compensation received by each principal underwriter who is not an affiliated person of the registrant or an affiliated person of such an affiliated person. This item specifically requires disclosure of all compensation received by such persons, directly or indirectly, from the registrant during the last fiscal year. In addition, item 6(c) includes an instruction which requires information on the nature of the services rendered for the compensation discussed in the item. This item was originally part of item 16 of part I.

Item 8 (management services). New item 8 has been added to obtain the disclosure concerning management-related service contracts which was...
the same disclosure as open end companies regarding retirement plans using their shares as the funding vehicle.

**Item 5 (use of proceeds).** The phrase "although details of proposed expenditures need not be given" has been added to the end of the item, since this language appears in the comparable item in current form S-4, and the comment was made that its deletion from form N-2 might give rise to the inference that disclosure of such details was required.

**Item 6 (general information and history).** Subsection 6(d) has been amended to require disclosure of the per share high and low market price and per share high and low net asset value by quarters for the last 2 fiscal years. This change was made pursuant to a comment that the requirements of the market price and net asset value disclosure originally called for was not clear.

**Item 17 (capital stock).** A new instruction 1 has been added to item 17(a), calling for only a "brief summary" of the pertinent provisions of the governing instrument from an investment standpoint rather than a complete legal description of the rights and restrictions of the various classes of stock. This instruction was added because it currently appears as an instruction to item 26 of form N-8B-1, and its omission from the comparable item in form N-2 might give rise to an inference that such a "complete legal description" was required by the item. In addition, instruction 1 to item 17(b) in proposed form N-2 has been moved to item 17(a), and appears there as instruction 2. Finally, Instruction 2 to item 17(b) in proposed form N-2, stating that "a negative response is required if any of the above rights or restrictions apply to any class of stock," has been deleted, and in its place subsection (a)(2) has been added to the item stating that registrants need only respond to the applicable items. It was believed that no useful purpose would be served by requiring negative disclosure concerning those items of information.

**Item 18 (long-term debt).** Subsection (a)(3) has been revised to delete the phrase "with respect to any lien" from the wording of the subsection, in order to clarify the disclosure required by this subsection.

**Item 19 (other securities).** The wording of the item has been revised to require disclosure of the "terms" of any class of other securities of the registrant other than disclosure of the "rights evidenced" by such other securities, in order to clarify the disclosure required by this item.

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**FORM N-1R**

**General instructions (definitions).** A definition of "money market fund" has been added, pursuant to a comment that the concept needed definition. The definition was added here because the term is used in several places in form N-1R (e.g., instructions to items 37 and 40). "Money market fund," for purposes of form N-1R, is defined as any open end management investment company which invests primarily in short-term debt securities (debt securities with maturities of 1 year or less), and has an investment objective of high current yield consistent with preservation of capital (or a substantially similar objective).

**Item 1 (classification).** Several changes have been made in this item as a result of comments that this item is an area in which greater specificity was required. A category for municipal funds and bond funds has been added to the definition of "money market fund" in the general instructions, and in the additional categories for insurance products, insurance companies, because of comments that the original classification of "money market fund" appeared unnecessary.

**Item 2 (classification of assets).** As a result of comments, statements about the satisfaction of diversification requirements by diversified investment companies now need only be made as of the end of any quarter during the fiscal year, rather than at all times during the fiscal year. In addition, item 2(b) has been changed so as to require an answer only if the answer to Item 2(a) is in the affirmative. This change has been made because it was believed that departure from the diversification requirements normally takes place only as a result of an acquisition of securities or other properties, and only then will the information in item 2.b. be of any regulatory value. In addition, the term "company" has been changed to "issuer," as a result of a comment that the term "company" was more accurate. Finally, item 2.c. has been revised so as to require disclosure of the date when a registrant first acquired more than 5 percent of the outstanding voting securities, directly or indirectly, of an issuer.

**Item 3 (condensed financial information) (in form N-1R as proposed).** A review of the necessity of inclusion of the per share information item in revised form N-1R was made as a result of comments. In light of the cost to registrants of preparing the information specified in the item, compared to its benefit to and use by the Commission, the staff and the public, the item has been deleted. It should be noted,
however, that even though most of the information shown in the Item is also contained in form N-1 or N-2, not all of it is duplicative—the basis on which most commentators requested deletion. Nevertheless, it was felt that the item could be deleted in its entirety without adversely affecting the ability of the Commission and the staff to fulfill their regulatory responsibilities under the Federal securities laws.

Item 4 (directors, officers, and members of advisory board). The term “statutory provisions” has been added to the note to the instruction to Item 4 as an acceptable explanation to an affirmative answer to this item. Item 7 (indefended officers and certain noninterested directors to certain other persons). The phrase “during the fiscal year” has been added to this item pursuant to comments that the reporting period of this item is not clear. Item 10 (remuneration received by registrant’s directors, officers, and advisory board members). The term “dividends” has been deleted from the definition of remuneration in the instructions to this item, pursuant to a comment. Item 11 (remuneration of certain affiliated persons acting as agent in property transactions or as broker in securities transactions). The phrase “to the knowledge of the registrant” has been added to item 11.c. pursuant to comments that the registrant should not be held to knowledge of whether the compensation in question was paid to an interested person of the registrant or any affiliated person of such person by a person other than the registrant.

Items 13 and 14 (joint enterprises involving registrant or a controlled company and transactions between registrant and certain affiliated persons of directors or officers of registrant’s investment adviser or principal underwriter). The term “affiliated person” has been substituted for the term “affiliated company” in both the item and the instructions thereto.

Item 15 (direct or indirect ownership which certain affiliated persons of the registrant had during the fiscal year in registrant’s investment adviser, principal underwriter, or certain broker-dealers). A new symbol “DT” has been added to the last paragraph of the instructions to this item to cover holdings in convertible debt securities.

Item 20 (investment advisory contract and fees). A new subsection c. has been added requesting specific information concerning any limitation on expenses to which the registrant may be subject, as a result of comments that subsection c. in the proposed form N-1R would not obtain complete information concerning the registrant’s expense limitation. In addition, subsection b. has been revised to reflect the fact that expense limitation provisions can be based on a fixed amount as well as on a percentage limitation.

Item 21 (entry into or renewal of investment advisory contract). In addition, the phrase “as agent of the registrant or certain broker-dealers” has been added to the effect that such contracts are renewed without the specification of such dates.

Item 23 (services supplied by investment adviser). Several changes have been made in this item as a result of comment. First, items 23. a. and b. have been revised to read “wholly or in substantial part” so that the item could be covered in the auditor’s report. Second, subsections a. (4) and (5) have been rewritten to make it clear that information as to independent auditors and outside counsel, respectively, was sought by the item. Third, a new subsection (9) has been added for salaries of registrant’s noninterested directors, and the word “interested” has been added to subsection (8). Finally, the phrase “who are not directors” has been added to subsection (10) in order to make clear that this subsection does not duplicate the services covered by subsection (8).

Item 24 (direct or indirect ownership interest which certain affiliated persons of the registrant’s investment adviser had during the fiscal year in registrant’s investment adviser, principal underwriter, or certain broker-dealers). A new symbol “DT” has been added to the last paragraph of the instructions to this item to cover holdings of convertible debt securities.

Item 25 (management-related services). Several changes have been made to this item to make it consistent with the registration statement forms (items 13(c) of part I and 8 of part II in form N-1, and items 15(c) of part I and 9 of part II in form N-2). Briefly, the term “administrative, bookkeeping, and similar services” has been changed to “management-related services” and the term has been renamed accordingly. The definition of “management-related services” in the instructions tracks the language used in instruction 1 to items 13(c) and 15(c) in forms N-1 and N-2, respectively.

Item 26 (other persons furnishing investment advice) (in form N-1R as proposed). After reviewing the need to obtain such information specified in this item, it has been decided that this item could be deleted from the form without adversely affecting the ability of the Commission to fulfill its regulatory responsibilities under the Federal securities laws.

Item 27 (portfolio trading practices). The definition of “repurchase agreement” in the instructions has been revised as a result of a comment that the definition in the revised version N-1R as proposed was unnecessarily restrictive. As amended, the definition includes such agreements with any person and does not specify the type of securities subject to repurchase agreements or the motive behind such agreements.

Item 29 (purchase and sale transactions within 6-month period) (in form N-1R as proposed). This item has been deleted in its entirety. Many commentators questioned the continued regulatory value of this item in view of negotiated brokerage commissions and the lengthening of the holding period for long-term capital gains in the Internal Revenue Code. Based on the comments, it has been determined that this recordkeeping burden of the item exceeded its continued utility.

Item 32 (“restricted securities”). Pursuant to a comment, a symbol for straight debt security has been added to the instructions for the chart.

Item 37 (monthly sales of registrant’s shares, dividends, capital gains, and other distributions). Pursuant to a comment, additional instructions for money market funds declaring daily dividends have been added, permitting such funds to include the capital gains portion of monthly distributions in the total for the month under column (C) and permitting them to complete column (D) with the word “daily.” Also pursuant to a comment, an instruction has been added to the effect that shares issued in payment of distributions are not considered sales for purposes of this item.

Item 39 (confidential information, share balance statements, and other communications). As a result of a comment, language has been added to this item clarifying the meaning of the phrase “other designated persons” as persons “acting as agent of the registrant or involved in a distribution of shares to the public on behalf of the registrant.” In addition, the sentence “If registrant acts as its own underwriter or distributor, it must ann the

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By applying with the provisions of rule 19a-1 under the 1940 Act (17 CFR 270.19a-1). This change was made so that the auditor's report would cover only subsection (a), and not to be required to extend to the legal determination of subsection (b). In addition, a sentence has been added to the instructions to this item stating that money market funds which declare dividends daily will be deemed to meet the reporting requirements of subsection (a) of the 1940 Act if they send the required source notice on a quarterly basis.

Item 47 (employees). The caption of the item contained in revised form 19A0 as proposed, "employees of registrant," has been revised to read "employees" to describe more accurately the information requested in this item.

Item 55 (securities of registrant registered on a national securities exchange under subsection (a)). The designation of exchanges set forth in the instruction to the item has been revised to contain a current listing of exchanges.

Item 56 (sales, redemptions, and repurchases of securities (open end companies)). In subsection d.2., the term "forced" redemptions has been changed to "involuntary" redemptions, pursuant to a comment that the meaning of "forced" in this context was not clear. In addition, a sentence has been added to subsection (a) of the instructions to the item stating how registrant may not be required to report certain redemptions.

Item 60 (pricing of registrant's shares for distribution, redemption, and repurchase). The phrase "to the knowledge of the registrant," has been added to the item, as a result of a comment that the registrant may not be aware of pricing practices followed by persons other than the registrant.

Item 63 (sales load and distribution information). The wording of subsection e. of the item has been revised to clarify its meaning. In addition, subsection 63f., which requested information as to the approximate percent of shares sold to the public through dealers, retail sales staff, by registrant, through voluntary accumulation plans, or others, has been deleted because the information was thought to have slight regulatory value. This subsection was also the subject of a comment that the specified categories were not mutually exclusive and would total more than 100 percent, thereby rendering the information meaningless.

Item 64 (Entry into or renewal of principal underwriting contract). Subsection e, "on the basis of petition of the registrant," has been deleted because this information was believed to be of slight regulatory value. In addition, a comment was received that often such contracts are renewed without the specification of such dates.

Item 67 (direct or indirect ownership interest which certain affiliated persons of the registrant's principal underwriter had during the fiscal year in registrant's investment adviser, principal underwriter, or certain broker-dealers). A new symbol "DT" has been added to the last paragraph of the instructions to this item to cover holdings of convertible debt securities.

Report of independent public accountants. There has been a significant reduction in the number of items contained in the form which are required to be reported upon by the accountant. This was precipitated by the statement made by a number of commentators that the proposed revision of form N-1R significantly increased, for no apparent reason, the number of items upon which the accountant was to review and report. However, the proposed revision of form N-1R reflected the view that the cost to the registrant of this increase in the work of the independent accountant was offset by the potential benefits of having the independent accountant specifically review and report on the additional items. The Commission, after consideration of the above comments, has decided to reduce the reporting requirements of the accountants. There were objections to the inclusion in the accountants' report of some of the 71 items contained in the form. Changes to the items specified in the independent accountants' report because of the above objections resulted in the elimination of the report from the financial statements of the registrant.

Two arguments were made most frequently as grounds for requesting that specific items not be reported on by independent accountants. One was that the accountant was being asked to make a legal determination, the other was that the review of the financial statements and the present review of the form N-1R did not embrace information or review sufficient in scope to enable the accountant to express an opinion on the required information. These comments prompted the staff to review the items in the form which were proposed to be subject to review and report by the accountant. This review resulted in the elimination from the audit report of the following items: 3, 4, 11, 12, 15, 17(b), 20(f), 20(g), 21(a), 21(c), 21(e), 21(f), 23, 42, and 67.

While there should be concern with any increase in audit responsibility by the independent accountant, the Commission is of the view that audits of financial statements are not performed in a vacuum. Therefore, various items, though not strictly financial statement-oriented, are not only auditable but also available to the auditor as a logical and sometimes necessary extension of the audit tests performed to render an opinion on the financial statements. For example, an objection was made that Item 6 (indemnification of directors or officers) would require not only a legal determination but a test of all transactions to determine whether any such payments were made. The Commission believes that generally accepted auditing standards should uncover those transactions which would result in answers to this item.

Where commentators suggested wording changes in specific items so that the independent accountants could include those items in their report, such an accommodation was made, as in, for example, item 40. Where an objection was made by commentators that specific information in the form was largely statistical and of questionable regulatory value (though its susceptibility to audit was not questioned), the staff closely reviewed the items. This resulted in the elimination from the audit report of a number of the questioned items, such as items 27, 30, 31, 47(a)(11), and 63(c)(11).

Signature. In response to a comment that the form of signature has been revised so as not to require the chief executive officer of the registrant, depository, or trustee to sign form N-1R, as revised, any person authorized to do so may sign the form on behalf of the registrant, depository, or trustee. [FR Doc. 78-24847 Filed 9-1-78; 8:45 am]