Vol.41–No.166
8–25–76

PAGES
35843–36012

federal register

WEDNESDAY, AUGUST 25, 1976

highlights

CORRECTION

Pages 35834 to 35842 of the Tuesday, August 24, 1976 "Federal Register" were printed in error. The correct text of Federal Register Document 76–24757 is printed in today's issue as Part V appearing at pages 36003 to 36012.

PART I:

NEW ANIMAL DRUGS
HEW/FDA specifies form to be used in submitting advertising and promotional data; effective 9–24–76.... 35844

MEDICAL DEVICES
HEW/FDA establishes new classification panels (2 documents) 35877, 35878

TEXTILES AND LEATHER
FTC sets hearing dates and designates issues on care labeling proposals; comments by 9–24–76..... 35863

ATTORNEY'S FEES AND OTHER ASSISTANCE
HEW/FDA issues advance notice of proposed rulemaking regarding payments to participants in its proceedings in certain circumstances; comments by 10–26–76..... 35855

SOCIAL SECURITY BENEFITS APPLICATION
HEW/SSA proposal relating to time period during which claimant may cancel withdrawal; comments by 10–12–76 35862

MEDICAID
HEW/SRS issues regulations on home health services; effective 11–23–76..... 35847

FEDERAL OLD-AGE SURVIVORS AND DISABILITY INSURANCE
HEW/SSA proposal relating to date of death of missing person; comments by 10–12–76..... 35861

HOME HEALTH CARE
HEW announces series of public hearings, 9–20 through 10–1–76 35882

ENDANGERED SPECIES
Interior/FWS reviews status of Eastern Marten; comments by 11–24–76..... 35855

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5286. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

federal register

Area Code 202 Phone 523–5240

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

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

MEETINGS—
Commerce/DIBA: Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, 9–14–76 ... 35876
President's Export Council Task Force on Export Promotion, 9–16–76 ... 35877
DOD: Defense Science Board Task Force on Theater Nuclear Forces R & D Requirements, 9–28 through 9–30–76 ... 35866
HEW/OE: Women's Educational Programs Advisory Council, 9–10 and 9–11–76 ... 35880
Interior: Natural Sciences Advisory Committee for Fish and Wildlife and Parks, 9–10 and 9–11–76 ... 35875
BLM: Montana State Multiple Use Advisory Board, 9–8 through 9–10–76 ... 35873
Roswell District Multiple Use Advisory Board 9–20–76 ... 35873
NPS: Chesapeake and Ohio Canal National Historical Park Commission, 9–25–76 ... 35873
SBA: Cleveland District Advisory Council, 9–17–76 ... 35912
Syracuse District Advisory Council, 9–16–76 ... 35913
State: Subcommittee on Safety of Life at Sea, 9–16–76 ... 35866
VA: Cooperative Studies Evaluation Committee, 10–26 and 10–27–76 ... 35913

CANCELLED MEETING—
ERDA: Demonstration Projects as a Commercialization Incentive Task Force, 8–27–76 ... 35889

PUBLIC HEARINGS LOCATION CHANGE—
Interior: Availability of Federally-owned Mineral Lands Task Force, 9–15 and 9–16–76 ... 35875

PART II:

FEDERAL ELECTIONS
FEC publishes implementation regulations ... 35931

PART III:

NEW COMMUNITIES
HUD/NCDC proposes regulations for financing public and private development; comments by 9–23–76 ... 35977

PART IV:

DOMESTIC CRUDE OIL
FEA issues entitlement notice for allocation program, June 1976 ... 35995

PART V:

PRIVACY ACT
International Boundary and Water Commission, United States and Mexico, United States Section issues notice of systems of records ... 36003

contents

AGRICULTURAL MARKETING SERVICE
Rules
Grapefruit grown in Ariz. and Calif ... 35843
Milk marketing orders: Oregon-Washington ... 35843

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Forest Service.

ANTITRUST DIVISION, JUSTICE DEPARTMENT
Notices
Competitive impact statements and proposed consent judgments, U.S. versus listed companies:
Air Conditioning and Refrigeration Wholesalers, et al ... 35866

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Pan American World Airways, Inc. and Trans World Airlines, Inc ... 35886
Trans World Airlines, Inc. and Compagnie Nationale Air France ... 35888

COMMERCE DEPARTMENT
See Domestic and International Business Administration.

DEFENSE DEPARTMENT
Notices
Meetings:
Defense Science Board Task Force on Theater Nuclear Forces R. & D. Requirements ... 35866

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Computer Systems Technical Advisory Committee; Licensing Procedures Subcommittee ... 35876
President's Export Council ... 35877

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
Assistance to States for State equalization plans ... 35881
Meetings:
Advisory Council on Women's Educational Programs ... 35880

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Notices
Meetings:
Task Force on Demonstration Projects as Commercialization Incentive ... 35889

FEDERAL COMMUNICATIONS COMMISSION
Rules
FM broadcast stations; table of assignments:
Idaho ... 35849
Proposed Rules
Public safety radio services:
Land mobile radio systems, private; interconnection with public telephone network; extension of time ... 35863
Notices
FM broadcast applications ready and available for processing ... 35889
Hearings, etc.:
Britt, William Henry ... 35898

FEDERAL DISASTER ASSISTANCE ADMINISTRATION
Notices
Disaster areas:
Vermont ... 35883

FEDERAL ELECTION COMMISSION
Rules
Federal Election Campaign Act; implementation ... 35931

FEDERAL ENERGY ADMINISTRATION
Notices
Domestic crude oil allocation program; entitlement notices:
June 1976 ... 35995

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National; flood elevation determinations, etc.:
Hawaii ... 35847
Louisiana ... 35844
Missouri (2 documents) ... 35844, 35845
New Jersey (2 documents) ... 35845
North Dakota (2 documents) ... 35845, 35846
South Dakota ... 35846
Texas (2 documents) ... 35846, 35847

CONTENTS

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Moreno, Gladys C., et al 35901
Oil pollution; certificates of financial responsibility (2 documents) 35899, 35900

FEDERAL POWER COMMISSION

Notices

Committees; establishment, renewals, etc.:
National Power Survey Executive Advisory Committee and Coordinating Committee 35903
Hearings, etc.:
Arkansas Power & Light Co 35901
Delmarva Power & Light Co 35902
Duke Power Co 35902
El Paso Natural Gas Co 35903
Mississippi Power & Light Co 35903
New England Power Co 35904
Southern Natural Gas Co 35904
Tampa Electric Co 35904
Tennessee Gas Pipeline Co 35904
Union Electric Co. (2 documents) 35906
United Gas Pipe Line Co. (2 documents) 35906, 35907

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Bankers Trust New York Corp. 35907
Industrial Loan and Investment Co 35908
Old National Bancorporation 35908

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Clark, William R 35843

Proposed Rules

Textile products and leather wearing apparel; care labeling 35863

FISCAL SERVICE

Proposed Rules

Payments through financial organizations, other than by check; collection procedures; correction 35855

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Wheeler National Wildlife Refuge, Ala 35849

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
Eastern marten 35855

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
New drug applications; submission of advertising and promotional data 35844

Proposed Rules

Administrative practices and procedures, authority delegations, etc.:
Attorneys' fees 35855

Notices

Committees; establishment, renewals, etc.:
Medical Devices Classification Panels (2 documents) 35877, 35878
Human drugs:
High molecular weight dextran 6 percent 35877
Meperidine hydrochloride and promethazine hydrochloride injection 35878

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Boulder Planning Unit 35875
South Fourche Unit 35876
Thompson Creek Land Use Plan. 35876

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (3 documents) 35909, 35910

GENERAL SERVICES ADMINISTRATION

Notices

Authority delegations:
Administrator, Energy Research and Development Administration 35910

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Health Services Administration; Social and Rehabilitation Service; Social Security Administration.

Notices

Hearings:
Home health care 35882

HEALTH SERVICES ADMINISTRATION

Notices

Professional Standards Review Organizations; inquiry:
Arizona 35880
Illinois 35880
Indiana 35880
Louisiana 35880
North Carolina 35880
Virginia 35880

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration; Federal Insurance Administration; Interstate Land Sales Registration Office; New Community Development Corporation.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Colorado River Storage Project; proposed allocation of peaking power 35874
Hearing:
Task Force on the Availability of Federally-Owned Mineral Lands, change of location 35875
Meetings:
Natural Sciences Advisory Committee for Fish and Wildlife and Parks 35875

INTERNAL REVENUE SERVICE

Proposed Rules

Income taxes:
Foreign base company shipping income; correction (2 documents) 35855

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Notices

Privacy Act of 1974; systems of records 36003

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
Alto Village 35884
Camelot Unit 1 35884
Emerald Lakes 35884
Glendale Yearound 35885
Greenwood Acres 35885
Grizzley Park 35885
Sunset Valley 35886

JUSTICE DEPARTMENT

See Antitrust Division.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
California 35873
Meetings:
Montana State Multiple Use Advisory Board 35873
Roswell District Multiple Use Advisory Board 35873

NATIONAL PARK SERVICE

Notices

Meetings:
Chesapeake and Ohio National Historical Park Commission 35873

NEW COMMUNITY DEVELOPMENT CORPORATION

Proposed Rules

Public and private new community development; financing 35977

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Boston Stock Exchange 35910
Image Systems, Inc 35910
Reserve Management Corp. and Reserve Fund, Inc. (2 documents) 35910

CONTENTS

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
- Bohlen Carital Corp 35912
- Massachusetts Capital Corp 35913

Meetings, advisory councils:
- Cleveland District 35912
- Syracuse District 35913

SOCIAL AND REHABILITATION SERVICE

Rules

Financial assistance programs:
- Eligibility coverages and conditions; limitation established; correction 35847

Medical assistance programs:
- Home health services 35847

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Aged, blind, and disabled; supplemental security income for; and old-age, survivors, and disability insurance:
- Applications; cancellation of request for withdrawal 35862

Old-age, survivors, and disability insurance:
- Missing persons; date of death determinations 35861

STATE DEPARTMENT

Notices

Meetings:
- Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea 35866

TRANSPORTATION DEPARTMENT

Rules

Organization and functions:
- Authority delegation to National Highway Traffic Safety Administrator et al 35849

TREASURY DEPARTMENT

See Fiscal Service; Internal Revenue Service.

VETERANS ADMINISTRATION

Notices

Meetings:
- Cooperative Studies Evaluation Committee 35913

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

909 35843
1124 35843

11 CFR

Ch. I 35932

16 CFR

13 35843

PROPOSED RULES:

423 35863

20 CFR

PROPOSED RULES:

404 (2 documents) 35861, 35862
416 35862

21 CFR

510 35844

PROPOSED RULES:

2 35855

24 CFR

1916 (10 documents) 35844–35847
1920 35847

PROPOSED RULES:

710 35978
720 35978

26 CFR

PROPOSED RULES:

1 (2 documents) 35855

31 CFR

PROPOSED RULES:

210 35855

45 CFR

233 35847
249 35847

47 CFR

73 35849

PROPOSED RULES:

89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849

50 CFR

32 35849

PROPOSED RULES:

17 35855

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

PROPOSED RULES:

18 ... 32861

3 CFR

PROCLAMATIONS:

3279 (See EO 11930) ... 32399

EXECUTIVE ORDERS:

October 14, 1911 (Revoked in part by PLO 5598) ... 34035
October 19, 1911 (Revoked in part by PLO 5598) ... 34035
April 16, 1912 (Revoked in part by PLO 5598) ... 34035
October 27, 1914 (Revoked in part by PLO 5598) ... 34035
6276 (Revoked in part by PLO 5596) ... 33267
11652 (See EO 11932) ... 32691
11790 (See EO 11930) ... 32399
11814 (See EO 11930) ... 32399
11912 (See EO 11930) ... 32399
11930 ... 32399
11931 ... 32689
11932 ... 32691

DIRECTIVES:

May 17, 1972 (Amended by Directive of July 30, 1976) ... 32693
July 30, 1976 ... 32693

MEMORANDUMS:

July 19, 1976 ... 32403

4 CFR

1 ... 35155

5 CFR

213 ... 32892, 33545, 34246, 34731, 35155
591 ... 32892

7 CFR

35 ... 32877
52 ... 32222, 34751
103 ... 34005
105 ... 34005
106 ... 34005
108 ... 34006
111 ... 34006
220 ... 32405, 34757
225 ... 35685
230 ... 35686
235 ... 32405
271 ... 34760
331 ... 32229, 32409
354 ... 35693
409 ... 34973
722 ... 32878
728 ... 35694
775 ... 35694
790 ... 34247
791 ... 34247
905 ... 34248
908 ... 32229, 32695, 34006, 35053, 35520
909 ... 35843
910 ... 32827, 34248, 35156, 35521
915 ... 34973
916 ... 32410

7 CFR—Continued

917 ... 32410–32411, 34762
919 ... 35695
926 ... 34007
944 ... 34762
947 ... 32230, 32695
967 ... 35520
982 ... 34974
989 ... 32412
1012 ... 32417
1099 ... 32575
1421 ... 32879, 35695–35702
1124 ... 32418, 35843
1427 ... 35521
1430 ... 32881
1472 ... 34248
1701 ... 33546
1806 ... 34571
1821 ... 32575
1822 ... 34577, 34578
1831 ... 32575, 32697
1861 ... 32576
1871 ... 32576
1872 ... 32577, 32578
1890c ... 32578
1901 ... 34583
1955 ... 32697

PROPOSED RULES:

16 ... 34777, 34977, 35072
47 ... 32231
51 ... 32896
909 ... 32234
910 ... 33922, 35187
911 ... 34049
919 ... 32234
926 ... 34647
927 ... 34050
930 ... 32606
931 ... 32757
932 ... 35722
946 ... 32758
953 ... 34766
981 ... 34647
991 ... 34648
993 ... 33275
1004 ... 34282
1006 ... 35187
1007 ... 33275
1011 ... 33275, 34444
1012 ... 35187
1013 ... 35187
1030 ... 33275
1032 ... 33275
1033 ... 34444, 35194
1046 ... 33275
1049 ... 33275
1050 ... 33275
1062 ... 33275
1063 ... 33275
1064 ... 33275
1065 ... 33275
1068 ... 33275
1070 ... 33275
1071 ... 33275
1073 ... 33275
1076 ... 33275
1078 ... 33275
1079 ... 33275
1090 ... 33275, 34444

7 CFR—Continued

PROPOSED RULES—Continued

1094 ... 33275
1096 ... 33275
1097 ... 33275
1098 ... 33275
1099 ... 33275
1101 ... 33275, 34444
1102 ... 33275
1104 ... 33275
1106 ... 33275
1108 ... 33275
1120 ... 33275
1124 ... 34286
1126 ... 33275
1131 ... 33275
1132 ... 33275
1138 ... 33275
1207 ... 32606
1260 ... 34772
1430 ... 32899
1701 ... 32419
1801 ... 33561
1813 ... 33922
1823 ... 34767
1861 ... 33561
1867 ... 35532
1980 ... 33561

8 CFR

100 ... 32419, 34937
103 ... 34937
316a ... 34938

9 CFR

73 ... 32882, 34731
76 ... 32882, 35156, 35675
83 ... 32432
113 ... 32882
201 ... 34007

PROPOSED RULES:

327 ... 34293

10 CFR

35 ... 34635
211 ... 33881
212 ... 34008
700 ... 34731
735 ... 34731

PROPOSED RULES:

9 ... 35073
70 ... 35537
205 ... 34783, 34981
210 ... 34784
211 ... 34784
212 ... 33282, 34080, 34784
705 ... 34778

11 CFR

Ch. I ... 35932

12 CFR

217 ... 32578
220 ... 34938
221 ... 35477
303 ... 35156

12 CFR—Continued

335 ... 35477
545 ... 35820
561 ... 32419, 35821
563 ... 32419, 35821
611 ... 33546
615 ... 33547
618 ... 33547

PROPOSED RULES:

16 ... 32864
225 ... 33306
226 ... 35536
569 ... 35827
584 ... 33566

13 CFR

102 ... 35675
105 ... 33547
120 ... 33245
122 ... 33549
123 ... 35675
316 ... 35670

PROPOSED RULES:

120 ... 33567

14 CFR

13 ... 32205
36 ... 35053
37 ... 35070
39 ... 32206, 32207, 32733, 32734, 33245, 33246, 34008, 34009, 34583–34585, 35059
47 ... 34009
49 ... 34009
71 ... 32734, 32735, 33246, 33247, 34010, 34011, 34586, 34587, 35059, 35478
73 ... 34011, 34587
95 ... 34011
97 ... 32735, 34016, 35478
121 ... 35070
137 ... 35059
253 ... 34249
300 ... 34587
300 ... 34587
310 ... 32579
372 ... 35157
372a ... 35158
373 ... 35160
378 ... 35160
378a ... 35160
1207 ... 35479

PROPOSED RULES:

39 ... 32238, 32239, 34076, 34649
45 ... 34076
71 ... 32240, 32758–32759, 33280, 34077, 34650, 35072, 35073, 35535
73 ... 34077, 34650
75 ... 34077
93 ... 35073
Ch. II ... 34979
300 ... 34650

15 CFR

0 ... 34938
905 ... 34017

16 CFR

13 ... 32420, 34019, 34249, 34742, 34939–34941, 35843
15 ... 34594
433 ... 34594

16 CFR—Continued

PROPOSED RULES:

423 ... 35863
437 ... 35725
456 ... 33925
700 ... 34654
704 ... 32911
1145 ... 33636
1150 ... 33636
1500 ... 33639

17 CFR

150 ... 35060
200 ... 32736
210 ... 32737, 35479
211 ... 35163
240 ... 35167
249 ... 35167

PROPOSED RULES:

239 ... 32540
240 ... 32856, 33004, 35073
270 ... 32760

18 CFR

2 ... 32883, 33364
154 ... 33364
157 ... 32212, 32883,

PROPOSED RULES:

1 ... 34324
2 ... 32910
35 ... 32911
154 ... 32911
260 ... 33642, 33780

19 CFR

1 ... 35061
142 ... 33248
153 ... 32421, 32893, 34597, 34974
159 ... 32230, 34250
158 ... 33248

PROPOSED RULES:

1 ... 34049, 34261
18 ... 34271
101 ... 34261
123 ... 34271
144 ... 34271
201 ... 34081

20 CFR

404 ... 32885
410 ... 33549
602 ... 35169

PROPOSED RULES:

404 ... 34060, 35861, 35862
405 ... 35197
416 ... 35862
701 ... 34294
702 ... 34294
725 ... 34972

21 CFR

2 ... 32738, 32886
5 ... 33248, 34597
11 ... 33249
27 ... 32886
121 ... 32580, 34598, 34742, 34942, 35170
193 ... 32888
310 ... 32580, 35171
436 ... 34742
460 ... 35061
510 ... 32213, 34743, 35844
520 ... 32889

21 CFR—Continued

522 ... 32583, 32889, 33882
555 ... 32583, 33882
558 ... 34943
620 ... 35480
640 ... 35062
701 ... 32583

PROPOSED RULES:

1 ... 34051
2 ... 35855
4 ... 35282
6 ... 35282
128f ... 35532
500 ... 32434, 34052
510 ... 34884
526 ... 34884
540 ... 34884
556 ... 34884
558 ... 34884
801 ... 35282
812 ... 35282
1301 ... 32756

22 CFR

102 ... 34743
503 ... 35480
606 ... 33550

PROPOSED RULES:

130 ... 33446

23 CFR

230 ... 34239
420 ... 33440
630 ... 33253

PROPOSED RULES:

658 ... 32240
661 ... 33280
1204 ... 33280

24 CFR

10 ... 33909
203 ... 32216
207 ... 32216
220 ... 32216
260 ... 34608, 35706
300 ... 34611
886 ... 32686
891 ... 35660
1914 ... 32216, 32738, 33551, 34943, 35706, 35707
1915 ... 33911, 35708
1916 ... 32584–32587, 32739, 33253–33255, 33552–33556 33919–33921, 35844–35847
1917 ... 33255–33260, 34022–34025, 34944–34948, 35062–35066, 35480–35489, 35712–35714
1920 ... 33260–33262, 34611–34618, 35171–35174, 35847
1930 ... 34618
1931 ... 34618
2205 ... 32359

PROPOSED RULES:

201 ... 32564
205 ... 34977
570 ... 34301
710 ... 35978
720 ... 35978
868 ... 32370
1710 ... 34648
1917 ... 34063–34075, 34305–34322
2205 ... 32237

25 CFR

41 ... 33556
43h ... 32421
221 ... 34743

PROPOSED RULES:

41 ... 32756
221 ... 32757

26 CFR

1 ... 33262, 34025, 34619, 35490
20 ... 34627, 35490
25 ... 34628, 35490
31 ... 35174
53 ... 35514
141 ... 32889, 32890
301 ... 34025, 35174, 35490

PROPOSED RULES:

1 ... 33285, 35855
31 ... 32231
54 ... 32895

27 CFR

PROPOSED RULES:

5 ... 35531

28 CFR

0 ... 35183
16 ... 32423
20 ... 34949

29 CFR

699 ... 34744
1601 ... 34745
1602 ... 33557
1910 ... 35185
1952 ... 32424, 34251, 34252
2520 ... 32522
2602 ... 32740
2606 ... 32741

PROPOSED RULES:

97 ... 35723, 35724
1601 ... 33924
1910 ... 32911, 32912, 35200
1952 ... 32912, 34298
2200 ... 34657

30 CFR

55 ... 33263
56 ... 33263
57 ... 33263

PROPOSED RULES:

211 ... 35716

31 CFR

PROPOSED RULES:

210 ... 32605, 35855

32 CFR

581 ... 34253
722 ... 34745
725 ... 32742
832 ... 34951
889 ... 34952
968 ... 34962
1008 ... 34962

PROPOSED RULES:

505 ... 34764
642 ... 32346
657 ... 34924
832 ... 34976
1286 ... 32231

33 CFR

117 ... 32217, 34034, 35521, 35522
127 ... 32742, 35066
207 ... 34034

PROPOSED RULES:

110 ... 34649
117 ... 32238, 35536
161 ... 32758

34 CFR

PROPOSED RULES:

Ch. I ... 34324

35 CFR

PROPOSED RULES:

133 ... 33307

36 CFR

7 ... 33263
50 ... 34748

38 CFR

4 ... 34256
21 ... 32217
36 ... 32218

PROPOSED RULES:

1 ... 32247

39 CFR

10 ... 35682–35685
111 ... 35682–35685
3002 ... 32742

PROPOSED RULES:

775 ... 35725
3003 ... 34792

40 CFR

51 ... 35676
52 ... 32743, 32890, 34259, 34749, 35184, 35676
60 ... 33264, 34628, 35184
61 ... 33264, 34629
86 ... 35626
87 ... 34722
180 ... 32426, 33265, 34629, 35677
402 ... 33265
416 ... 32578
420 ... 32218
434 ... 34440

PROPOSED RULES:

52 ... 32241, 34422, 34782, 35725
180 ... 32899
220 ... 34078
229 ... 34078
416 ... 32613
420 ... 32242
434 ... 34441

41 CFR

1–7 ... 33265
1–12 ... 33265
1–16 ... 33265
7–7 ... 35067
8–1 ... 32219
8–3 ... 32219
28–1 ... 32426
29–60 ... 35186
101–20 ... 34629
101–26 ... 34630
101–32 ... 34634

41 CFR—Continued

PROPOSED RULES:

3–3 ... 32607
60–1 ... 34298
101–2 ... 34080
101–26 ... 34080
105–61 ... 32245
128–18 ... 34636

42 CFR

51e ... 35140
101 ... 33436
110 ... 33557
122 ... 34749

43 CFR

419 ... 32427
2650 ... 33267
3302 ... 32891

PUBLIC LAND ORDERS:

5592 ... 32589
5593 ... 34962
5595 ... 33267
5596 ... 33267
5597 ... 33267
5598 ... 34035
5599 ... 34749
5600 ... 35067
5601 ... 35067

PROPOSED RULES:

232 ... 34299
302 ... 34298
2800 ... 34977

45 CFR

11 ... 35654
115 ... 34962
117 ... 35678
121a ... 35678
121d ... 33558
130 ... 35678
141 ... 35678
166 ... 35678
173 ... 35678
177 ... 33268
190 ... 33868
233 ... 35678, 35847
249 ... 35847
801 ... 33559
1069 ... 33268

PROPOSED RULES:

73b ... 32235
103 ... 35722
146 ... 34052
190 ... 33962

46 CFR

91 ... 32744
252 ... 32589
536 ... 32590

PROPOSED RULES:

93 ... 32237
180 ... 35072
531 ... 32899

47 CFR

0 ... 33272
1 ... 33885, 33895, 34259
2 ... 32680, 33885
15 ... 32590
19 ... 32891
21 ... 33269, 33885, 33895

47 CFR—Continued

73 ..... 32219, 32220, 32891, 33270, 33559, 33560, 35068, 35849
74 ..... 32429, 32593, 35068
76 ..... 32429, 34963, 35068
78 32429
83 32220
89 ..... 32680, 33902, 35522
91 ..... 32680, 33889, 33903, 35068, 35522
93 ..... 32682, 33907, 35522
95 32682

PROPOSED RULES:

0 33563
2 32434
13 32434
15 34323
63 33280
64 33563
73 ..... 32434, 33280, 33281, 33566, 34078, 34079, 34323, 34787–34789, 34980, 35533, 35534
76 ..... 32381, 34930
81 ..... 32434, 33281, 34790
83 ..... 32434, 33281, 34790
87 32242
89 35863
91 35863
93 35863
95 35863

49 CFR

1 35849
81 32593
192 34598
195 34035
390 34968
571 ..... 32221, 35522
575 34607
581 35068
613 33443
1033 ..... 32221, 32429, 32430, 34607, 35068, 35678
1038 32594
1109 32744
1124 34260
1127 32546
1201 32595
1202 32596
1203 32596
1204 32597
1205 32597
1206 32598
1207 32599
1208 32601
1209 32601
1210 32602
1307 ..... 34260, 35679
1310 35679

PROPOSED RULES:

266 33354
571 33280

49 CFR—Continued

PROPOSED RULES—Continued

801 34082
1067 33307
1109 32434
1125 35730
1201 33016
1241 33016
1243 33016

50 CFR

20 34041
26 35679
28 32602
32 ..... 32430, 32431, 32602, 32603, 32747–32755, 33272–33274, 33909, 34046–34037, 34750, 34751, 34968–34969, 35069, 35679–35682, 35849
33 ..... 32222, 32431, 32603, 32755
217 34969
222 ..... 34969, 35682
240 34047
285 32603

PROPOSED RULES:

17 ..... 32896, 33922, 35855
20 34273
26 32433
32 34049
222 33922

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	*Date*	*Pages*	*Date*
32205–32398	Aug. 2	32239–34570	13
32399–32574	3	34571–34730	16
32575–32688	4	34731–34935	17
32689–32875	5	34937–35051	18
32877–33244	6	35053–35153	19
33245–33543	9	35155–35475	20
33545–33880	10	35477–35674	23
33881–34003	11	35675–35842	24
34005–34238	12	35843–36012	25

reminders

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

Rules Going Into Effect Today

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

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Administrative determination of who is a responsibly connected person; comments by 9–1–76.... 32231; 8–2–76

Almonds grown in Calif., Board expenses and 1976–77 crop year rate of assessment; comments by 8–31–76..... 34647; 8–16–76

Frozen strawberries; revision of standards for grades; comments by 8–31–76..... 28291; 7–9–76

Grapes (tokay) grown in San Joaquin County, Calif.; proposed expenses, rate of assessment, etc.; comments by 9–1–76..... 34647; 8–16–76

Peaches (fresh) grown in Colorado; redefinition of districts; comments by 8–30–76..... 32234; 8–2–76

Agricultural Stabilization and Conservation service—

Cotton; determinations regarding 1977 crop loan and payments program; comments by 8–30–76. 31850; 7–30–76

Cotton, extra long staple; market quotas and acreage allotments; comments by 8–30–76.... 31847; 7–30–76

Cotton, upland; marketing quotas and acreage allotments; comments by 8–30–76..... 31848; 7–30–76

Grain, feed; 1977 national allotment and setaside program determinations; comments by 8–30–76. 31849; 7–30–76

Wheat; 1977 set aside program determinations; comments by 8–30–76 31849; 7–30–76

Commodity Credit Corporation—

Dairy products; purchases, etc.; price support for milk; comments by 9–1–76..... 32899; 8–6–76

Feed grain, wheat and soy beans; loan, purchase and payment programs; comments by 8–30–76. 31563; 7–29–76

Food and Nutrition Service—

Summer Food Service Program for Children; alternate food proposal; comments by 9–1–76..... 28796; 7–13–76

Rural Electrification Administration—

Trunk carrier equipment; specification PE–60; comments by 9–2–76. 32433; 8–3–76

CIVIL AERONAUTICS BOARD

Free and reduced rate transportation; comments by 9–3–76..... 32612; 8–4–76

CONSUMER PRODUCT SAFETY COMMISSION

Flammable fabrics; applications for exemptions from preemption; comments by 8–30–76.. 31569; 7–29–76

DEFENSE DEPARTMENT

Defense Supply Agency—

Personal privacy and rights of individuals regarding their personal records; exempted record systems; comments by 9–1–76..... 32231; 8–2–76

Engineer Corps—

Water resources; coastal zone management program; comments by 8–31–76..... 29146; 7–15–76

Office of the Secretary—

Non-government standards; development and use; comments by 8–30–76..... 31842; 7–30–76

ENVIRONMENTAL PROTECTION AGENCY

Iron and steel manufacturing point source category; correction; comments by 9–1–76.... 32242; 8–2–76

State implementation plans; Maryland; comments by 8–30–76..... 31573; 7–29–76

State implementation plans; New Jersey; comments by 8–30–76..... 31574; 7–29–76

State implementation plans; Oregon; comments by 9–1–76..... 32241; 8–2–76

FEDERAL COMMUNICATIONS COMMISSION

FM broadcast stations, table of assignments; Mich., Penn., Ka., Wisc.; reply comments by 9–2–76..... 28803; 7–13–76

FM broadcast stations; table of assignments, Mont.; comments by 9–2–76. 29869; 7–20–76

FM stations; table of assignments; N.Y.; reply comments by 8–30–76. 27389; 7–2–76

FM broadcast stations, table of assignments; Washington; reply comments by 9–2–76..... 28802; 7–13–76

Private land mobile radio system; Interconnection policies; comments by 9–4–76 ..... 28540; 7–12–76

Ship stations; licensees to provide public correspondence service; comments by 8–30–76..... 31235; 7–27–76

FEDERAL DEPOSIT INSURANCE CORPORATION

Insured state nonmember banks; securities; comments by 8–31–76. 25032; 6–22–76

FEDERAL ENERGY ADMINISTRATION

Domestic crude oil; advantage under entitlements program; comments by 9–1–76..... 31575; 7–29–76

Exemption of naphtha jet fuel from the mandatory petroleum allocation and price regulations; comments by 9–3–76..... 34784; 8–17–76

FEDERAL POWER COMMISSION

Annual report of power system transmission and distribution technical data; comments by 8–30–76. 28416; 7–9–76

Rate treatment for research and development; advanced approval; comments by 9–1–76.... 32911; 8–6–76

FEDERAL RESERVE SYSTEM

Equal credit opportunity; comments by 9–1–76..... 29870; 7–20–76

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; comments by 9–1–76..... 32245; 8–2–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Benzylpenicilloyl-polylysine; minimum shelf-life potency; comments by 8–30–76..... 27083; 7–1–76

Erythromycin tablets and erythromycin stearate tablets; technical changes and updating; comments by 8–30–76..... 27083; 7–1–76

Tree nuts and peanuts, good manufacturing practice regulation; comments by 8–30–76..... 27000; 6–30–76

Public Health Service—

Standards of conduct; supplement for NIH; comments by 9–1–76. 32235; 8–2–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Disaster Assistance Administration—

Individual and family grants; advance of state share; comments by 8–31–76..... 32237; 8–2–76

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

Low Income Housing—Modernization Program PHA-Owned Projects; comments by 9–2–76..... 32370; 8–2–76

INTERIOR DEPARTMENT

Fish and Wildlife Service—

Leopard Darter; proposed threatened status and critical habitat; comments by 9–1–76..... 27737; 7–6–76

Public entry and use; Johnston Atoll National Wildlife Refuge; comments by 9–1–76..... 32433; 8–3–76

JUSTICE DEPARTMENT

Drug Enforcement Administration—

Halazepam, prazepam and loperamide; placement in Schedules IV and V; comments by 8–31–76. 31553; 7–29–76

Office of the Attorney General—
Equal employment opportunity; Federally assisted programs; comments by 8–30–76..... 31550; 7–29–76
Relocation assistance and land acquisition policies; comments by 8–31–76..... 34636; 8–16–76

SECURITIES AND EXCHANGE COMMISSION
SECO Bonding Rule, minimum fidelity bonding requirements; comments 9–3–76..... 35073; 8–19–76

SMALL BUSINESS ADMINISTRATION
Business loan policy; proposed rulemaking; comments by 8–30–76.
33567; 10–8–76

TRANSPORTATION DEPARTMENT
Coast Guard—
New Orleans vessel traffic service; extension of comment period; comments by 9–3–76.. 32758; 8–5–76
Federal Aviation Administration—
Airworthiness directives; General Electric; comments by 8–31–76.
31567; 7–29–76
Airworthiness directives; Lockheed-California Co.; comments by 8–30–76..... 30136; 7–22–76
Airworthiness directives; McDonnell Douglas; comments by 8–30–76.
30137; 7–22–76
Airworthiness directive; Pratt & Whitney Aircraft; comments by 9–2–76.
32238; 8–2–76
Airworthiness directive; Pratt & Whitney; comments by 9–2–76.
32239; 8–2–76
Airworthiness directive; Pratt & Whitney Aircraft; comments by 9–1–76.
32239; 8–2–76
Transition area; Champion, Pennsylvania; comments by 9–1–76.
32240; 8–2–76
Transition area; Illinois; comments by 9–1–76..... 32240; 8–2–76
Transition area; Montague, Calif.; comments by 9–2–76.... 27085; 7–1–76
Transition area; Pitman, N.J.; comments by 8–30–76..... 31567; 7–29–76
Federal Highway Administration—
National maximum speed limit; proposed amendments to State certification of speed limit enforcement; comments by 9–2–76..... 32240; 8–2–76
Federal Railroad Administration—
Highway grade crossing warning devices; standards for maintenance, inspection, and testing; comments by 8–31–76..... 26580; 6–28–76

TREASURY DEPARTMENT
Comptroller of the Currency—
Credit life insurance; disposition of income; comments by 9–3–76.
29846; 7–20–76
Fiscal Service—
Federal recurring payments through financial organizations by means other than by check; proposed collection procedures; comments by 9–3–76..... 32605; 8–4–76

VETERANS ADMINISTRATION
Release of information from other than claimant records; schedule of fees; comments by 9–1–76.
32247; 8–2–76

Next Week's Meetings

AGRICULTURE DEPARTMENT
Forest Service—
Deschutes National Forest Advisory Committee, Bend, Oreg. ((open), 8–31–76..... 29895; 7–20–76

CIVIL RIGHTS COMMISSION
Illinois Advisory Committee, Washington, D.C. (open with restrictions), 8–31–76 ..... 33320; 8–9–76
Kansas/Missouri Advisory Committee, Kansas City, Mo. (open), 9–1–76.
33321; 8–9–76

COMMERCE DEPARTMENT
National Bureau of Standards—
Computer Networking Standards for Library and Information Science Community, Gaithersburg, Md. (open), 9–1 and 9–2–76.... 34099; 8–12–76
National Oceanic and Atmospheric Administration—
Preliminary Management Plans/Environmental Assessment, Atlanta, Ga. (open), 9–2–76..... 35087; 8–19–76

DEFENSE DEPARTMENT
Engineers Corps—
Shoreline Erosion Advisory Panel, Alexandria, Va. (open with restrictions), 8–30 and 8–31–76.
33926; 8–11–76
Office of the Secretary—
Advisory Group on Electron Devices, New York, NY (closed), 9–2–76.
33927; 8–11–76
Defense Wage Committee, Pentagon, Washington, D.C. (closed), 8–31–76..... 27747; 7–6–76

ENVIRONMENTAL PROTECTION AGENCY
Technical Advisory Group to the Municipal Construction Division, Arlington, Va. (open), 8–30 and 8–31–76.
32947; 8–6–76

FEDERAL POWER COMMISSION
National Gas Survey, Transmission, Distribution and Storage Technical Advisory Task Force—Impact of Gas Shortage on Consumers, Washington, D.C. (open), 8–31–76..... 31616; 7–29–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
Advisory Council on Environmental Education's Work Group on Evaluation and Contributions, Wash., D.C. (open), 8–31–76.. 34805; 8–17–76
Child and Family Development Research Review Committee, Washington, D.C. (closed), 9–1 to 9–3–76..... 29011; 7–14–76
Health Resources Administration—
Cooperative Health Statistics Advisory Committee, Washington, D.C. (open), 8–30 and 8–31–76.
32938; 8–6–76
National Institutes of Health—
Review of research contract proposals, Bethesda, Maryland (partially open), 9–1 and 9–2–76.
32281; 8–2–76
Scientific Counselors Board, NINCDS, Bethesda, Md. (partially open), 9–2 and 9–3–76.... 27857; 7–7–76
Office of the Secretary—
Review Panel on New Drug Regulation, Washington, D.C. (open), 8–30 and 8–31–76..... 33939; 8–11–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Assistant Secretary for Consumer Affairs and Regulatory Functions—
National Mobile Home Advisory Council, Washington, D.C. (open), 9–1–76..... 33317; 8–9–76

INTERIOR DEPARTMENT
Land Management Bureau—
Eugene District Multiple Use Advisory Board, Eugene, Oregon (open), 8–31–76 ..... 34084; 8–12–76
National Park Service—
Midwest Regional Advisory Committee, Rock Harbor, Mich. (open), 9–1–76..... 31581; 7–29–76

LABOR DEPARTMENT
Occupational Safety and Health Administration—
National Advisory Committee on Occupational Safety and Health, Washington, D.C. (open), 9–1–76.
34387; 8–13–76

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION
Executive Committee, Washington, D.C. (open with restrictions), 9–2 and 9–3–76..... 28570; 7–12–76

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES
Fellowships Panel Advisory Committee, Wash., D.C. (closed), 8–30–76.
31271; 7–27–76

NATIONAL SCIENCE FOUNDATION
Advisory Panel on Chemistry, San Francisco, Calif. (open), 8–29 and 8–30–76..... 33338; 8–9–76

NUCLEAR REGULATORY COMMISSION
Subcommittee on Diablo Canyon Nuclear Power Station Units 1 and 2, Advisory Committee on Reactor Safeguards, Los Angeles, Calif. (open and closed), 8–31–76 34704; 8–16–76
Subcommittee on Emergency Core Cooling Systems, Advisory Committee on Reactor Safeguards, Washington, D.C. (open and closed), 9–2–76.
34705; 8–16–76

SMALL BUSINESS ADMINISTRATION
Salt Lake City District Advisory Council, Salt Lake City, Utah, 9–3–76. 33591; 8–10–76

STATE DEPARTMENT
Office of the Secretary—
Shipping Coordinating Committee; Subcommittee on Tonnage Measurement, Wash., D.C. (open), 8–30–76..... 32763; 8–5–76

TREASURY DEPARTMENT
Comptroller of the Currency—
Regional Advisory Committee on Banking Policies and Practices for the Second National Bank Region, New York, N.Y. (open), 8–30–76. 34328; 8–13–76

VETERANS ADMINISTRATION
Central Office Education and Training Review Panel, Washington, D.C. (open), 8–30–76.... 34141; 8–12–76

Next Week's Public Hearings

INTERNATIONAL TRADE COMMISSION
Harmonized Commodity Description and Coding System, Washington, D.C., 9–2–76.

List of Public Laws

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

rules and regulations

Title 7—Agriculture

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

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Increase in Rate of Assessment 1975–76 Fiscal Period

On August 2, 1976, notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 32234) regarding a proposed increase in the previously approved rate of assessment, from two and one-half to three cents per carton of grapefruit, for the fiscal period September 1, 1975, through August 31, 1976, pursuant to Order No. 909, as amended (7 CFR Part 909), regulating the handling of Grapefruit grown in Arizona and designated parts of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposal set forth in such notice which was submitted by the Grapefruit Administrative Committee (established pursuant to said amended marketing order), it is hereby found and determined that due to a decrease in the projected grapefruit crop, 4 million cartons of assessable grapefruit will be shipped during 1975–76, down from the 5 million cartons estimated at the beginning of the year. Therefore, income from the currently approved rate of assessment is not sufficient to meet the expenses of the committee, thus rendering necessary an increase in assessment rate.

It is, therefore, ordered that paragraph (b) *Rate of assessment* of § 909.214 (40 FR 54236) be amended to read as follows:

§ 909.214 Expenses, rate of assessment, and carryover of unexpended funds.

* * * * *

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three cents ($0.03) per carton, or equivalent quantity of grapefruit.

* * * * *

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the increased rate of assessment is necessary to enable the committee to meet its obligations and carry out its functions, (2) grapefruit shipments are now being made and will be completed for the 1975–76 fiscal period on August 31, 1976, (3) The relevant provisions of said marketing order require that the amended rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during said period, and (4) such period began on September 1, 1975, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: August 20, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-24838 Filed 8-24-76;8:45 am]

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

[Milk Order No. 124; Docket No. AO–368–A9]

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the order amending the order regulating the handling of milk in the Oregon-Washington marketing area, which was attached to the decision of the Assistant Secretary issued August 6, 1976, is approved or favored by the producers, as defined under the terms of the order, as proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of March, 1976 is hereby determined to be the representative period for the conduct of such referendum.

James A. Burger is hereby designated agent of the Secretary to conduct the referendum for the Oregon-Washington marketing area in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.). Such referendum shall be completed on or before September 24, 1976.

Signed at Washington, D.C., on August 19, 1976.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.76-24839 Filed 8-24-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8761]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

William R. Clark

NOTE.—Codification under 16 CFR Part 13 appears at 34 FR 15348.

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

In the Matter of William R. Clark

Order modifying an earlier order dated August 6, 1969, 34 FR 15348, 76 F.T.C. 207, modified September 1, 1970, 35 FR 15807, 77 F.T.C. 1186, by deleting Paragraph 16 of the Order because provisions of the newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses supersedes it.

The modifying order to cease and desist is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On June 17, 1976, respondent William R. Clark (Clark) by a paper entitled Motion to Modify Order Issued on August 6, 1969, and Modified on September 1, 1970, which will be treated as a petition to reopen this proceeding, has requested that Paragraph 16 be deleted from the Order. The Bureau of Consumer Protection has filed an answer wherein it advises that it does not oppose Clark's request.

The Commission has determined that the request should be granted because the provisions of its newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses have superseded Paragraph 16 of this order.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the Order to Cease and Desist be, and it hereby is, modified by deleting Paragraph 16.

The Modifying Order was issued by the Commission July 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24841 Filed 8-24-76;8:45 am]

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

[Docket No. 75N-0297]

PART 510—NEW ANIMAL DRUGS

Subpart D—Records and Reports

SUBMISSION OF ADVERTISING AND PROMOTIONAL DATA

The Food and Drug Administration is providing for use of the form entitled "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs" (Form FD-2301) in submitting new animal drug promotional material, effective September 24, 1976.

In the FEDERAL REGISTER of February 27, 1976 (41 FR 8496), the Commissioner of Food and Drugs proposed to amend § 510.302 (21 CFR 510.302) to make it consistent with the other regulations on records and reports and with the format and intended use of Form FD-2301. The Commissioner provided a 60-day period for comment on the proposal, until April 27, 1976, but no comments were received.

Form FD-2301 provides for the submission of new animal drug promotional material to the agency. Previously, submissions under § 510.300(b) (1), (2), and (3) (21 CFR 510.300(b) (1), (2), and (3)) were exempted by § 510.302 from using Form FD-2301. The basis for exempting the reports submitted pursuant to § 510.300(b) (1) and (2) from use of Form FD-2301 is the agency's need to receive and process the information submitted, which includes information concerning product defects and unusual or unexpected side effects, as rapidly as possible because expeditious agency implementing action may be necessary. Exemption under § 510.300(b)(3) from use of this form for the submission of mailing pieces or any other labeling and advertising that are devised for promotion of a new animal drug, on the other hand, is unnecessary because the exigency is absent for this type of information, and the Commissioner concludes that this information is more appropriately and easily processed when submitted on the Form FD-2301. Accordingly, the Commissioner is amending § 510.302 to require that information listed in § 510.300(b)(3) be submitted on Form FD-2301.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 510 in § 510.302 by revising paragraph (a) to read as follows:

§ 510.302 Reporting forms.

(a) The information described in § 510.300, except that described in paragraph (b) (1) and (2) of that section, shall be submitted appropriately identified with the new animal drug application(s) to which they relate in duplicate on Form FD-2301 "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs."

• • • • •

Effective date: This amendment shall be effective September 24, 1976.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)).)

Dated: August 18, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24847 Filed 8-24-76;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Village of Jean Lafitte, Louisiana

On April 5, 1975, at 41 FR 14368, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Jean Lafitte. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 26, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 220371A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jean Lafitte Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jean Lafitte map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24865 Filed 8-24-76;8:45 am]

[Docket No. FI-1042]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations City of Clayton, Missouri

On April 21, 1976, at 41 FR 16655, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Clayton, Missouri. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 290341B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Clayton Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Clayton map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24866 Filed 8-24-76;8:45 am]

[Docket No. FI-1075]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Smithville, Missouri

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Smithville, Missouri. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 295271A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Smithville Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Smithville map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-24867 Filed 8-24-76;8:45 am]

[Docket No. FI-1036]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Lavallette, New Jersey

On April 16, 1976, at 41 FR 16147, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Lavallette, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 16, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 340379C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Lavallette Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Lavallette map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-24868 Filed 8-24-76;8:45 am]

[Docket No. FI-1076]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Rumson, New Jersey

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rumson, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345316B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rumson Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rumson map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-24869 Filed 8-24-76;8:45 am]

[Docket No. FI-1078]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Fargo, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Fargo, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385364A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Fargo Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Fargo map.

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

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24870 Filed 8–24–76;8:45 am]

[Docket No. FI–1077]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Pembina, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Pembina, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385368C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Pembina Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Pembina map.

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

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24871 Filed 8–24–76;8:45 am]

[Docket No. FI–173]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Rapid City, South Dakota

On August 7, 1975, at 40 FR 33283, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rapid City, South Dakota. Ninety days have elapsed since that date, and the Administrator has received an appeal from Rapid City, requesting changes in the proposed flood elevation determinations.

The Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base flood elevations proposed on August 7, 1975, as a result of requests for changes in the determination. These modified elevations are in effect as of September 3, 1976, and amend the Flood Insurance Rate Map, which was in effect prior to this date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 465420C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rapid City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rapid City map.

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

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24872 Filed 8–24–76;8:45 am]

[Docket No. FI–989]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations, City of Arlington, Texas

On March 26, 1976, at 41 FR 12682, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Arlington, Texas. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485454A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for

new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Arlington Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Arlington map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24873 Filed 8-24-76;8:45 am]

[Docket No. FI-990]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Bay City, Texas

On March 26, 1976, at 41 FR 12683, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Bay City. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485455A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Bay City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Bay City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 4, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24874 Filed 8-24-76;8:45 am]

[Docket No. FI-2254]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Honolulu County, Hawaii

On June 3, 1970, in 35 FR 8734, the Federal Insurance Administrator published a list of communities with special hazard areas which included Honolulu, Hawaii. Map No. H 150001 45 indicates that Haiku Gardens Townhouse Development, being R–6 Residential District No. R–57, Heeia, Koolauporo, Oahu, Hawaii, recorded in Liber 10045, Page 316 in the office of the Bureau of Conveyance, State of Hawaii, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 150001 45 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 5, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-24875 Filed 8-24-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Need and Amount of Assistance; Correction

In FEDERAL REGISTER Document 76–21627, published at page 30647 in the issue dated Monday, July 26, 1976, the definition of Need Standard appearing near the end of the Notice is corrected to read: "Need standard means the money value assigned by the State to the basic and special needs it recognizes as essential for applicants and recipients;"

Approved: August 13, 1976.

THOMAS S. MCFEE,
Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76-24914 Filed 8-24-76;8:45 am]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Home Health Services

Notice of proposed rule making was published August 21, 1975 (40 FR 36702) revising existing regulations on the provision of home health services under State plans for medical assistance (title XIX, Social Security Act). The purpose of the proposed revisions was to remove certain restrictions and ambiguities which prevented full realization of the benefits of such services. The basis for the proposal was the Department's desire to increase the availability of home health services to Medicaid recipients and to encourage their use in appropriate cases as one alternative to institutionalization.

In summary, the regulations as proposed would have:

Permitted certain types of qualified health service agencies, in addition to those which meet Medicare standards, to provide home health services under Medicaid programs;

Prescribed the standards which those agencies must meet, which paralleled those for Medicare but were appropriately adjusted for differing needs under Medicaid;

Permitted proprietary agencies to participate if they met the standards, subject to any licensing law of the State;

Clarified that States must make available under the State plan the three main types of services needed in home care: nursing, home health, aide, and supplies and equipment, and also permitted them to provide various therapies as home health services;

Clarified the Medicaid recipients to whom home health services must be available, specified the requirements for a physician's determination of medical needs recorded in a plan of care and periodically reviewed, and clarified that Medicare requirements relating to need for certain types of "skilled" care and the prior hospitalization applicable to the Medicare Part A home health benefit do not apply under Medicaid.

Nearly 1300 comments were received from a broad range of interested parties: Members of Congress, private citizens, national health and welfare organizations, consumer and senior citizen groups, public and private providers and provider organizations, State and local agencies, etc. The comments themselves represented a broad range of opinion from approval of the changes to strong objections in whole or in part. Evidence of widespread interest was also presented by the holding of public hearings on Oc-

tober 28, 1975 by subcommittees of the Senate and House Committees on Aging, and by the convening of an all-day session on the major issues to which the Department invited State, congressional, consumer and provider representatives.

The greatest controversy arose over the proposal to drop from Medicaid the restrictions on proprietary agency participation applied by statute under Medicare, thus allowing their participation in the Medicaid program on the same basis and under the same standards as nonprofit agencies. Another major issue was the establishment of standards differing in some respects from Medicare's, including the provision for single service agencies to participate in Medicaid (those offering only nursing or only home health aide services). In addition, however, these were questions and suggestions on virtually every detail of the proposed regulations.

In light of the great public interest and widely varying opinions the Medicaid regulations are being published at this time with only those revisions necessary to clarify the previous ambiguities on persons eligible to receive home health services and types of services State must provide. This should increase understanding of the requirements on the part of States, recipients and home health agencies and facilitate the appropriate provisions of the services. The issues raised by the proposed rule making will be included for discussion in the overall review of home health care on which the Department has announced public hearings (see Notice of Intent, FR Doc. 76-24916 published elsewhere in this issue).

With respect to the eligibility provisions, comments received were affirmative. Comments on the services requirements and the Department's response are summarized below:

(a) Clarify when services may be provided in an intermediate care facility. This has been done by giving an example.

(b) Change the 90-day physician's review to the Medicare requirement of 60 days. This has been done.

(c) With respect to use of a "solo" nurse in the absence of a qualified agency: Drop the requirement, make it optional, clarify when no agency is considered "available", require States to hold public hearings prior to such a finding, clarify "direction" by a physician.

The requirement has been retained since it is necessary for the provision of services in certain areas, primarily rural. Approximately 23 States now make use of this provision and the Department considers it essential for all States to have such arrangements in effect. However, the requirement has been strengthened by restricting its applicability to use of registered nurses.

The non-availability of an agency has been clarified by changing the wording to "no such agency exists in the area". This clarification also makes it unnecessary to provide for public hearings on whether an agency is not "available". The wording on "direction" by a physician has been replaced by more specific language.

(d) Clarify whether the home health agency itself must furnish the medical supplies, equipment and appliances required by § 249.10(b)(7)(i)(C).

It is the State's responsibility to make payment for any such item. The items may be supplied by direct prescription of the physician and not necessarily by the home health agency.

(e) Many respondents suggested that a variety of other services—nutrition, homemaker, social services—should be required and that the therapy services listed as optional should be mandated.

The Department recognizes that many of these services would enhance the benefits gained from home health services. However, some of the suggested services are solely custodial in nature and readily available under other federally-assisted programs and, therefore, do not appear to be appropriate for inclusion under title XIX of the Act, the primary purpose of which is to make medical care and services available to indigent people. The therapy services have been retained as optional since it is felt that in the light of current fiscal restraints, this should be a State decision. Such services are optional in State Medicaid programs for provision to any recipient as well as under home health programs. However, all suggestions on services will be considered in the development of possible legislative proposals as a result of the NOI and public hearings discussed above.

A comment was also received on the definition of a medical rehabilitation facility which may provide therapy services under these regulations. It pointed out an inconsistency between the specification that the major portion of services be provided in the facility and the fact that home health services are provided in the patient's residence. The wording has been clarified.

Accordingly, the proposed regulations, as modified, are hereby adopted.

During the year following the publication of these regulations, the Department will evaluate the utilization and delivery of home health services under both Medicare and Medicaid. Modifications in the legislation and regulations of both programs will be considered on the basis of this evaluation.

Chapter II, Title 45, Code of Federal Regulations, is amended as follows:

1. Section 249.10 is amended by revising paragraphs (a)(4) and (b)(7) to read as set forth below:

§ 249.10 **Amount, duration, and scope of medical assistance.**

(a) * * *

* * * * *

(4) Provide for the inclusion of home health services which, as a minimum, shall include nursing services, home health aide services, and medical supplies, equipment and appliances, as specified in paragraph (b)(7) of this section. Under this requirement, home health services must be provided to all categorically needy individuals 21 years of age or over; to all categorically needy individuals under 21 years of age if the State plan provides for skilled nursing facility services for such individuals; and to all corresponding groups of medically needy individuals to whom skilled nursing facility services are available under the plan. Eligibility of any individual to receive home health services available under the plan shall not depend upon his need for, or discharge from, institutional care.

* * * * *

(b) * * *

* * * * *

(7) *Home health services.* (i) This term means the following services and items provided to a recipient in his place of residence. Such residence does not include a hospital, skilled nursing facility or intermediate care facility, except that these services and items may be furnished as home health services to a recipient in an intermediate care facility if they are not required to be furnished by the facility as intermediate care services (for example, short-term registered nurse service during an acute illness to avoid transfer to a skilled nursing facility). Any such service or item provided to a recipient of home health services must be ordered by his physician as part of a written plan of care which is reviewed by his physician at least every 60 days. Those services listed in paragraphs (A), (B) and (C) are required to be made available by the State as home health services; those listed in paragraph (D) may be provided as home health services at State option.

(A) Nursing service, as defined in the State Nurse Practice Act, provided on a part-time or intermittent basis by a home health agency or, in the case where no such agency exists in the area by a registered nurse who is currently licensed to practice in the State, who receives written orders from the patient's physician, documents the care and services provided, and has had orientation to acceptable clinical and administrative record-keeping from a health department nurse.

(B) Home health aide services provided by a home health agency.

(C) Medical supplies, equipment and appliances suitable for use in the home.

(D) Physical therapy, occupational therapy or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services.

(ii) The term "home health agency" means a public or private agency or organization, or a subdivision of such an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(iii) A "facility licensed by the State to provide medical rehabilitation services" means one which is operated under competent medical supervision and which provides therapy services for the primary purpose of assisting in the rehabilitation of disabled persons through an

integrated program of (i) medical evaluation and services, and (ii) psychological, social, or vocational evaluation and services. The facility must be operated either in connection with a hospital or as a facility in which all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

* * * * *

(Sec. 1102, 49 Stat. 648 (42 U.S.C. 1302).)

Effective date: The regulations in this section will be effective November 23, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Answers to specific questions may be obtained by calling Robert Silva, 202–245–0251.

Dated: August 13, 1976.

DON WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 20, 1976.
WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76-24915 Filed 8-24-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Alameda and Pocatello, Idaho

Order. In the matter of amendment of § 73.202(b), *table of assignments*, FM Broadcast Stations. (Alameda and Pocatello, Idaho).

1. The FM Table of Assignments indicates that Channel 285A is assigned to Alameda, Idaho. However, since the adoption of the assignment, Alameda has been incorporated into the City of Pocatello, Idaho. Pocatello (pop. 40,036) has two Class C FM assignments (Channels 229 and 235). In order to update and correct the assignment in the FM Table, Channel 285A is redesignated as a Pocatello assignment. There is an application pending for use of the channel (BPH–9877) filed by KSEI Broadcasters, Inc. The application will not be affected since Alameda is now a part of the City of Pocatello,

2. This amendment to the rules is adopted pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules. Since this amendment constitutes a corrective measures, imposes no new requirements, and will not adversely affect the rights of any licensee, prior notice of proposed rulemaking and the usual effective date requirements of the Administrative Procedure Act are unnecessary. 5 U.S.C. 553 (d)(B) and 5 U.S.C. 553(d)(3).

3. Accordingly, *it is ordered*, That effective September 3, 1976, the Table of FM Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows:

City:	*Channel No.*
Alameda, Idaho	—
Pocatello, Idaho	229, 235, 285A

Adopted: August 19, 1976.

Released: August 20, 1976.

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

[FR Doc.76-24893 Filed 8-24-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–118]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegations Under Executive Order 11912

The purpose of this amendment is to delegate to various Departmental officers functions vested in the Secretary by Executive Order 11912, "Delegation of Authorities Relating to Energy Policy and Conservations" (41 FR 15825; April 15, 1976.)

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.50, a new paragraph (j) is added, to read as follows:

§ 1.50 Delegations to National Highway Traffic Safety Administrator.

The National Highway Traffic Safety Administrator is delegated authority to—

* * * * *

(j) Carry out the functions vested in the Secretary by section 1(a) of Executive Order 11912.

2. In § 1.57, a new paragraph (d) is added, to read as follows:

§ 1.57 Delegations to Assistant Secretary for Policy, Plans, and International Affairs.

The Assistant Secretary for Policy, Plans, and International Affairs is delegated authority to—

* * * * *

(d) Carry out the functions vested in the Secretary by section 4(a) of Executive Order 11912.

3, In § 1.59, a new subparagraph (3) is added at the end of paragraph (a), and a new paragraph (m). is added, to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

(a) *Procurement.* * * *

(3) Carry out the functions vested in the Secretary by sections 3 and 4(b) (as appropriate) of Executive Order 11912.

* * * * *

(m) *Building management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

4. In § 1.63, a new paragraph (c) is added, to read as follows:

§ 1.63 Delegations to Director of Public Affairs.

The Director of Public Affairs is delegated authority to—

* * * * *

(c) Carry out the functions vested in the Secretary by section 4(b) (as appropriate) of Executive Order 11912.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Effective date: This amendment is effective August 25, 1976.

Issued in Washington, D.C., on August 19, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-24878 Filed 8-24-76;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on September 10, 1976.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Wheeler National Wildlife Refuge is permitted only on the area designated by signs and/or on hunt maps as open to hunting. This open area, comprising that part of the Wheeler National Wildlife Refuge located within the boundaries of the Redstone Arsenal Reservation, is delineated on maps available at the Refuge Headquarters, Box 1643, Decatur, Alabama 35601; the Provost Marshal's Office at Redstone Arsenal, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing hunting of deer, subject to the following conditions:

(1) Hunting shall be by daily permit only.

(2) Hunting will be limited to the periods October 23–24, October 30–31, November 6–7, November 13–14, 1976, archery only, either sex; November 20–21, November 27–28, December 4–5, December 11–12, December 18, 1976, guns only, antlered bucks only; and December 26, 1976, January 2, and January 8, 1977, gun, either sex.

(3) Weapons are limited to shotguns of gauges 20 to 12, loaded with single ball only and longbows with broadhead arrows.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 8, 1977.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of deer with longbow and arrow on the Holla Bend National Wildlife Refuge, Arkansas, is permitted. The hunting area, comprising approximately 6,367 acres, is delineated on a map available at Refuge Headquarters, Box 1043, Russellville, Arkansas 72801, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following special conditions:

(1) Open Season: October 1 through November 30, 1976; Archery only.

(2) A special permit is required.

(3) Hunters may not enter the refuge earlier than 2 hours before official sunrise daily.

(4) All deer taken must be reported before leaving the refuge.

(5) Only portable tree stands capable of being quickly removed are permitted. Stands must bear the name and address of the owner and must be removed from the refuge by December 6, 1976.

(6) All hunters must register upon entering the refuge each day.

(7) Hunters are prohibited from driving vehicles across or otherwise damaging standing crops and may not park their vehicle so as to block any road or thoroughfare.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1976.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the White River National Wildlife Refuge, Arkansas, is permitted only on the area designated by signs as open to hunting. This open area is delineated on a map available at the Refuge Headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer, beaver, and feral hogs.

(2) Open season: Archery—October 16–30; Muzzleloading rifles—October 22–23; Gun—November 8–9, 1976.

(3) Bag limits: One deer of either sex, no limit on beaver and feral hogs.

(4) Weapons—in accordance with State regulations.

(5) Loaded guns are not permitted in vehicles or in camps. Shooting is not allowed from boats, vehicles, or roadways used by vehicles. Dogs and horses are not allowed and all vehicles must stay on regularly used roads and trails. Shooting hours are 30 minutes before sunrise to 30 minutes after sunset. Camping is permitted in designated areas. Hunters may enter the open hunting area at noon on the date preceding each hunt and must be out of the area by dark of the closing day. Fires may be built only at the campsites.

(6) Deer killed during the gun hunting must be checked at one of the refuge check stations between 7:30 a.m. and 7 p.m.

(7) Hunters may not return to hunt hogs or beaver after they have killed a deer.

(8) Permit required. No person is authorized to enter the hunting area without a permit. Submission of more than one permit application or applications containing false information is prohibited.

(9) Each hunter under 17 years of age must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(10) Each gun deer hunter is required to wear a minimum of 500 square inches of daylight fluorescent orange above the waistline.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 9, 1976.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer and feral (wild) hogs is permitted on approximately 1,450 acres of Lake Woodruff National Wildlife Refuge. The area open to hunting includes all Federally owned lands on Dexter and Tick Islands as delineated on a map available at the Refuge Headquarters, P.O. Box 488, DeLeon Springs, Florida 32028, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer and hogs, subject to the following special conditions:

(1) Open seasons: (a) Archery—September 10–12 and September 24–26, 1976, (b) Primitive gun—October 8–10 and October 29–31, 1976.

(2) Bag limits: White-tailed deer—same as State regulations. Feral hogs—no bag limit. Deer of either sex, except spotted fawns, may be hunted during the archery and primitive gun seasons.

(3) Permitted methods of hunting:

(a) Archery season: Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the hunt area is permitted during the stand hunt hours.

(b) Primitive gun season: Weapons permitted are muzzleloading percussion cap or flintlock rifles with iron sights and rifled bores.

(4) Access and hours of use: No overnight use is permitted on the refuge. No entry will be permitted prior to two hours before sunrise, and all hunters must clear the area by one hour after sunset. All hunters must check in daily at the check station before entering the hunt area and check out daily before leaving.

(5) Permits: A refuge permit is required. Permits are non-transferable; submission of more than one permit application or applications containing false information is prohibited.

(6) Scouting: Participants drawn for the hunts may visit the hunt area on September 3 and 4 and October 1 and 2 from 8:00 a.m. to 5:00 p.m. Weapons, dogs and fires are prohibited.

(7) During the primitive gun season hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) All fires are prohibited.

(10) No dogs are allowed on the refuge.

(11) It is unlawful to drive a nail, spike, or other metal object into any tree, or to hunt from any tree in which a metal object has been driven.

(12) Game must be checked at the refuge check station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title

50, Code of Federal Regulations, Part 32, and are effective through October 31, 1976.

ST. MARKS NATIONAL WILDLIFE REFUGE

Public hunting of deer and wild hogs on the St. Marks National Wildlife Refuge, Florida, is permitted only in the area designated by signs as open to hunting. This open area, comprising approximately 1,200 acres is delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer and wild hogs.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1977.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer, feral (wild) hogs, raccoon, and opossum is permitted on 12.358 acres of St. Vincent National Wildlife Refuge. The area open to hunting includes all of St. Vincent Island. The area open to hunting is delineated on a map available at the Refuge Headquarters, P.O. Box 447, Apalachicola, Florida 32320, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, wild hogs, raccoon, and opossum, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer—either sex (except spotted fawn) on archery hunts. Antlered bucks only on primitive gun hunt. Hogs (minimum 15 inch shoulder height), raccoon, and opossum.

(2) Bag limits: White-tailed deer—1 per day, 2 per season. Hogs, raccoon, and opossum—no bag limits.

(3) Open seasons: Bow and arrow—October 21–24, 1976, and November 18–21, 1976. Primitive gun—December 9–12, 1976.

(4) Methods of hunting: (a) Bow and arrow seasons—Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the woodlands is permitted during the stand hunt hours. (b) Primitive gun season—Weapons permitted are muzzleloading percussion cap or flintlock rifles with rifled barrels.

(5) A special permit is required for all hunts.

(6) Access: Initial entry onto St. Vincent Island is restricted to two check stations throughout the hunts. These are designated Campsite 1 and Campsite 2 on the hunting area map. Each hunter must check in upon initial entry and check out before he leaves the island on his last hunting day. Participants are to have their game inspected by refuge personnel at the check station where they received their permits. The use of boats to gain access at points other than check stations must first be registered at one of the check stations. The use of boats for ingress and egress at unauthorized locations is prohibited.

(7) During the primitive gun hunt, hunters are required to wear outer garments above the waist which contain a minimum total of 500 square inches of daylight, fluorescent orange colored material. Bow hunters are required to wear red, orange, or yellow outer garment (hat, vest, etc.) while hunting.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Camping and fires are restricted to designated camping areas. Participants may set up camp one day prior to the opening of each hunt season, but are not permitted to leave the campsite area to set up stands, "scout," etc. Campers must remove all equipment from St. Vincent Island by 3:00 p.m. following the last day of each hunt season.

(10) Dogs are not permitted on the island.

(11) No motorized vehicles or equipment will be permitted.

(12) Only dead wood may be cut for campfires.

(13) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer on Blackbeard Island National Wildlife Refuge, Georgia, is permitted only on the area designated as Blackbeard Island proper. This open area, comprising 4,535 acres, is delineated on a map available at the Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following conditions:

(1) Deer and raccoon may be taken during the following open periods: October 28–31, 1976 and December 28–30, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. to sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only archery equipment as prescribed in State regulations may be used.

(5) Dogs are prohibited.

(6) Camping and fires will be permitted only at the designated camping area.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Participants may not enter the refuge more than 2 days in advance of each opening date and must depart the refuge the day following the last day of the hunt.

(9) The refuge will be closed to all forms of public use except hunting during the periods October 28–31, 1976 and December 28–30, 1976.

(10) *Hunters will be restricted to the camping area until the morning of the first day of each hunt period.*

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not permitted.

(12) A refuge permit is required to hunt and camp.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Piedmont National Wildlife Refuge, Georgia, is permitted on the refuge except in those areas designated by signs as closed. The open area, comprising approximately 33,000 acres, is delineated on the map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer, subject to the following special conditions:

(1) Open season and bag limit:

(a) Archery hunt—October 2–10, 1976. Limit two deer of either sex.

(b) Buck hunt—October 28–30, 1976. Limit two bucks with visible antlers.

(c) Either sex hunts—November 5 and 13, 1976. Limit one deer.

(2) Roads cabled off or not shown on the map are closed to all vehicular travel. Parked vehicles must be in sight of the road and must not block entrances to roads.

(3) Buckshot and handguns may not be used or possessed. Target practice during the gun hunts is prohibited.

(4) All deer killed must be field dressed and checked in at Refuge Headquarters on the same day they are killed and before leaving the refuge area.

(5) Dogs are prohibited.

(6) Camping and fires are restricted to the designated camping area in Com-

partment 19 which will be open on the following dates: October 1–11; October 27–31; November 4–6; and November 12–14, 1976.

(7) Each hunter under age 17 must be under the close supervision of an adult. The ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) It is unlawful to drive a nail, spike, or metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(9) All areas open for hunting may be visited for scouting purposes only on October 23, 1976, during daylight hours only. Weapons and dogs are not permitted.

(10) A refuge permit is required. Hunt permits are nontransferable. Submission of more than one permit application or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 13, 1976.

WASSAW ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer and raccoon on Wassaw Island National Wildlife Refuge, Georgia, is permitted on the area designated as Wassaw Island proper excluding that area known as the "Home Parcel." This open area, comprising 1,705 acres, is delineated on a map available at Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and raccoon, subject to the following conditions:

(1) Deer and raccoon may be taken December 17–19, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. until sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only rifles, and shotguns 20 gauge or larger using slugs may be used during the hunt. Handguns and buckshot are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded except during the daily hunting periods.

(5) Dogs are prohibited.

(6) All camping will be at the designated camping area on Pine Island. Fires must be confined to the camping area.

(7) Permit holders must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

(8) The refuge will be closed to all forms of public use except hunting from December 17–19, 1976.

(9) Hunt participants may not enter the refuge more than 1 day prior to the hunt. Hunters will be restricted to the camping area until the morning of the first day of each hunt period.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not allowed.

(12) A refuge permit is required to hunt and camp. Hunt permits are nontransferable. Submission of more than one permit application, or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1976.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted within the fenced portion of Catahoula National Wildlife Refuge designated by signs as open to hunting. This area, comprising 3,000 acres or 55 percent of the total refuge area, is delineated on the map on the reverse side. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Archery hunt: Either sex—October 30–November 7, 1976.

(b) Gun hunt: Bucks only—December 2–4, 1976.

(2) Weapons:

(a) Archery: Longbows as provided for in State regulations.

(b) Gun: Centerfire rifles.

(3) Hunting hours: One-half hour before sunrise until one-half hour after sunset. Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

(4) Permits: A refuge permit is required for all hunts.

(5) Still hunting only. No dogs allowed. No permanent tree stands may be constructed. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a metal object has been driven.

(6) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square-inches of daylight fluorescent orange colored material worn above the waistline.

(7) No vehicles may be parked more than 50 yards from existing roads or trails. No ATV vehicles other than jeep type will be allowed. No vehicles with tires larger than 9.00x16" may be used.

(8) Unmarked feral hogs may be taken by deer hunters.

(9) All deer killed must be checked out at a refuge checking station.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 4, 1976.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs and delineated on maps available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Open Seasons: Archery hunt—October 2–16, 1976; Gun hunts—November 22–27, 1976 and January 10–15, 1977; Primitive weapons—December 6–11, 1976.

(2) Weapons: Longbow and arrows, shotguns 20 gauge or larger and centerfire rifles, muzzleloading rifles and shotguns.

(3) Sunday hunting prohibited.

(4) Horses and dogs are not permitted.

(5) All deer killed must be checked out at one of the designated refuge checking stations.

(6) Permits are required for all deer hunts.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Man-drive deer hunting prohibited.

(9) The use of any CB radio devices to aid in the pursuit or taking of any wildlife species is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1977.

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Yazoo National Wildlife Refuge is permitted only in wooded areas not designated by signs as closed to hunting. This open area, comprising approximately 10,500 acres, is delineated on a map available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329,

Hunting shall be in accordance with all State and Federal regulations governing the hunting of deer, subject to the following special conditions:

(1) Open season: Archery—October 30–November 13, 1976, Sundays excluded. Gun—December 27, 1976–January 1, 1977.

(2) Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

(3) Weapons: Archery—Longbows only; Gun—Shotguns, 20 gauge and larger, and centerfire rifles .222 cal. or larger. No handguns permitted.

(4) A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one permit application or applications containing false information is prohibited.

(5) Firearms may not be discharged within 250 yards of residences or the Refuge Headquarters. The carrying of loaded firearms in vehicles and shooting from or across county or State roads is prohibited.

(6) All deer killed must be checked out at a refuge checking station.

(7) Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset and gun hunters must depart the hunting area no later than 1 hour after sunset.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Gun hunters are required to wear a minimum of 500 square inches of daylight fluorescent orange colored garment above the waist.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1977.

North Carolina

PUNGO NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Pungo National Wildlife Refuge, North Carolina, is permitted on all areas not designated by signs as closed to hunting. This open area, comprising 7,000 acres, is delineated on maps available at the Refuge Headquarters, Plymouth, North Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Bow and arrow only: Either sex—September 20–October 6, 1976.

(b) Shotguns and primitive weapons: Either sex—October 12, 13, 14, 18, 19, 20, 26, and 27, 1976.

(2) Hunting hours; Sunrise to sunset. All guns must be unloaded and bows unstrung at sunset.

(3) Weapons:

(a) Bow and arrow as provided for in State regulations.

(b) Shotguns—20 gauge or larger with rifled slugs or shot no smaller than No. 4 buckshot.

(c) Primitive weapons—muzzleloading percussion cap or flintlock rifles.

(4) Permits: A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(5) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square inches of daylight fluorescent orange colored material worn above the waistline.

(6) Age Limits: Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(7) Closed area: Unauthorized entry into any building or designated "CLOSED AREA" is prohibited. No hunting is permitted within 200 yards of the refuge subheadquarters.

(8) Transporting weapons: Weapons must be unloaded while being transported in or on a vehicle.

(9) Prohibited: Modern rifles, pistols, crossbows, dogs, fires, camping, and littering.

(10) Hunters shall not disturb, damage, or destroy unharvested crops.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 27, 1976.

South Carolina

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) The open season for hunting of white-tailed deer (either sex) is November 8–13 and December 6–11, 1976.

(2) Only archery equipment in accordance with State regulations is permitted. Firearms & ammunitions, crossbows, poison arrows, dogs, alcoholic beverages, nails, paint or flagging are not allowed on the Island.

(3) On the area north of Beach Road, hunters must remain on their stands from 30 minutes before sunrise until 9 a.m. and from 3 p.m. until 30 minutes after sunset. No hunting within 100 feet of the Walking Trail (interpretative foot trail).

(4) Each hunter must obtain a Refuge permit upon arrival at Bulls Island and must turn in this permit before leaving the Island. All deer taken must be checked by refuge personnel before leaving the Island.

(5) Only hunters with a valid refuge hunting permit may camp. Camping and fires are restricted to the designated camping area which will be open from 9 a.m. on November 7 until 12 noon on November 14 and from 9 a.m. on December 5 to 12 noon on December 12, 1976.

(6) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted on 96 percent of the Carolina Sandhills National Wildlife Refuge. This open area is designated by signs and delineated on a map available from Refuge Headquarters, McBee, South Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following special conditions:

(1) Seasons:

(a) Archery only—October 18–23, 1976.

(b) Gun hunts—November 1–3, 8–10, 15, and 22, 1976.

(2) Hunters are allowed on the hunting area from 5:30 a.m. until 6:30 p.m. Hunters must enter the hunting area at designated entrance points and must park their vehicles on the hunting area.

(3) Bag limits:

(a) Archery only—Two (2) of either sex.

(b) Gun hunts—November 1–3 and 8–10—Two (2) bucks with antlers visible above the hairline; November 15 and 22, One (1) of either sex. All deer taken must be checked before leaving the refuge.

(4) Only stalk and still hunting with centerfire rifles and shotguns using slugs permitted during gun hunts.

(5) Stopping, parking, walking, or hunting within 500 feet of the paved auto visitor drive or hunting within 100 feet of any other road or trail open for vehicle travel is prohibited.

(6) A refuge permit is required for all hunts. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(8) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange colored material above the waistline. Alcoholic beverages are not permitted. The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 22, 1976.

SANTEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted only on the Cuddo Unit of Santee National Wildlife Refuge. The open area, comprising some 3,140 acres, is delineated on a map available at refuge headquarter and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(a) Open season: October 4–5, 8–9, and 13–14, 1976.

(b) Daily bag Limit: One (1) white-tailed deer of either sex per hunter.

(c) Method of hunting:

(1) Only shotguns using slugs and centerfire rifles larger than .22 caliber will be permitted. Buckshot, other shotgun shells, and pistols will not be allowed. No military or hard jacketed ammunition may be used.

(2) Only stalk and still hunting will be permitted. No dogs or drives are allowed.

(3) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange color above the waistline.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(5) A refuge permit is required. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(6) All deer taken must be checked at the designated check station prior to leaving the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 14, 1976.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tennessee National Wildlife Refuge, Tennessee, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 2,800 acres for bow hunting only, 1,900 acres for muzzleloading rifle hunting, and 5,075 acres for gun and bow hunting, are delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer, subject to the following conditions:

(1) Open seasons: Archery only—October 2 and 3, 1976; Gun—December 26–28, 1976; Muzzleloading rifle only—December 29 and 30, 1976.

(2) The bag limit is one deer of either sex per hunter during the archery hunt, the gun hunt, and the muzzleloader rifle hunt, not to exceed the total season bag set by State regulations.

(3) The use of dogs is not permitted.

(4) Camping on the area is not permitted.

(5) Driving of deer is prohibited.

(6) Hunters may enter the public hunting area at sunrise and must be out of the area one-half hour after sunset.

(7) All hunters must wear protective clothing of daylight fluorescent orange material of at least 500 square inches above the waist.

(8) Each hunter under the age of 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(9) A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(10) Hunters must check in and out of the designated checking station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

KENNETH E. BLACK,
Regional Director, U.S. Fish and Wildlife Service.

AUGUST 13, 1976.

[FR Doc.76-24809 Filed 8-24-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 210]

FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Proposed Collection Procedures

Correction

In FR Doc. 76-22605 appearing on page 32605 in the issue for Wednesday, August 4, 1976, make the following correction:

(1) On page 32605, in the third column, under § 210.7, the first paragraph should have been designated as "(e)", and the first sentence should have read as follows: "(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment."

Internal Revenue Service

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making; Correction

On Monday, August 9, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 33285). The following corrections are made to the proposed regulations:

(1) In paragraph (b)(4) of example (4) of § 1.952-3(d) (page 33289), the phrase "foreign base company shipping income" should be "foreign base company income".

(2) In § 1.955A-4(d) (page 33306), the phrase "less developed countries" should be "foreign base company shipping operations" in lines 7 and 8 of example (2), lines 11 and 13 of example (3), and line 32 of example (4).

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76-24932 Filed 8-24-76;8:45 am]

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making

Correction

In FR Doc. 76-23140, appearing at page 33285, of the issue of Monday, August 9, 1976, the following changes should be made:

1. On page 33302, the fourth line of the first column should be changed to read "date. The excess of a liability which constitutes a specific charge against property over".

2. On page 33303, in the middle column, the table in the example should be changed by amending the parenthetical material under (5) to read "($9 x $40/$60)".

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Eastern Marten; Review of Status

On June 25, 1975, the Department of the Interior received a petition from the North Star Chapter of the Sierra Club (807 Midland Bank Building, Minneapolis, Minnesota 55402) seeking determination of the Eastern Marten (*Martes americana americana*) as Endangered, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

As required by section 4(c)(2) of the Act, notice is hereby given of the Department's determination that substantial evidence has been presented by the petition to warrant a review of the status of *Martes americana americana* in the United States to determine whether it should be proposed for listing as Endangered or Threatened.

The Department is seeking the views of the Governors of Maine, Michigan, Minnesota, New Hampshire, New York, Vermont, and Wisconsin. All other interested parties are hereby invited to submit any factual information which is germane to this review of the status of this species, or which could assist in determining its Critical Habitat. Such information should be sent to: Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 by November 24, 1976. This information, together with the evidence presented and available to the Secretary, and that provided with the petition of the Sierra Club, will be reviewed to determine whether the Eastern Marten should be listed as Endangered or Threatened.

Dated: August 17, 1976.

KEITH M. SCHREINER,
Acting Director, Fish and Wildlife Service.

[FR Doc.76-24885 Filed 8-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76P-0126]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Advance Notice of Proposed Rule Making

The Food and Drug Administration (FDA) is considering amending Part 2 of its regulations to provide for payment of attorneys' fees and the provision of other assistance to participants in its proceedings in appropriate circumstances. This advance notice of proposed rule making is published because the Commissioner of Food and Drugs believes it would be helpful to invite public comment on whether such assistance should be provided and on the identification and selection of appropriate criteria and procedures for providing assistance. All communications received on or before October 26, 1976 will be considered by the Commissioner before any further action is taken on this matter.

Interested persons are invited to participate in developing the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted (preferably in quintuplicate) to: Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Received comments may be seen in the above office, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this advance notice of proposed rule making, a proposed rule will be published in the FEDERAL REGISTER.

Increasing attention has been given in recent years to the financial barriers to effective public participation in agency proceedings. The Administrative Conference of the United States has recommended that agencies consider measures to facilitate public participation under 1 CFR 305.71-6. The Food and Drug Administration has already adopted several measures to aid participants in proceedings, including making agency staff available to answer inquiries for factual information, and proposing a regulation under § 2.151 (21 CFR 2.151), published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682), to relieve participants who are under an unreasonable financial burden from requirements to

submit multiple copies. The Food and Drug Administration has issued comprehensive regulations under Part 4 (21 CFR Part 4) to implement the Freedom of Information Act; the regulations make nearly all agency records available to any member of the public. Any citizen may also petition the agency to take action on any matter within the agency's responsibilities, and have the petition reviewed and ruled upon by the Commissioner, pursuant to proposed § 2.7 (21 CFR 2.7), published in the FEDERAL REGISTER of September 3, 1975.

The measures so far adopted by FDA have not included provision of attorneys' fees to participants. The Comptroller General has stated in a decision issued February 19, 1976 (File No. B–92288) that a regulatory agency may use its appropriations to extend financial assistance to interested parties "who require it" and "whose participation is essential to dispose of the matter" before the agency.

The Commissioner has recently received a petition from the Consumers Union of United States, Inc., 1714 Massachusetts Ave., NW., Washington, DC 20036, requesting an amendment of FDA regulations to provide compensation of attorneys' fees and other costs to certain participants in agency hearings. Because of its importance in evaluating the need for proposed rule making and in identifying the issues that need to be resolved, the Commissioner is setting forth below the proposed regulation, statement of grounds, and appendices (Appendix A and Appendix B) contained in the petition. To conform with certain format requirements, the material in footnotes in the petition has been included in the text in parenthesis, and certain introductory material has been omitted.

A. THE PROPOSED REGULATION.

§ 2.151 ____.

(a)(1) The Commissioner may provide compensation for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants in any rule making or adjudicatory proceeding conducted pursuant to Subparts B, C, D, and E of these regulations, whenever public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

(2) Any person is eligible to receive an award under this section ____ for _____ participation (whether or not as a party) in a rule making or adjudicatory proceeding if

(i) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, taking into account the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests; and

(ii)(*a*) The economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person or, in the case of a group or organization, the economic interest of the individual members of such group or organization is small in comparison to the costs of effective participation in the proceedings; or

(*b*) The person demonstrates to the satisfaction of the Commissioner that such person does not have sufficient resources available to adequately participate in the proceeding in the absence of an award under this section.

(3)(i) In order to facilitate public participation, the Commissioner shall make a determination of the eligibility of a person for an award under this section, and the amount of such award, prior to the commencement of any proceeding, unless the Commissioner makes an express written finding that such a determination cannot practically be made at that time.

(ii) Payment of fees and costs under this section shall be made within 90 days of the date on which a final decision or order disposing of the matters involved in the proceeding is made by the Commissioner. If an eligible person establishes, in a manner to be prescribed by the Commissioner, that its ability to participate in the proceeding will be impaired by the failure to receive funds prior to the conclusion of the proceeding, then the Commissioner shall make advance payments to permit the person to participate or to continue to participate in the proceeding.

(iii) Reasonable attorney's fees, expert witness fees, and other reasonable costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of service provided, but in no event shall exceed the rate of compensation (including fringe benefits and overhead) paid to Food and Drug Administration attorneys, expert witnesses, and other personnel with comparable experience and expertise.

B. STATEMENT OF THE GROUNDS

Representation of diverse points of view, including the traditionally underrepresented consumer viewpoint, is essential to fair and balanced decisionmaking by FDA. However, the high costs of participation in administrative proceedings precludes effective participation in agency proceedings by nonindustry groups in the absence of financial assistance from FDA. The Food and Drug Administration has inherent authority, even in the absence of explicit statutory sanction, to compensate certain participants for attorneys' fees and other costs of participation, in view of its broad regulatory powers and the statutory requirement that FDA conduct public hearings with respect to certain regulatory actions.

1. *Financial assistance is necessary for effective public participation and advocacy of diverse points of view before FDA.* Public participation is an essential element of a sound, balanced administrative decisionmaking process. (The importance of public participation in administrative proceedings has been acknowledged by the President, by Congress, by the Courts, by the Administrative Conference of the United States, and by various commentators. See, e.g., letter from President Ford to Senator Ribicoff, Rep. Brooks, and Rep. Staggers, April 17, 1975, released to press by White House; Federal Trade Commission Improvements Act, 15 U.S.C. 757(a)(h), compensation for attorneys' fees in rule making proceedings; Hearings on S. 2715 before the Senate Subcommittee on Administrative Practice, 94th Cong., 2d Sess. (Jan. 30, 1976 and Feb. 6, 1976), Kennedy bill providing for reimbursement of costs of participation; *National Welfare Rights Organization* v. *Finch*, 429 F.2d 725 (D.C. Cir. 1970); *Office of Communications of United Church of Christ* v. *F.C.C.*, 359 F.2d 994 F.2d 608 (2d Cir. 1965); Recommendation 28, 2 Recommendations and Reports of the Administrative Conference of the United States 35 (1970–1972), reprinted in 30 Ad. L. 2d 121 (1972), Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process," 60 Geo. L. J. 525 (1972); Gellhorn, "Public Participation in Administrative Proceedings," 81 Yale L. J. 359 (1972); Lazarus and Onek, "The Regulators and the People," 57 Va. L. Rev. 1069 (1972); Note, "Federal Agency Assistance of Impecunious Intervenors," 88 Harv. L. Rev. 1815 (1975).) An imbalance in the advocacy of diverse points of view before regulatory agencies is likely to produce an imbalance in the decisions which are ultimately reached by agency officials. As Roger Cramton, a former chairman of the Administrative Conference of the United States, has written, "The cardinal fact that underlies the demand for broadened public participation is that governmental agencies rarely respond to interests that are not represented in their proceedings." (60 Geo. L. J., supra, at 529.)

It is no longer an accepted notion that the agency can itself perform as the advocate for the "consumer interest," as distinct from the interest of the regulated industries. Judge Warren Burger, now Chief Justice of the Supreme Court, cast aside such thoughts with respect to the Federal Communications Commission nearly a decade ago in *Office of United Church of Christ* v. *FCC* when he wrote:

> The Commission of course represents and indeed is the prime arbiter of the public interest, but its duties and jurisdiction are vast, and it acknowledges that it cannot begin to monitor or oversee the performance of every one of thousands of licensees. * * *
>
> The theory that the Commission can always effectively represent the listener interests in a renewal proceeding without the aid and participation of legitimate listener representatives fulfilling the role of private attorneys general is one of those assumptions we collectively try to work with so long as they are reasonably adequate. When it becomes clear, as it does to us now, that it is no longer a valid assumption which stands up under the realities of actual experience, neither we nor the Commission can continue to rely on it. (359 F.2d 994, 1003 (1966).)

His remarks apply with equal logic to representation of diverse interests before FDA. At present advocacy before FDA follows the usual pattern:

(Governmental agencies) are exposed, with rare and somewhat insignificant exceptions, only to the view of those who have a sufficient economic stake in a proceeding or succession of proceedings to warrant the substantial expense of hiring lawyers and expert witnesses to make a case for them. (60 Geo. L. J., supra, at 529.)

Although the interests of the food, drug, cosmetic, and medical device industries are frequently at odds with the interests of consumers of these regulated products, consumer advocacy before FDA is rare, sporadic, and virtually always underfinanced, while the regulated industries maintain continuous and well-financed advocacy directly and through their trade associations. (One measure of this imbalance is FDA's Public Calendar, which indicates constant and routine contacts between members of the regulated industries, and only occasional contacts with nonindustry spokespersons.)

Yet Congress clearly intended that, in exercising its extensive regulatory powers, FDA fully consider the interests of those who consume the products regulated by the agency, as well as the interests of those who produce them. With regard to certain actions of FDA, Congress directed FDA to conduct hearings upon objection by "any person who will be adversely affected" by such orders, and explicitly stated that "any interested person" may be heard at these hearings. Addressing itself to similar language in the Atomic Energy Act, the Nuclear Regulatory Commission recently stated that such language:

(p)resumably * * * reflects a Congressional emphasis on the importance of hearings and of broad participation in the [licensing] process. (*In the Matter of Consumer Power Co.*, (Big Rock Point Nuclear Plant) Docket 50–155, (Memorandum and Order, November 21, 1974, at 5. The Atomic Energy Act provides that "The Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit such person as a party to such proceeding." 42 U.S.C. 2239.)

Consistent with its statutory mandate, FDA has removed formal obstacles to public participation in its proceedings by adopting broad rules of standing for both initiation of and participation in informal agency proceedings. (See §§ 2.2, 2.110, 2.117, .2.130, 2.155, of the proposed Administrative Practices and Procedures.) In the preamble to its Administrative Practices and Procedures, FDA has adopted a broad interpretation of the statutory language of section 701(e) (21 U.S.C. 371(e)) as follows:

The terms "interested person" and "any person who will be adversely affected" are defined very broadly to mean any person who wishes to participate in any proceeding of the Food and Drug Administration. There is no requirement that such person exhibit any particular interest, or show any specific economic or other harm or other indicia of "standing." Since Food and Drug Administration activities directly affect all members of the public, all members of the public who wish to participate are "interested persons" and "adversely affected" by definition. The courts have ruled that all citizens who wish to challenge agency actions affecting food and drugs are "adversely affected" and thus may properly submit objections and otherwise participate in the administrative proceedings where the statute requires such a showing. (See *Reade* v. *Ewing*, 205 F.2d 630 (2d Cir. 1953).)

While advocates of consumer interests thus enjoy broad rights of participation at FDA, as a practical matter these are hollow rights in the absence of adequate funding for the costs of preparing and presenting effective testimony. (Although the extent of participation varies from proceeding to proceeding, effective participation will usually involve extensive investigatory work, surveying, case regulation and the testimony of experts who serve as consultants and/or witnesses. Public interest representatives "cannot merely rely on legal arguments that certain interests be taken into account but must develop an affirmative case of their own." Cramton, supra, at 539. That is expensive, and well beyond the means of advocates of consumer interests.) As the Administrative Conference has recognized, "(t)he cost of participation in trial-type proceedings can render the opportunity to participate meaningless." (Recommendation 28, supra.) As Simon Lazarus and Joseph Onek have stated:

Assuring the legal rights of public interest representatives to participate in regulatory proceedings is a vital first step. It is, however, only a first step. Without further affirmative action to assure that public representatives actually appear, the legal right to participate will be largely a symbolic—perhaps merely a cosmetic—advance. (57 Va. L. Rev., supra, at 1096.)

Ernest Gellhorn put it more strongly:

If public participation is in fact a 'right' which agencies have a mandate to foster, failure to render some assistance amounts to a practical subversion of that mandate. (81 Yale L. J., supra, at 389.)

So-called "public interest" organizations generally operate under strict financial constraints, and have little or no funding available for intervention or participation. (The phrase "public interest" is a term of art, suggesting a group that represents diffuse, noncommercial interests which traditionally have not received direct representation in the courts, agencies, or legislature.) Many such groups operate with volunteer labor and little or no legal assistance. Others possess some legal capability but little or no in-house scientific expertise. Even larger organizations are unable to afford participation in most of the agency proceedings which affect the health and safety of their memberships or constituencies. Despite their limited monetary and manpower resources, however, many of these groups represent memberships or constituencies of substantial size.

The Food and Drug Administration's Administrative Practices and Procedures rules permit a participant who is "indigent" and whose participation has a "strong public interest justification" or one whose participation "can be considered primarily as benefiting the general public" to petition in forma pauperis for an exemption from the filing and service requirements of the rules, § 2.151 of the Administrative Practices and Procedures. While reducing duplicating and mailing expenses associated with participation is desirable, these cost savings represent but a tiny fraction of the actual costs incurred by intervenors in FDA proceedings and will not induce a group to participate fully in a proceeding it cannot otherwise afford.

While the actual costs of participation will of course vary with the nature and length of the proceeding, the complexity of the issues, and the extent of the participation, Cramton has estimated that the "cost of active participation in an FDA rule making proceeding is in the range of $30,000 to $40,000." (60 Geo. L. J., supra, at 538.) This estimate is based upon Administrative Conference staff interviews with "informed persons, including agency staff members, public interest lawyers, and private practitioners." (60 Geo. L. J., supra, at 538, n. 31.) It was made in 1972. The cost of living having increased 35 percent since then, the current figures are closer to $40,000 to $54,000. Costs for participation in a more complex rule making or adjudicatory hearing could entail substantially greater expense.

In summary, while the act sets forth the rights of any aggrieved person to request and receive a public hearing, and for any interested person to be heard at such hearing, virtually no nonindustry persons have been able to invoke these rights. In practical effect, these rights of participation are hollow and the record upon which FDA ultimately bases decisions directly affecting the public is thereby impoverished and untested. As a practical matter, systematic advocacy of diverse points of view is likely to occur only if FDA actively encourages participation by those who are likely to contribute to a fuller, fairer, and more balanced record by reducing the financial barriers to such participation. (The Supreme Court has recognized approvingly the ability of agencies to encourage or discourage certain activities by adjusting the costs attendant to these activities. In *National Cable Television Association* v. *U.S.*, 415 U.S. 336 (1974), the Court stated:

The lawmaker may, in light of the 'public policy or interest served' make the assessment heavy if the lawmaker wants to discourage the activity; or it may make the levy light if a bounty is to be bestowed * * *. 415 U.S. at 1149.

Although these comments were made in relation to direct assessment of fees by an agency against the regulated industry, they apply with equal logic to the unavoidable "assessment" of costs against those who wish to take part in agency proceedings. Interestingly, the Court further stated that, to the extent the benefits of certain agency actions accrue principally to the public, private parties should not be made to bear the costs of such actions. 415 U.S. at 1150. By analogy, where nonindustry advocates bear the burden of preparing and presenting an effective case, which aids

FDA in reaching a decision which benefits the public health and welfare, it is appropriate that the public bear a portion of the expense.)

2. *Authority to compensate intervenors is inherent in FDA's statutory mandate.* The Food and Drug Administration's broad regulatory powers, and the procedural requirements attendant to the exercise of those powers (supra) are sufficient to permit FDA to compensate intervenors who can be expected to contribute to the fairness and balance of FDA proceedings. (Congress vested in FDA responsibility for protecting consumer health, safety and, to a limited extent, economic wellbeing, in the purchase and use of foods, drugs, cosmetics, and medical devices. 21 U.S.C. 321 et seq.; 15 U.S.C. 1451 et seq. The Food and Drug Administration's extensive regulatory powers include the authority to approve drugs before they can be marketed; to set standards of identity and quality for food products; to require ingredient, warning, or other labeling of products within the agency's jurisdiction; and to remove from the marketplace products which are misbranded, adulterated, or otherwise in violation of the requirements of the act.) Indeed, FDA possesses not only the ability to compensate such intervenors but may well have a duty to do so where compensation is necessary to develop a fair and balanced record. 21 U.S.C. 371(e). As the Court of Appeals for the Second Circuit has stated, an agency (in that case, the Federal Power Commission) "must see to it that the record is complete. [The agency] has an affirmative duty to inquire into and consider all relevant facts." (*Scenic Hudson Preservation Conference* v. *FPC*, 354 F.2d 608, 620 (1965), and cases cited therein.)

In February 1976, the Comptroller General of the United States removed any vestige of doubt that an agency may use funds which Congress appropriates for "necessary expenses" to compensate indigent intervenors, even in the absence of explicit statutory authority for compensation. (Comptroller General's Opinion B–92288, Feb. 19, 1976.) Responding to an inquiry from the General Counsel of the Nuclear Regulatory Commission (NRC) as to the NRC's authority to reimburse for attorneys' fees, expert witness fees, and related expenses of participants in nuclear licensing and rule making proceedings, the Comptroller General concluded that NRC has the legal authority to compensate indigent intervenors with funds generally appropriated for "necessary expenses" if the agency determines, as a matter of discretion, that compensation is "necessary" to meet its statutory obligation to conduct public hearings. (The Comptroller General's opinion was sought by the General Counsel of NRC, following a determination by members of the Commission that they are "tentatively inclined to the conclusion" that the agency does have authority to assist intervenors financially and a published notice seeking comment on the issue. *See In the Matter of Consumer Power Co.* (Big Rock Point *Nuclear Plant*), Docket No. 50–155, Memorandum and Order, Nov. 21, 1974, at 5; and 40 FR 37056, Aug. 25, 1975.)

The Comptroller General's opinion states:

> While 31 U.S.C. § 628 (1970) prohibits agencies from using appropriated funds except for the purposes for which the appropriation was made, we have long held that where an appropriation is made for a particular object, purpose or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in controvention of the law or for some purpose for which other appropriations are made specifically available. * * *
>
> The question, of course, is whether it is necessary to pay the expenses of indigent intervenors in order to carry out [the agency's] statutory functions. * * * We believe only the administering agency can make that determination * * *.

(The Comptroller General's opinion, supra, at 3. In a previous opinion, the Comptroller General made similar statements with respect to FTC's authority to spend its generally appropriated funds to compensate intervenors:

> The appropriations for the Commission are normally available for necessary expenses. While the Commission submits budgets to the Congress prior to the passage of the appropriation acts, the appropriations are enacted in the form of lump sums with no specific limitations as to use. Thus, the determination of what constitutes necessary expenses is left to the reasonable discretion of the Commission.

Comptroller General's opinion B–139703, July 24, 1972, reprinted at Pike & Fischer, Ad. L. 2d at 424 and as addendum to 60 Geo. L. J. 525. With respect to FTC, the Comptroller General was asked to assess the authority of the agency to reimburse for transcript costs, attendance fees, mileage and subsistence expenses of witnesses or respondents, travel and other connected expenses of the intervenor's attorney and traveling and subsistence expenses incident to his own appearance.)

Addressing more directly the question of whether compensation of intervenors might constitute a "necessary expense," the Comptroller General referred to provisions of the Atomic Energy Act which mandate that, in licensing matters, NRC "shall grant a hearing upon the request of any person whose interest may be affected by the proceeding," (Opinion B–92288, supra, at 3, citing 42 U.S.C. 2239 (a).) and concluded that:

> * * * if NRC in the exercise of its administrative discretion, determines that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose participation is essential to dispose of the matter before it, we would not object to the use of appropriated funds for this purpose. This is essentially the same rationale we followed in our decision B–139703, July 24, 1972, in which we held that the Federal Trade Commission (FTC) had authority to pay certain expenses incurred by indigent respondents and intervenors appearing before the Commission in adjudicative proceedings.

(Opinion B–92288, supra, at 4. The Comptroller General's opinion on FTC's authority to compensate indigent intervenors addressed this point as follows:

> Insofar as intervenors are concerned, section 5(b) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(b), specifically authorizes the Commission to grant intervention "upon good cause shown". Thus, if the Commission determines it is necessary to allow a person to intervene in order to properly dispose of a matter before it, the Commission has the authority to do so. As in the case of an indigent respondent, and for the same reasons, appropriated funds of Commission would be available to assure proper case preparation.)

FDA, like NRC, receives substantial appropriations for "necessary expenses, not otherwise provided for." (Pub. L. 94–122, Title 5, Slip. Op. at 25.) Clearly, under the rationale set forth by the Comptroller General with respect to NRC, the Commissioner has authority to determine whether compensation of certain intervenors is "necessary" for a fair and balanced hearing, and if he so determines, to award compensation to these participants. (Neither *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975), *Turner* v. *FCC*, 514 F. 2d 1354 (D.C. 1975), nor *Greene County Planning Board* v. *FPC* are applicable with respect to the relief sought by this petition. As the Comptroller General stated in his NRC opinion:

> In both the *Alyeska* and *Turner* cases, plaintiffs, the prevailing parties, sought to force their adversaries to pay their costs, including reasonable attorneys' fees. All the court did, in our view, is to uphold the 'American rule,' that in the absence of a statutory provision to the contrary, neither a court nor a regulatory commission may shift the costs from one litigant to the other. In the *Greene County case*, the court said it had no power to order either the opposing litigants or the agency to pay the costs of the intervenors.
>
> In the matter before us, we are not considering whether [the agency] has the authority to determine whether one participant in its proceedings should pay the expenses of the other, nor are we concerned with whether the persons to whom financial assistance is extended prevail. There is also no question of compelling [the agency] to pay the expenses of any of the parties. (Comptroller General's opinion, supra, at 7.)

The courts, too, have long recognized that an agency has inherent authority to take actions which it deems necessary and appropriate to carrying out its explicit statutory responsibilities. As the Court of Appeals for the Seventh Circuit observed in *Northern States Power Co.* v. *FPC.*:

> If [the agency] is intelligently to exercise its extensive regulatory and supervisory power, it must have been intended that it shall have power to do everything essential to the execution of its clearly granted powers and the achievement of the purposes of the legislation.

(118 F.2d 141, 143 (1941), citing *Clarion River Power Co.* v. *Smith*, 61 App. D.C. 186, 59 F.2d 861 (1932). In that case, the Court held that the FPC could require its licensee to adopt a particular accounting procedure, in the absence of explicit statutory authority to do so. The ability to require such procedures was held to be

"the necessary implications of the [Federal Power] act." Id.)

The Second Circuit Court of Appeals has stated,

> It has been the law at least since *McCulloch* v. *Maryland*, 4 Wheat. 316, 4 L. Ed. 579, that the lawful delegation of a power carries with it the authority to do whatever is reasonable and appropriate properly to effectuate the power. (*Gallagher's Steak House* v. *Bowles*, 142 F.2d 530, 534 (1944).)

While *McCulloch* v. *Maryland* dealt with delegation of authority by the states to the federal government, the general reasoning of that decision nonetheless applies to delegation of authority by Congress to the regulatory agencies and to the "implied powers" which petitioner urges FDA to recognize. Justice John Marshall reasoned as follows:

> [I]t may, with great reason be contended that a government entrusted with such ample powers * * * must also be entrusted with ample means for their execution. The power being given, it is in the interest of the nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution by withholding the most appropriate means * * *. (4 Wheat. 316, 4 L. Ed. 579.)

Compensation of intervenors has been deemed by several agencies to be an "appropriate means" for responding to the dilemma of how to widen participation in agency proceedings in the face of exorbitant costs to participants. (The Consumer Product Safety Commission, for example, agreed to reimburse a public interest witness for the cost of travel to a hearing on fireworks when consumer representatives petitioned the agency claiming that such travel expenses were beyond the means of representatives of their point of view.) The Commission ruled that:

> Should the Presiding Officer consider it necessary to a full and complete hearing to have the Commission provide for a representative of those parties in favor of the proposed rule or a stricter rule to appear at the Commission expense in Kansas City and Honolulu, then he may so rule.

In Re Fireworks Devices, CPSC Docket No. 74–3. More recently, CPSC ruled that it had authority to pay for the counsel of an indigent respondent and to reimburse those expenses of respondents "reasonably necessary to make meaningful the representation of counsel." *In the Matter of Esquire Carpet Mills, Inc.* FTC Docket No. 8013, CPSC June 2, 1975, Slip Op. at 3.) In fact, FDA has made some modest strides toward assisting intervenors by reducing costs, apparently on the assumption that such actions are within the agency's inherent authority. First, indigents may apply to participate in formal proceedings in forma pauperis, thereby reducing filing and duplicating costs, which are absorbed by FDA. (See supra.) Secondly, participants in any FDA proceeding, formal or informal, may request that outside independent experts be consulted by the presiding officer, as witnesses, at FDA expense. (Letter from Peter Hutt, then General Counsel of FDA, to Tersh Boasberg, Esq., May 12, 1975. See also § 2.151 of the Administrative Practices and Procedures.) Such mechanisms, while helpful, are not adequate to effectively encourage public participation, as is clearly evidenced by the paucity of such participation in FDA proceedings. Direct reimbursement of costs, including attorneys' fees, would be the appropriate next step, still within FDA's inherent authority, to ensure fair and balanced hearings.

Finally, as the Comptroller General's recent opinion makes clear, the absence of explicit statutory authority to compensate intervenors in no way implies that compensation is inappropriate. Indeed, on at least one occasion, Congress has expressly stated as much. In deleting Senate-approved financial assistance language from the Energy Reorganization Act of 1974, a Conference Committee took pains to explain the limited impact of that action. (This provision, sponsored by Senator Kennedy, would have allowed the Nuclear Regulatory Commission to "reimburse eligible parties for the cost of participation, including reasonable attorneys fees * * *." See Senate debate, 120 *Congressional Record* § 15050–15054, daily ed. August 15, 1974.) The Report of the conference committee states:

> The deletion of [the financial assistance provision] is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings. Rather, it was felt that because there are currently several cases on this subject pending before the [Atomic Energy] Commission, it would be best to withhold Congressional action until these issues have been definitively determined. The resolution of these issues will help the Congress determine whether a provision similar to Title V is necessary since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary.

(H. Rep. 93–1445, 93rd Cong., 2d Sess. 37 (1974). In reference to this conference report language, the Comptroller General has stated:

> We do not agree that the deletion of the Senate amendment indicated congressional intent to deny the NRC authority to reimburse intervenors. On the contrary, it appears that the members of the conference committee felt that although they wished to await NRC's final position on the matter, quite possibly specific legislation would not be necessary to authorize such financial assistance since they believe that the Atomic Energy Act as amended already contains the necessary authority. Opinion B–92288, February 19, 1976, at 6.)

Surely if affirmative Congressional action to delete a provision authorizing reimbursement is not to be construed as an expression of Congressional intent that reimbursement is unauthorized, then mere silence cannot be so construed, particularly in light of the inherent authority of the agency to effect such reimbursement.

Conclusion

Thus, it is clear that FDA has ample power to compensate legitimate and prudent expenses of intervenors whose participation is likely to result in fairer, more balanced decisionmaking by FDA. Compensation would further the important regulatory goals of facilitating responsible and productive public participation and providing a broader base upon which to rest crucial decisions affecting the consumers of foods, drugs, and other products regulated by FDA.

Authority to compensate intervenors is inherent in FDA's broad regulatory powers, its Congressionally mandated hearing procedure, and the wide discretion afforded in its appropriations legislation. It is barred neither by FDA's authorizing legislation nor its appropriations authority.

Appendix A—Explanatory Material

The proposed regulation is an adaptation of the proposed Public Participation in Government Proceedings Act (S. 2715, 94th Cong., 1st Sess.) and the compensation provision of the proposed Consumer Food Act of 1976, as reported by the Senate Labor and Public Welfare Committee and the Senate Commerce Committee. (S. 641 and S. Rep. 94–684). The fact that Congress is considering statutory language to authorize agencies, including FDA, to compensate intervenors does not imply that agencies lack authority to so provide by regulation. As the Comptroller General has stated with respect to enactment of the FTC Improvement Act,

> [w]e do not feel that enactment of this provision was intended to overrule or modify the basis of our 1972 decision so as to reflect on its precedent value in dealing with agencies for which Congress has not enacted a similar statutory provision. Comptroller General's Opinion B–92288, at 5.)

Petitioner selected these models as the basis for the proposed regulation because they include improvements which experience under the FTC Improvement Act, 15 U.S.C. 557(a)(h), and the regulations pursuant thereto (16 CFR 1.117) has shown to be warranted.

Under the proposed regulation, applicants for compensation must meet both an "interest" test and an "economic" test before funds may be awarded.

It is petitioner's intention that under the "interest" test (petitioner's proposed § 2.151(a)(2)(i)), compensation will be awarded to applicants who represent interests that can reasonably be expected to contribute to the fairness and balance of a proceeding, but only if the applicant has an ability to adequately represent that interest given appropriate financial assistance. (This test is a modification of the "interest" test adopted by the Federal Trade Commission, 40 FR 33968, August 13, 1975. The FTC test provides (1) that the interest represented must "be necessary for" a fair determination of the proceeding, i.e., the "necessity test" and (2) that such interest would not otherwise be represented in the proceeding, i.e., the "uniqueness test". Although Consumers Union has been awarded compensation from the FTC under this test, it has been the experience of Con-

sumers Union and other nonindustry groups that this formulation is extremely burdensome to applicants and very difficult to administer. First, it requires that an applicant have knowledge of any other advocate who may be considering participation in a particular proceeding and the probable content of that person's presentation. As a practical matter, "public interest" applicants are not likely to have such knowledge, as they have no formal network or body to serve the coordinating function performed by industry trade associations. Furthermore, there may be instances where FDA wants to encourage participation by an outside advocate, although some information that the outsider proposes to present may already be available to FDA staff.)

The "economic" test (petitioner's proposed § 2.151(a)(2)(ii)) is stated in the alternative and is intended to permit compensation—both of applicants who cannot afford the costs of participation, and of applicants who represent interests which would contribute to the fairness and balance of the proceeding but who lack the economic stake in the outcome of the proceeding to justify the substantial costs of participating in it. In assessing the interest, i.e., the economic stake in the outcome of the proceeding, of an applicant that is a group or organization, the size of the economic stake of the organization's members, taken individually, is to be considered. When assessing the resources of an applicant, consideration is to be give to the resources which are available for purposes of advocacy. The consumer interest often can best be represented by organizations which, although not "indigent" in any technical sense, have very limited funds available for advocacy activities. Such organizations, including Consumers Union, differ from industry organizations in this respect and also in that the interest of their members as consumers are diffused among hundreds of proceedings in a multitude of agencies, while industry groups generally need to monitor only one or two agencies and select the few proceedings that directly affect their own or their members' profits. To disqualify these organizations on the basis of nonidigency may in effect remove those advocates who are best equipped to present the consumer point of view at particular proceedings.

Kinds of Proceedings

Petitioners have requested that reimbursement be authorized for all proceedings defined in Subpart B (formal evidentiary public hearings), Subpart C (public hearing before a public board of inquiry), Subpart D (public hearing before a public advisory committee), and Subpart E (public hearing before the Commissioner) of the Administrative Practices and Procedures (proposed 21 CFR Part 2). It is the petitioner's intention that reimbursement of costs be authorized for all types of hearings for which public notice is required and an opportunity for public participation is available.

Reimbursable Costs

The proposed regulation limits reimbursement to reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants (petitioner's proposed § 2.151(a)(1)). These costs are intended to include the costs of preparing oral or written testimony, surveys and other submissions, fees for consultants, travel and administrative costs, and miscellaneous expenses. It is intended that costs incurred in preparing an application for funds would be reimbursable under the proposed regulation, in cases where funds for participation are ultimately awarded.

As a rule, applicants are to be notified before the proceeding in question begins as to whether or not they will be compensated for their costs of participation, although payment is to be made within 90 days after final disposition of the matter involved in the proceeding. However, interim advance payments are to be authorized where the participant has demonstrated that his participation will be impaired unless this manner of payment is adopted.

Petitioners further intend that a participant who has not applied for funds initially but finds during or after the proceeding that unanticipated and burdensome expenses have been incurred, may apply for compensation. At this point, of course, the Commissioner could judge the actual contribution of the applicant to the fair balance of the proceeding. Similarly, the proposal would permit persons to apply after commencement of a proceeding for funding to participate at one of the later stages of the proceeding.

Appendix B

May 10, 1976.

The Honorable John E. Moss, *Chairman Oversight and Investigations Subcommittee, Committee on Interstate and Foreign Commerce, House of Representatives*

Dear Mr. Chairman. This refers to your letter in which you request the advice of this Office, with respect to nine agencies of the Government under study by the Subcommittee on Oversight and Investigations, as to whether public participants in proceedings before those agencies may be assisted in any or all of the following ways:

"(1) the provision of funds directly to participants, (2) modification of procedural rules so as to ease their financial burden on public participants, (3) provision of technical assistance by agency staff, (4) provision of legal assistance by agency staff, (5) creation of an independent public counsel, and (6) creation of a Consumer Assistance Office such as that now employed by the FCC."

The agencies to which you refer are the Federal Communications Commission, the Federal Trade Commission, the Federal Power Commission, the Interstate Commerce Commission, the Consumer Product Safety Commission, the Securities and Exchange Commission, the Food and Drug Administration, the Environmental Protection Agency, and the National Highway Traffic Safety Administration.

Your letter refers to our decision in the Matter of Costs of Intervention, Nuclear Regulatory Commission (NRC), B-92288, February 19, 1976, to the NRC (hereafter referred to as the NRC decision) in which we considered the legality of providing similar types of assistance to participants and intervenors in NRC rule making and licensing proceedings.

Due to the time constraints established by the terms of your request, we have not solicited comments and views of the agencies concerned on the questions your letter poses. However, we have examined, with respect to each agency, some of the statutory and/or regulatory authorities which authorize or direct that public hearings be held for a variety of purposes related to accomplishment of the agency mission. We find that each agency has authority to request participation by members of the general public in its proceedings, either as parties or intervenors, although there are individual differences in the extent to which such participation would be likely to be required.

Finally, we could discover no statutory prohibition against the provision of any of the types of assistance about which you have inquired.

We thus conclude that there is no significant difference in the relevant authorities for the nine agencies you named and in those of the NRC. Accordingly, the rationale of our February 19 decision to NRC is equally applicable to each agency named.

1. Provision of funds directly to participants. With respect to your first question, appropriated funds of each agency may be used to finance the costs of participants in agency hearings whenever the agency finds that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose representation is necessary to dispose of the matter before it; and (2) the party is indigent or otherwise unable to finance its participation. It should be noted that the Federal Trade Commission (FTC) has specific statutory authority, provided by section 202(a) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. No. 93-637, 88 Stat. 2183, approved January 4, 1975, to provide compensation for expenses of participation for persons appearing before it. This provision is discussed on pages 4 and 5 of our aforementioned decision.

We would like to emphasize, however, that it is within the discretion of each individual agency to determine whether the participation of the particular party involved is necessary in order for it to properly carry out its functions and whether the party is indigent or otherwise unable to finance its participation. No party has a right to intervene at Federal expense unless the agency so determines.

Finally, for the reasons set forth in the NRC decision, we believe it would be advisable for the parameters of such financial assistance, and the scope and limitations on the use of appropriated funds for this purpose to be fully set forth by the Congress in legislation, as was done in the case of the Federal Trade Commission by the provisions of section 202(a) of the "Magnuson-Moss Warranty—Federal Trade Commission Improvement Act," supra.

2. Modification of procedural rules so as to ease their financial burdens on public participants. For the reasons stated with respect to NRC in the NRC decision, we find nothing in the laws of any of the agencies considered to prevent simplification of procedures and the elimination of unduly burdensome requirements which increase the cost of participation by parties involved.

3. Provision of technical assistance by agency staff. For the same reasons given under "Access to Technical Information and Staff" in the NRC decision with respect to NRC, the same access to technical expertise may be made available by each agency. As we stated with respect to NRC, this would

not extend to the assignment of agency staff members to participants in the role of individual technical advisors for the purpose of advancing the position of a particular party.

4. Provision of legal assistance by agency staff. To the extent a participant needs factual information concerning legal aspects of a proceeding, such as explanations of procedures or examples of documents required to be filed, we believe agency staff members can provide this. However, agency staff could not be permitted to act in the capacity of advocates for a participant.

5. Creation of an independent public counsel. We believe nothing precludes an agency from having it staff present information to the agency's decisionmaking bodies concerning the public interest or consumer viewpoints in the course of a proceeding in order to call attention to relevant opinions not expressed by parties representing private interests. However, no agency could use its appropriations to establish an independent entity outside its jurisdiction and control.

6. Creation of a Consumer Assistance Office such as that now employed by the FCC. On March 19, 1976, the Federal Communications Commission (FCC) announced the formation of a new Consumer Assistance office. According to a press release from FCC:

"This office will provide a central location or coordinating point within the Commission for members of the public, citizens groups and FCC licensees who seek information or assistance.

• • • • •

"The Consumer Assistance Office represents another step in the FCC's efforts to ensure prompt and accurate response to inquiries and to enhance public understanding of the Commission's policies and regulations.

• • • • •

"Any person or group wishing information about the Commission's rules, matters pending or material explaining FCC policies and regulations may contact one of the full-time staff members of the Office.

"The Office also will provide information assistance to persons who wish to participate in the Commission's processes or file an application with the FCC but who are unfamiliar with the procedures to be followed.

"Finally, the Office will help prepare attractive and easy to understand brochures explaining Commission regulations and how best to comply with them."

We have been informally advised by staff of the FCC that this office is not in any way intended to act as an advocate for consumers. It does not include in its staff attorneys or professional experts in other fields. Its function is, basically, that of providing the public with factual information. We are not aware of anything which would preclude any of the agencies named in your letter from establishing a similar office.

We might also point out that our NRC decision would also be applicable to agencies other than the ones mentioned in your letter, assuming that there was no specific legislative prohibition against it, provided that the particular agency holds hearings at which it has the discretion as to whom to admit as participants or intervenors; has appropriations available to pay for "necessary expenses" to carry out the missions for which the hearings are being held; and makes the determinations mentioned in the immediately preceding paragraph. This is also true of the other types of assistance mentioned herein.

Sincerely yours,

R. F. KELLER,
Comptroller General of the United States.

Comments on the above Consumers Union petition are specifically requested on the following areas of interest:

1. In what type of proceedings, if any, should attorneys' fees and other assistance be provided?

2. Should the standard for providing attorney's fees and other assistance be the standard discussed by the Comptroller General (participation by an interested party is essential to dispose of the matter pending before the agency and the party is indigent or otherwise unable to finance participation); a standard based on the Consumers Union petition (representation of an interest which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, and the economic interest in the outcome of the person or the individual members of a group or organization seeking the assistance is small in comparison to the costs of effective participation); or some other standard?

3. What financial eligibility criteria should be adopted?

4. Should attorneys' fees be available only to those whose participation benefits the general public or has a strong public interest justification or should those with an economic interest in the outcome be eligible, e.g., a small business distributing products subject to the Federal Food, Drug, and Cosmetic Act?

5. What procedures and criteria should the agency adopt for (a) evaluating the quality of a participant's potential contribution to the resolution of a hearing; (b) to determining the importance of the issue(s) on which a participant wants to be heard; (c) assessing the strength of a participant's interest or the uniqueness of a participant's point of view; and (d) distinguishing among equally capable participants all of whom want to receive financial support for participation in the same proceeding?

6. Should the number of participants who may be subsidized in any one proceeding be limited? If so, what should the number be?

7. When should any determination of eligibility for financial assistance be made, i.e., before a hearing or after the hearing has been held?

8. If separation of function requirements apply to the hearing, what effect, if any, should this have on the timing of a determination of eligibility and the designation of an official to determine eligibility.

9. At what rate should participants be subsidized?

10. What criteria should the agency adopt for determining whether the costs of participation incurred by a participant are reasonable or necessary for participation?

11. Should reimbursable costs be limited to certain costs, but not all costs, e.g., the cost of travel, but not the costs of research needed to prepare oral or written testimony?

12. What amount of public funds should be allocated to subsidizing participants, and from what other FDA activities should the funds be taken?

13. What consideration should FDA give to alternative ways of providing advocacy assistance to participants, e.g., establishment of a public counsel within the agency to represent consumer interests in hearings; and what support should FDA give for establishment of an independent agency to advocate consumer interests?

The Commissioner points out that he would make certain editorial changes if he were to propose a regulation like that urged in the petition; so there is no need for the submission of comments to bring these matters to his attention. In lieu of the term "intervenor," he would use the term "participant," a term which has been defined broadly in § 2.3 (21 CFR 2.3) of the agency's proposed regulations on administrative practices and procedures. In addition, to comport with the organizational scheme used for the proposed regulations on administrative practices and procedures, the proposal would be numbered to fall within the general provisions of Subpart A, rather than be numbered as § 2.151, a section which properly relates solely to formal evidentiary public hearings.

Comments are welcome on these questions, as well as on any other matter relevant to the payment of attorneys' fees and provision of other assistance to participants.

This advance notice of proposed rule making is issued under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040–1059 as amended (21 U.S.C. 321 et seq.)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-24845 Filed 8-24-76;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart H—Evidence—Death

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendment to the regulation set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment relates to a finding of death for a person in missing status by an agency or department of the United States authorized by law to make such a determination. A finding of presumptive death made under section 5 of the Missing Persons Act (56 Stat. 143, 50 U.S.C. App. 1005), as amended, was

acceptable to the Social Security Administration only as evidence of the fact of death but not of the date of death. The Missing Persons Act was repealed by Pub. L. 89–554, section 8(a), 80 Stat. 651. Members of the uniformed services and their dependents in a missing status may now be declared dead under 37 U.S.C. 555 (80 Stat. 628). Federal civilian officers and employees and their dependents in a missing status may now be declared dead under 5 U.S.C. 5565 (80 Stat. 492). The enactment of Pub. L. 89–554 resulted in no substantive change when the source law, i.e. section 5 of the Missing Persons Act, 50 U.S.C. App. 1005, was codified in section 5565 of title 5 and in section 555 of title 37 of the U.S.C. As under section 5 of the Missing Persons Act, when a finding of death is made under either 5 U.S.C. 5565 or 37 U.S.C. 555, the finding must include the date death is presumed to have occurred. Although the Federal agency concerned is legally free, upon review of the case, to continue the missing status if there is a reasonable presumption that the individual is alive, should it make a finding of presumed death the date of that death must be set at a time specified by the respective statutes. The date of presumed death is to be either a year and a day after the disappearance or, if the missing status was continued beyond 12 months from the time of the disappearance, a date determined by the agency concerned. These statutes also specify that the date is "for the purpose of the ending of crediting pay and allowances and settlement of accounts" and, in cases involving a member of a uniformed service, for the payment of death gratuities. Therefore, a determination made under these statutes must be accepted by the Social Security Administration as evidence of the *fact* of death but not of the *date* of death. The latter date is controlling only with respect to the agency making the determination of presumed death and only for the purposes indicated in the statutes. In the absence of evidence establishing a later date, the Social Security Administration will use the missing date (usually cited in the finding) as the date of death for purposes of benefit payments.

Consequently, 20 CFR 404.704(b)(3) is being amended to reflect the repeal of the Missing Persons Act and its replacement by 37 U.S.C. 555, applying to members of the uniformed services and their dependents and 5 U.S.C. 5565, applying to Federal civilian officers and employees and their dependents. The amendment also clarifies that, when a determination of death is made in respect to a missing person under either of these Federal statutes, in absence of evidence establishing a later date, the Social Security Administration shall use the date the person disappeared as the date of death for benefit payments rather than the date of death determined by the other department or agency.

Prior to the final adoption of the amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education and Welfare, P.O. Box, 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Sec. 205 and 1102 of the Social Security Act, as amended; 49 Stat. 624, as amended; 49 Stat. 647, as amended, 53 Stat. 1362, as amended; 42 U.S.C. 405 and 1302.)

(Catalog of Federal Domestic Program No. 13.805, Social Security—Survivors Insurance.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

20 CFR Part 404 is amended by revising paragraph (b)(3) of §)404.704 to read as follows:

§ 404.704 Evidence as to death.

* * * * *

(b) * * *

(3) A certified copy of an official report or finding of death made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designed in § 404.701(g) (2) or (3), as approviate: *Provided, however*, That a finding of presumptive death made pursuant to the missing persons provisions of 5 U.S.C. 5565 or 37 U.S.C. 555, shall be accepted only as evidence of the fact of death and not of the date of death. In the absence of evidence establishing a later date, the Social Security Administration shall use the missing date as the date of death for purposes of benefit payments.

* * * * *

[FR Doc.76–24918 Filed 8–24–76;8:45 am]

[20 CFR Parts 404, 416]

[Regs. No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Cancellation of a Request for Withdrawal of an Application

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide that the time allowed for the cancellation of an approved request for withdrawal of an application for social security benefits or supplemental security income benefits shall be measured from the date of the notice to the claimant rather than from the date of approval of the request for withdrawal. This would ensure that the claimant knows the point in time from which to measure the period allowed for requesting cancellation of an approved request for withdrawal of an application. Interested parties have until on or before October 12, 1976 in which to submit data, comments or arguments.

Under current provisions of Regulations No. 16, a claimant may cancel his request for withdrawal of his application within 60 days of the approval of the withdrawal request. There may be a delay of several days between the approval of the request and the date the notice of the approval is released. The claimant is not aware of the date of approval and, therefore, could not know the date by which his request for cancellation must be made. Under the proposed regulation the 60 days would run, not from the date of the approval of the withdrawal request, but from the date of the notice to the claimant that the request for withdrawal has been approved. This would ensure that the claimant knows the point in time from which to measure the 60 days and grants more time than currently allowed for the claimant, if he so desires, to reinstate his application. Conforming changes are also being made to Regulations No. 4.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or argument pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments to the regulations are to be issued under the authority contained in sections 205, 1102, 1611, and 1631 of the Social Security Act, as amended, 49 Stat. 624 and 647, as amended, 86 Stat. 1466, 86 Stat. 1475, 42 U.S.C. 405, 1302, 1382, 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security-Disability Insurance; 13.803, Social Security-Retirement Insurance; 13.807, Supplemental Security Income Program.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.615a is revised to read as follows:

§ 404.615a Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 404.603 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application or request for revision of earnings be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

2. Section 416.345 is revised to read as follows:

§ 416.345 Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 416.310 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

[FR Doc. 76-24919 Filed 8-24-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93, 95]

[Docket No. 20846]

PUBLIC LAND MOBILE RADIO SYSTEMS

Interconnection Policies; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Parts 89, 91, 93 and 95 (Class A only) of the Commission's rules to prescribe policies and regulations to govern "interconnection" of private land mobile systems with the public switched telephone network, Docket No. 20846.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a petition filed by the National Association of Business and Educational Radio, Inc. (NABER) for an extension of time for filing comments in the above-captioned proceeding.[1] The prescribed time for filing comments ends September 3, 1976. The petitioner requests that this deadline be extended to December 3, 1976.

2. In support of its petition, NABER points out that while it is certain that many licensees in the Business Radio Service now utilize some form of interconnection, there is a lack of definitive information as to how widespread such interconnection arrangements may be and considerable uncertainty as to the future demand for this capability. Accordingly, in order to insure a responsive and comprehensive filing, NABER wishes to prepare a questionnaire on this subject to canvass all of its members.

3. The Commission, in the Notice of Inquiry phase of this proceeding, solicited information on the various types of interconnection arrangements now in use, the utility of interconnected private land mobile radio systems in the conduct of activities and functions permitted in the private radio services, and the needs and requirements presently met through interconnected facilities which could not be met if the practice was to be limited and restricted as proposed. In addition, we sought information on the degree to which interconnected communications would be compatible with dispatch functions more characteristic of the private services.

4. We feel that the proposed NABER survey would be in accord with the above-stated objectives and would contribute substantially to the information necessary for a proper determination in this matter. We are particularly desirous of obtaining such information on the effect (actual or anticipated) of interconnection in the Commission's largest and most heterogenous commercial radio service. Accordingly, we find that a grant of the NABER petition would be appropriate.

5. Further, in consideration of the large number of anticipated comments in this proceeding and the occurrance of the holiday season near the end of what would normally be the revised reply comment deadline, we propose to extend this deadline an additional two weeks.

6. Accordingly, it is ordered, Pursuant to the authority contained in §§ 0.331 and 1.46 of the Commission's rules, that the time for filing comments in Docket 20846 is extended to December 3, 1976, and that the time for filing reply comments is extended to January 18, 1977.

Adopted: August 17, 1976.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.76-24894 Filed 8-24-76;8:45 am]

[1] See 41 FR 28540, Monday, July 12, 1976.

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Final Notice of Proposed Trade Regulation Rulemaking Proceeding and Public Hearings

On January 26, 1976, the Commission published in the FEDERAL REGISTER (41 FR 3747) an initial notice proposing a revised trade regulation rule relating to Care Labeling of Textile Products and Leather Wearing Apparel (proposed revised rule) under the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and rules of practice (Rules of Practice) 16 CFR 1.7–1.20, and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure). The Commission staff has written a report on the proposed revised rule. The report has been placed in the public record and can be studied by interested persons in Room 130, Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

Now, under the same authority and more specifically under § 1.12 of the rules of practice the duly appointed Presiding Officer gives final notice of this proposed rulemaking proceeding. The contents of the initial notice which includes the proposed revised rule are incorporated in this notice by reference.

NOTICE TO INTERESTED PERSONS

A. WRITTEN COMMENTS

Please send data, views and arguments on any issue of fact, law and policy that may have some bearing on the proposed revised rule. Your comments need not be limited to the designated issues set forth below in Section D. You may comment on any aspect of the proposed revised rule. Any earlier comments you may have sent have been placed in the public record and need not be sent again.

Send your comments to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than September 24, 1976. Mark them "Care Labeling Comments" for prompt identification and consideration. If possible, send five copies.

B. PUBLIC HEARINGS: DATES AND PLACES

Public hearings on the proposed revised rule will be held as follows:

1. *Washington, D.C.* Hearing will start on November 8, 1976, at 9:30 a.m. in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at 6th Street NW.

2. *Los Angeles, California.* Hearing will start on January 10, 1977, at 9:30 a.m. in Room 13209, Federal Building, 11000 Wilshire Boulevard.

If more hearings are needed, the dates and places will be published later in another FEDERAL REGISTER notice.

C. INSTRUCTIONS FOR WITNESSES

If you are a member of an interested group you are encouraged to make your

views known through your group representative. If you want to testify at a hearing, in any capacity, you must, by the date specified below, give notice and file a word-for-word statement of your testimony or at least a detailed outline. You can testify in only one location.

If you want to testify at the Washington hearing, contact Cynthia S. Lamb ((202) 724–1566), Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commmission, Washington, D.C. 20580. You must notify and file with Ms. Lamb your word-for-word statement of testimony or detailed outline no later than October 15, 1976.

If you want to testify at the Los Angeles hearing, contact Helen T. Sierichs ((213) 824–7575 ext. 234), Federal Trade Commission, 13209 Federal Building, 11000 Wilshire Boulevard, Los Angeles, California 90024. You must notify and file with Ms. Sierichs your word-for-word statement of testimony or detailed outline no later than December 20, 1976.

In your statement or outline list each fact, observation, opinion and conclusion you are going to discuss. If possible, give the specific factual basis for each opinion and conclusion. Remember, the proposed revised rule declares certain acts and practices unfair or deceptive. The Commission needs evidence in the record as to the prevalence of such acts and practices.

Your statement or outline must be available for study by other interested persons before the hearing so they can decide whether to examine or cross-examine you or file contradictory statements (rebuttals). This is an additional reason for you to make your statement or outline as detailed and factual as possible.

If you file an outline that is not sufficiently detailed or factual, the Presiding Officer may require you to file a word-for-word statement before you testify. If you fail to furnish a statement or outline of your testimony, the Presiding Officer has the power to refuse to let you testify.

Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period so they can be studied by interested persons. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines for filing statements or outlines. Mark each document with your name and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitate, biographical sketch, resume or summary of your professional background and a bibliography of your publications. If you are going to testify but not as an expert witness, attach such material if it is available.

If possible, send five copies of your statement or outline and exhibits.

In your testimony you can discuss any questions of fact, law or policy concerning the proposed revised rule. You do not have to limt your testimony to the designated issues. But if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons and there may be rebuttals. Also, the Presiding Officer may question you directly or let others question you about other issues.

These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires.

Ordinarily, you will have about twenty minutes for your testimony. If you need more than twenty minutes, send your request for extra time when you file your statement of testimony or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning. If you want to discuss more than can be presented in a limited time, include it in your written statement.

D. DESIGNATED ISSUES

Set forth below are the issues which the Presiding Officer has determined to designate under § 1.13(d)(1) of the rules of practice as issues to be considered in accordance with § 1.13(d) (5) and (6) of the rules of practice. Testimony with respect to these issues may entitle group representatives or other interested persons to conduct or have conducted such cross-examination as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issue so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by an interested person add to or modify any designated issue. Such petitions will not be considered unless good cause is shown why such issue or modification was not proposed during the time specified in the initial notice.

The Presiding Officer has designated the following disputed issues of fact as material and necessary to resolve:

1. *Piece Goods; Yarn* (§ *423.2*). Are there methods of distribution available for the purpose of ensuring that permanent care labels are obtained by consumer-purchasers of piece goods and yarn at the point-of-sale without requiring the retailer to be ressponsible for such distribution?

2. *Carpets and Rugs* (§ *423.3*). Are there methods of distribution available for the purpose of ensuring that care instructions are obtained by consumer-purchasers of carpets and rugs at the point-of-sale without requiring the retailer to be responsible for such distribution?

3. *Intermediate Components* (§ *423.4*). In the absence of regular care instructions accompanying intermediate components covered by the proposed revised rule, do a substantial number of manufacturers of products covered by § 423.1 or § 423.3 of the proposed revised rule assume that certain regular care procedures can be successfully used without restriction to refurbish the components themselves or products made from such components? If so, does this assumption result in damage or substantial impairment to such products or their components due to inaccurate, incomplete or unclear care instructions on labels provided by manufacturers of such products.

4. *Bleaching Instruction* (§ *423.5(a)(1)(iii)*). When a product covered by the Rule contains a washing instruction which does not include a bleaching instruction, do a substantial number of consumers of such products assume that any accepted bleaching method can be used on such products without damage or substantial impairment? If so, does the assumption result in damage or substantial impairment to the product due to the application of improper bleaching methods by the user?

5. *Bleaching Instruction* (§ *423.5(a)(1)(iii)*). Is bleaching information in washing instructions required by the proposed revised rule needed to enable the consumer-purchaser of a product covered by such rule to care for and maintain the product adequately without damage or substantial impairment§

6. *Dry Cleaning Instruction* (§ *423.5(a)(2)*). If a dry cleaning solvent is specified in a dry cleaning instruction, will the consumer-purchaser of a product containing that specification assume that the solvent is readily available in the vicinity of the consumer's residence?

E. REQUESTS FOR CROSS-EXAMINATION RIGHTS

If you want to examine or cross-examine witnesses on the designated issues, you must give written notification to the Presiding Officer by September 24, 1976. State your particular interest in and your position on each designated issue or, if you have no interest or position as to any issue, merely indicate, "No Interest". Also furnish any explanation as to why you are requesting the right to take part in examination as to why you are requesting the right to take part in examination, cross-examination, or to offer rebuttals. Send your request to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 by September 24, 1976, regardless of the hearing you want to take part in. Mark your notice "Care Labeling Notification" so it can be considered promptly.

If new designated issues are added later you must promptly give the Presiding Officer an additional notice of interest and request for cross-examination rights.

You have a right to study statements of testimony and outlines submitted by prospective witnesses and prepare for examination, cross-examination, or rebuttals. To do so, contact Ms. Lamb in Washington, D.C. or Ms. Sierichs in Los Angeles (see Section C).

Before the hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative

for the purpose of examination, including cross-examination. If members of any group cannot agree on a representative the Presiding Officer may select one.

If you are a member of such a group, you must make a good faith effort to agree on a representative. If you cannot agree and you wan to present major relevant issues which will not be adequately presented by the group representative, notify the Presiding Officer. He may allow you to conduct or have conducted examination of witnesses, including cross-examination, or to offer rebuttals.

F. SUMMARY OF HEARING DATES

1. Washington, D.C., November 8, 1976.
2. Los Angeles, Calif., January 10, 1977.

G. SUMMARY OF DEADLINES

1. All written comments and requests for cross-examination, September 24, 1976.

2. Witnesses' prepared word-for-word statements or detailed outlines and exhibits for:

(a) Washington hearing, October 15, 1976.
(b) Los Angeles hearing, December 20, 1976.

Issued: August 25, 1976.

JOHN A. GRAY,
Presiding Officer.

[FR Doc.76-24854 Filed 8-24-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Office of the Secretary

[CM-6/84]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on Thursday, September 16, 1976, in Room 8440 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 17th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London in February, 1977. In particular, the working group will discuss the following topics:

Promulgation of navigational warnings to shipping,

Training and qualifications of radio officers, radio operators, and radio telephone operators,

Operational standards for shipboard radio equipment,

Operational requirements for emergency position indicating radio beacons and portable radio apparatus for survival craft.

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

For further information, contact LT. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

AUGUST 17, 1976

[FR Doc.76-24811 Filed 8-24-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on September 28, 29, and 30, 1976 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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

AUGUST 20, 1976.

[FR Doc.76-24898 Filed 8-24-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. AIR CONDITIONING AND REFRIGERATION WHOLESALERS, ET AL.

Proposed Judgment; Comments and Responses

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court for the Northern District of Ohio, Eastern Division, in Civil Action No. C-70-829 WKT, "United States of America v. Air Conditioning and Refrigeration Wholesalers, et al.," were received by the Department of Justice and are published herewith, together with Justice's responses to these comments.

Dated: August 18, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF INTERNATIONAL PLASTICS, INC.

The United States submits this response to the comments of International Plastics, Inc., (IPI) upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

In its comments, IPI urges that additional relief be included in the proposed Judgment to deal with the special problems of independent repackagers of refrigerant gas. IPI seeks provisions requiring timely delivery of adequate supplies of refrigerant gas to repackagers; it seeks a requirement that such gas be sold to repackagers at "reasonable prices" in relationship to the prices at which manufacturers are selling gas in packaged form; and it seeks the right to institute actions to enforce the Judgment.

The Department of Justice in formulating the proposed Judgment has sought to protect the interest of repackagers and all other resellers of refrigerant gas. Thus the Judgment enjoins the type of conspiratorial action which was the gravamen of the complaint, and in addition requires that for five years each defendant sell refrigerant gas to any reseller on non-discriminatory terms and conditions to the extent the defendant has gas and containers available. But IPI seeks preferred treatment, particularly as to price.

1. ANTICIPATED ECONOMIC IMPACT OF THE PROPOSED JUDGMENT

IPI argues that the inevitable economic impact of the proposed Judgment will be to eliminate and destroy independent repackagers of refrigerant gas and thus to deprive wholesalers and other resellers of refrigerant gas of the benefits of independent repackagers as a source of supply.

A repackager buys refrigerant gas in large quantities (tank car or truck load lots), from a manufacturer and repackages it into smaller containers. These containers may be as small as one pound packages aimed at the ultimate user such as an automobile owner who wishes to add refrigerant gas to the car's air conditioner, or the container may hold 145 pounds of gas, suitable for an air conditioning wholesaler. IPI correctly notes that the manufacturer defendants in this case are in the business of packaging refrigerant gas as well as the business of manufacturing it.

GOVERNMENT'S RESPONSE

The claim that the judgment will inevitably destroy independent repackagers as competitors is wholly without merit. It is plausible only if the repackager has no useful economic function once the conspiracy alleged in the complaint is terminated. That alleged conspiracy kept refrigerant manufacturers from selling to non-ARW wholesalers. Independent repackagers such as IPI were able to take advantage of this conspiracy to sell to such non-ARW wholesalers. But for some time now, manufacturers have also been selling to non-ARW wholesalers. The economic impact of the Judgment will not be to cut off the supplies of independent repackagers or to require manufacturers to sell to them at high prices. In fact, the impact of the Judgment will be just the opposite. It will require sales to them at non-discriminatory prices, and it will assure that if a manufacturer has gas available, it must sell. If a manufacturer sells to one reseller in bulk at a favorable price, he may not discriminate against a repackager buying similar bulk quantities pursuant to Section VI of the Judgment.

IPI will have to continue to face competition from manufacturers which also package and sell their gas to non-ARW wholesalers.

Surely, IPI cannot be urging that the Court order the conspiracy to continue thus freeing IPI of such competition.

2. RECENT DEVELOPMENTS IN THE REFRIGERANT GAS MARKET

IPI notes a number of recent developments in the refrigerant gas market which it contends require the Court to reject the proposed Judgment as not in the public interest.

The developments noted may be summarized as follows:

(1) IPI is now able to purchase refrigerant gas in bulk from a number of the defendant manufacturers, rather than from only one or two of them as in past years.

(2) There is vigorous price competition by the manufacturers in selling refrigerant gas in cylinders and other consumer oriented packages.

(3) The defendant manufacturers are now competing with IPI for sales to non-ARW wholesalers and to other types of customer.

(4) The price spread between refrigerant gas in bulk and in package form has narrowed.

(5) IPI has not been able to purchase all the refrigerant gas it desired in 1973 and 1974.

GOVERNMENT'S RESPONSE

All these developments appear consistent with a competitive market, and do not appear to be a result of the conspiracy alleged in the complaint in this action. In fact, several of these developments would be expected results of an end to that conspiracy.

Refrigerant gas has as its principal raw materials, chemicals derived from petroleum. Thus when the price of petroleum rose from about $3.50 in 1973 to $12.00 per barrel in 1976, the price of refrigerant gas might be expected to follow a similar course. Likewise when there was a shortage of petroleum in 1973 and 1974 because of the Arab boycott, it is not surprising that there was a shortage of refrigerant gas.

In times of shortage it is not surprising that a manufacturer would unilaterally determine to take care of its internal needs for refrigerant gas to be sold in the consumer oriented containers, and to sell gas in bulk only at a price which returned as much total profit. Likewise it is not surprising that once the conspiracy alleged in the complaint was ended, manufacturers of refrigerant gas sought to win new markets from which they had previously been excluded by the conspiracy. As a result, IPI experienced new competition.

In short, the Department of Justice was aware of the "recent developments" noted by IPI. The Judgment was drafted in light of those developments. In particular, this is shown by the provision of Section VI (C) relating to allocation in times of shortage, a provision which did not appear in early drafts of a proposed Judgment.

3. ADDITIONAL PROVISIONS OF THE PROPOSED JUDGMENT

IPI urges that the Court find the proposed Judgment not in the public interest (1) because it does not contain provisions requiring timely delivery of adequate quantities of refrigerant gas in bulk to fill orders of independent repackagers, (2) because it does not require that sales of such gas be at "reasonable prices", and (3) because it does not permit non-parties such as IPI to apply to the Court for enforcement of the Judgment.

GOVERNMENT'S RESPONSE

1. For a period of five years, the Judgment does require each of the defendant manufacturers to sell refrigerant gas to IPI to the extent the defendant has gas and containers available. The defendant may not avoid the thrust of this order by delay or obfuscation. On the other hand, the Court must recognize that gas may not always be available in sufficient quantities to fill all orders. A great deal of thought, argument, and economic research went in to the Government's proposal as to what to do under such circumstances.

At the outset, it should be said that simply because one manufacturer is short of gas, it does not at all follow that all others will be similarly short. In fact, we expect excess capacity if there is a decline in the use of fluorocarbons as propellants in aerosol sprays.

As outlined in greater detail in the Competitive Impact Statement, the timing of demand in this industry and the capital investment of the manufacturers in cylinders and marketing programs dictated that manufacturers be specifically permitted to consider in such allocation program anticipated demand and marketing objectives for container mix.

2. The Court should not undertake to require sales of refrigerant gas at "reasonable prices". It is true that in antitrust cases courts may order licensing of patents at "reasonable royalties" and in a very few other monopoly cases the monopolist has been ordered to provide some other service at "reasonable prices". "United States v. International Boxing Club of New York," 358 U.S. 242 (1959). But absent a monopoly, the Court can and should rely on the pressures of competition to determie price. Here there are six competing manufacturers selling refrigerant gas. The Court would be unwise to put itself in the position of establishing prices in this industry.

3. The Court should not permit enforcement of this Judgment by non-parties. The courts have routinely refused to permit non-parties to enforce Government antitrust judgments, "United States v. American Society of Composers, Authors and Publishers," 341 F. 2d 1003 (1965), except in the unusual circumstance where reasonable royalty patent licensing has been ordered. "United States v. Vehicular Parking," Ltd., DC, D. Del. (1947) 7 FRD 336.

CONCLUSION

IPI is in error in its prediction that the economic impact of the proposed Judgment will be to eliminate and destroy it as a competitor in the market for packaged refrigerant gas. The "recent developments" in the refrigerant gas industry noted by IPI were known to the Government during the period when the Judgment aws being negotiated. These developments point towards a competitive market and an end to the conspiracy alleged in the complaint. The IPI proposals for additional relief are unwise, not warranted by the allegations of the complaint, and would burden the Court with price regulation of the refrigerant gas industry.

Dated: August 17, 1976.

JOHN A. WEEDON,
Chief, Great Lakes Field Office.
ROBERT S. ZUCKERMAN,
Assistant Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF REFRIGERATION SALES COMPANY

The United States submits this response to the comments of Refrigeration Sales Company, upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

First, the definition of "refrigerant gas" in the Consent Decree is limited to use as a refrigerant. This was the area covered by the conspiracy and is the part of the industry to which the Consent Judgment addresses itself. Gas with the chemical characteristics specified in the definition of refrigerant gas is produced in extremely large quantities for such purposes as propellants for aerosol containers.

The terms of the Consent Judgment have no rational relationship to the other areas where the gas is used. As a result, limiting the definition of refrigerant gas to its use as a refrigerant is justified by the facts and logically consistent with the terms of the Consent Judgment.

Second, the comments suggest certain changes in the definition of the term "reseller". The Competitive Impact Statement ("CIS") clearly covers the area of specificity mentioned. Further, the term "reseller" is broadly defined to include all possible business entities without the necessity of a "laundry list", which could, by negative implication, exclude a reseller of a type not contemplated. Therefore, it is believed that a broad, nonspecific definition of "reseller" is most appropriate in this Consent Judgment.

Third, the comments note that the injunctive prohibitions of the Judgment are limited to an injunction against concerted refusals to deal. It is true that the perpetual injunction in Section IV(A) is so limited. It is thus responsive to the allegation of law violation contained in the complaint and the prayer for relief of the complaint. However, the unusual injunctions of Section IV (B) and (C) broadly prohibit for five years even discussions of distribution policies and practices amongst manufacturers or by ARW. These provisions thus provide unusually strong relief to prevent the type of conspiritorial activities which Refrigeration Sales Company fears. The Judgment does not deal with unilateral actions by individual defendants in establishing distribution and pricing policies, as such activities were not the subject of this action. It is appropriate that general statutory and common law apply to such activities.

Fourth, the comments of Refrigeration Sales Company argue that the five year time period for the compulsory sales provision of the proposed Judgment is too short. Compulsory sales provisions in antitrust judgments vary in duration depending on their purpose. Here the aim is to end a pattern of refusals to deal which allegedly resulted from a conspiracy. Once a new pattern of business relationships is established, the Court should end as quickly as possible the absolute requirement that defendants sell refrigerant gas to every business which falls within the very broad definition of "reseller." There are, of course, valid business reasons why a manufacturer might thereafter, wish to limit his sales.

Fifth, the comments oppose the proviso in Section VI (A) of the Judgment that defendants need not sell gas in containers larger than 145 pounds to any person who is not technically qualified to use such gas to fill smaller containers. Sales of refrigerant gas, particularly R-12 and R-22, the most commonly used gases, to wholesalers and other resellers are typically made in 145-pound cylinders. Again, the Consent Judgment cannot hope to deal with every possible

transaction in every form and size. However, the language of paragraph VI(A) covers the overwhelming majority of sales to wholesalers and other resellers and specifically deals with the facts as we know them in this case. The proviso tracks langauge in the prayer for relief of the complaint in this case. We believe it affords appropriate protection to the public as well as to the manufacturers.

Sixth, the question raised in the comments regarding deliveries to other than principal places of business is provided for in the Consent Decree. The Competitive Impact Statement makes the warehouse situation clear. Further, manufacturers may not agree on whether they will ship direct to a customer. This is neither prohibited nor mandated by the Consent Decree. There are arguments for and against "drop shipping." Nothing further by way of specificity is required in the Consent Judgment.

Seventh, concerning the recommended language regarding public warehouses, as pointed out in the comments, this is covered in the CIS. Again, to avoid a "laundry list" situation, it is believed that no useful purpose would be served by adding this language to the Consent Decree.

Finally, we believe that the terms of this Consent Decree, (see paragraphs III and VII) bind the ARW, its members, and subgroups operating under the ARW's auspices. Thus, we believe that the ARW's regional groups are covered by the Consent Decree and would act accordingly should these groups act in ways contrary to the Consent Decree.

Though many points raised in the comments are well-taken, we believe, based on the foregoing, that the changes recommended are either unnecessary or inappropriate and, therefore, would not further the public interest in this matter.

Dated: August 17, 1976.

ROBERT S. ZUCKERMAN,
Assistant Chief,
Great Lakes Field Office.
JOHN A. WEEDON,
Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

BERGSON, BORKLAND,
MARGOLIS & ADLER,
Washington, D.C., July 1, 1976.

Re *United States* v. *Air Conditioning and Refrigeration Wholesalers, et al.* Civil No. C-70-829

JOHN WEEDON, Esq.,
Chief, Great Lakes Field Office,
Antitrust Division,
U.S. Department of Justice,
Celebreeze Federal Building,
Cleveland, Ohio.

Dear Mr. WEEDON: This is in connection with the proposed consent judgment in the above case which was published in the FEDERAL REGISTER on May 10, 1976. I am submitting these comments on behalf of Refrigeration Sales Co., Inc. of Long Island City, New York.

There are a number of respects in which the proposed consent judgment should be modified in order to provide adequate relief from the violations alleged in the complaint. The gravamen of the complaint was that the defendant manufacturers of refrigerant gas had agreed with a trade association of air conditioning and refrigeration wholesalers to boycott national wholesalers and others who sought to purchase a gas for resale in competition with trade association members, or agreed to sell such other wholesalers only under certain disadvantageous or restrictive terms. We are concerned that the proposed judgment does not preclude a continuation of such anticompetitive practices, in the changing circumstances of the industry. In addition, there are a number of respects in which the language of the decree could be clarified to more clearly set forth the intention described in the Competitive Impact Statement.

Our proposed changes are as follows:

Paragraph II(A). The proposed judgment defines "Refrigerant gas" or "gas" to mean combinations of carbon, chlorine, fluorine and in some instances hydrogen, "which is sold for use in airconditioning and refrigeration equipment". This is a change from the definition in the complaint, which refers to gas "which is suitable for use in air conditioning and refrigeration equipment" (emphasis added). We see no good reason for the change in this definition. Refrigerant gas sold to wholesalers has always included gas used for purposes other than for installation in air conditioning and refrigeration equipment. While the complaint is directed to violations in the sale of gas for replacement purposes in such installations, the practices also affected sales for other purposes. As pointed out below, in our discussion of VI(A), competition in sales for other purposes has increased, particularly in large volume containers, and the judgment should protect competition in this aspect of the market.

We submit that the definition of "refrigerant gas" or "gas" should maintain the same scope as was set forth in the complaint. It should be changed by deleting the word "sold" and inserting instead the word "suitable".

Paragraph II(D). The proposed judgment defines "Reseller" to mean "any person, other than a manufacturer of refrigerant gas, which is engaged in the United States in the business of purchasing refrigerant gas for resale to contractors, dealers, installers, servicemen, or other resellers." A principal item of relief proposed in the consent judgment is the requirement that defendant manufacturers sell on a nondiscriminatory basis for a period of five years to "any reseller" who meets certain specified requirements. It is clear from the Competitive Impact Statement that this obligation is supposed to include all resellers; and, specifically, that it is intended to require defendants to sell to wholesalers who resell to ultimate users that do their own installing or service work (see Competitive Impact Statement, pp. 9–10). This intention is not fully expressed in the stated definition of the word "reseller", because it could be interpreted as being limited to companies who in turn sell to other resellers (to contractors, servicemen, etc.). We submit that the definition should be amended to clarify this point. This could be accomplished by inserting the words "(including industrial and commercial users who do their own installation or service)," after the word "servicemen".

Paragraph IV(A). This provision enjoins the defendants from combining or conspiring with any manufacturer of refrigerant gas, or any association or group of purchasers, "to refuse to sell refrigerant gas to any customer or class or group of customers". As above stated, the violations stated in the complaint consisted of a combination and conspiracy not to sell, *or* not to sell except on disadvantageous or restrictive terms. In particular, it is alleged that there was an agreement not to deliver containers of gas to certain destinations (see Competitive Impact Statement, pp. 2–3). There were other discriminatory practices as well to which the decree should be addressed. One of particular significance has been the refusal to accept cylinder returns and to refund cylinder deposits as requested by disfavored wholesalers or their customers. The manufacturers retain ownership of the cylinders, and they are able to use this power for anticompetitive ends; the deposit amounts can be very substantial for individual wholesalers. Refrigeration Sales has had experience with this problem; it offers to customers the service of handling returns of cylinders and has encountered serious difficulties in arranging for refunds. The Competitive Impact Statement (pp. 5, 10) recognizes the manufacturers' interests in the handling of refund of container deposits. There should be equivalent respect for the customers' interests in fair and non-discriminatory treatment. It should be noted that the necessity to prevent discriminatory treatment is recognized elsewhere in the proposed consent judgment, in VI(A), which imposes a duty upon defendant manufacturers to sell to any reseller for a term of years, and includes the requirements that such sales shall be upon "the manufacturer's terms and conditions of sale", i.e., those generally applicable.

In our view, it is essential that paragraph IV(A) should prohibit a conspiracy or agreement to impose discriminatory terms upon any purchaser; and specific reference should be made to the terms governing cylinder returns and refunds. This paragraph should be amended, therefore, by inserting at the end, after the words "or group of customers", the following: ", or to sell refrigerant gas to any customer or group of customers upon discriminatorily unfavorable or unreasonable terms, including terms for return of cylinders and refunds of deposits pursuant to customer request."

Paragraph VI(A). This paragraph contains the critical item of relief which is essential to open up channels of trade that had been blocked by the combination and conspiracy among the manufacturers and the trade association, and to provide some assurance that the alleged practices will not be continued or resumed. It orders each defendant manufacturer to sell refrigerant gas on a nondiscriminatory basis to any reseller who meets cash or credit requirements for a period of five years, and to ship to branches or warehouses of such resellers. Because of the importance of this relief, we are most concerned about the following limitations or inadequancies which should be rectified.

1. The obligation to sell is for five years. We do not believe that this is a sufficient period of time to dissipate the effects of the combination and conspiracy. As the complaint alleges, the conspiracy goes back more than two decades insofar as the leading manufacturers are concerned. This case itself has been pending for six years, a longer period of itme than would be covered by the proposed injunction. In these circumstances, five years is simply too short to assure that long-standing abuses have been ended, not merely suspended temporarily. Furthermore, refrigerant gas goes through periods of fluctuating demand. We are now in an oversupply situation because of a decline in use of fluorocarbons in aerosols, and the obligation imposed by VI(A) should be of sufficient duration to reach beyond the current cycle of oversupply. We recommend that the period should be at least 10 [ten] years.

2. The manufacturers' obligation to sell is subject to the following exception: *"Provided, however,* That a defendant manufacturer shall not be required to sell refrigerant gas in containers larger than 145 pounds to any reseller which is not technically qualified to uses such gas to fill smaller containers."

We submit that the exception proviso must be modified in two respects:

(a) The cutoff point of 145 pound containers is not appropriate as an across-the-board standard. For each refrigerant, there are different sizes of containers which represent those sold for normal installation, as distinguished from possible use for refilling smaller containers. Refrigerant 12 is sold for that purpose in cylinders up to 145

pounds, and it is that to which the proposed consent judgment appears to refer. But this limit is not appropriate for other commercially important refrigerants. Refrigerant 114 is sold in cylinders up to 150 pounds for normal use. In addition, two important types are sold in liquid form—refrigerant 11 in drums up to 650 pounds, and refrigerant 113 in drums up to 690 pounds. Accordingly, the proviso should be changed by substituting for the words "refrigerant gas in containers larger than 145 pounds" the following: "Refrigerant gas in containers larger than 150 pounds, or refrigerant gas in liquid form in containers larger than 690 pounds."

(b) The proviso is based upon the assumption that larger containers are utilized to fill smaller containers, and hence that it is reasonable for the manufacturers to impose a condition that the reseller must be technically qualified to undertake such refilling. However, during the time in which this complaint has been pending, there has been an increasing development of wholesaler business in the resale of larger sizes of containers directly to ultimate users. Thus, Refrigeration Sales Co., Inc. purchases and resells—without refilling—refrigerant gas in ton tanks and in bulk (tank trucks or tank cars) in substantial and growing quantities. These are sales to industrial or commercial users—industrial plants, large refrigerated warehouses or large building complexes. Because of the importance of wholesale competition in this sector of the business, it is essential that the consent judgment provide assurance that restrictive practices not be utilized to impair or limit competitive activities in such sales. Hence, the proviso in paragraph VI(A) should permit the manufacturers to consider a reseller's technical qualifications for refilling *only* when refilling is contemplated. There would be no purpose, other than an anti-competitive purpose, in using the pretext of technical qualification as a basis for refusing to sell large containers to a company like Refrigeration Sales which plans to resell the containers in wholesale competition. This danger could be guarded against by amending the proviso to insert after the initial words "provided, however, that" the following: ", when refilling is contemplated by the reseller,".

As indicated in our comment on paragraph II(A), some of the applications for which bulk volumes of refrigerant gas are sold go beyond refrigeration and air conditioning. These include use in petroleum processing, freeze-drying and as solvents or propellants. While the amount of such activity has increased during the pendency of the case, the wholesaler market has always included purchases and resale for non-refrigerant uses. These were included in the sales data alleged in the complaint. The manufacturers' price lists to wholesalers have regularly included gas in units designed for such use, e.g., in fire extinguishers and for cleaning purposes. Furthermore, as a practical matter, the decree should cover sales of refrigerant gas to wholesalers regardless of the ultimate application. The manufacturer has no right to control the purposes for which a wholesaler resells, and should not be permitted or encouraged to inquire into such resales. In addition, the unlawful practices are or can be employed in all sales to wholesalers, regardless of the ultimate use of the gas. Since the decree establishes a regime for the relations between manufacturers and wholesalers, it should extend to all such relations. It is well established that a decree can properly bar the parties from other means of reaching the same or related violations and can also properly prevent unlawful conduct in implementation of the decree's affirmative provisions. As a result of the redefinition of "refrigerant gas" and "gas", which we have recommended for II(A), the manufacturers' obligation to sell in this paragraph VI(A) will cover, as it should, all uses for which refrigerant gases are sold, and competition in bulk sales should be protected by the above recommended change in the proviso.

3. The final sentence of paragraph VI(A) provides: "Each defendant manufacturer shall accord all resellers a fair opportunity to place orders and shall ship to any bona fide branch or warehouse of a reseller purchasing gas from it." We have two suggested modifications in this provision:

(a) As pointed out in the Competitive Impact Statement (pp. 2–3), an element in the alleged combination and conspiracy was the refusal to ship smaller containers to any location other than the purchaser's principal place of business or qualified branch, and the refusal to ship larger containers (ton tanks) to any location other than the job site of customers. An essential element of relief is the above obligation to ship "to any bona fide branch or warehouse of a reseller." The Competitive Impact Statement (p. 6) makes it clear that this provision is intended to cover space of a reseller in a public warehouse. We believe that it would be helpful to make this point explicit in the consent judgment and also to make it clear that the provision applies without regard to the method of charging applied by the warehouse (rental of space, payment for storage, etc.). This could be done by inserting after the words "of a reseller" the following: "(including use by a reseller of space in a public warehouse)."

(b) With respect to the larger containers, the manufacturers have barred shipment to any location other than the job site of the reseller's customer, and this has been incorporated in their stated conditions of sale. The proposed judgment requires shipment to branches and warehouse locations, if so desired by the reseller. But with such large containers the reseller may need and desire to have delivery made to the job site of the customer. We believe that it would be proper to provide explicitly that it is the reseller who has the option of determining where the larger containers should be shipped. This could be accomplished by inserting at the end of the sentence, after the words "purchasing gas from it," the following: "; *Provided,* That containers of one ton or larger shall be shipped to such branch or warehouse, or to the site of the reseller's customer, at the option of the reseller."

Paragraph VII. This paragraph imposes various obligations upon defendant trade trade association, Air Conditioning and Refrigeration Wholesalers (ARW). As the Department of Justice is aware, members of ARW are constituted in twelve regional groups, which also conduct meetings and other group activities. Such regional groups may readily be used as vehicles for continuation or resumption of the violations stated in the complaint. It is our belief that they were an important part of the conspiracy in the past. It is not clear to us whether the regional groups are, as legal entities, subordinates to or directly related with ARW. In any event, paragraph VII should be amended to require ARW to take steps to see that the regional organizations amend their by-laws, membership rules, etc., to conform to paragraph VII of the decree.

We submit that the above suggested modifications correct inadequacies in the proposed consent judgment, and provide more effective relief in the public interest. If you desire any further information or submissions, please do not hesitate to contact me.

I would appreciate notice of the filing of the Department's response to the comments received.

Sincerely yours,

LIONEL KESTENBAUM.

COMMENT OF INTERNATIONAL PLASTICS, INC. UPON PROPOSED CONSENT JUDGMENT

International Plastics, Inc. ("IPI") hereby comments upon the Stipulation, Final Judgment, and Competitive Impact Statement ("the proposed Consent Judgment") which was filed herein on May 3, 1976. This Comment is filed pursuant to 15 U.S.C. 16 and Section VI, "Procedures Available for Modification of Consent Judgment" of the Competitive Impact Statement.

SUMMARY OF POSITION

The proposed Consent Judgment fails to contain adequate economic and quantitative assurances concerning supplies of bulk refrigerant gas for non-manufacturer ("independent") repackagers, thus jeopardizing the competitive sources of supply which the wholesaler has enjoyed heretofore.

This failure results from a deficient recognition of the role of the independent repackager as a source of packaged refrigerant to wholesalers. In the context of the events and circumstances which gave rise to this litigation, that role has been in the past and must remain in the future one of particular significance and vigor.

Over the last several years, the independent repackager has effectively provided practical market-place solutions (albeit not total ones) for the problems for which this litigation seeks legal solutions. The contributions of the independent repackager have been of crucial benefit to, indeed have become the bulwark of the non-ARW (i.e., the defendant Air Conditioning and Refrigeration Wholesalers) wholesalers market. Legal solutions will be effective only as they embrace the competitive and economic realities of the market place. On the facts of this case, legal solutions must work in conjunction with, rather than destroy, the position of the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler.

The proposed Consent Judgment, if approved in its present form, will necessarily produce two results. The independent repackager will be essentially eliminated from the wholesaler market. An industry will be crippled, if not destroyed.

A second result—one even more important from a public interest standpoint—also inevitably will follow. The wholesaler will no longer have the independent repackager and the defendant-manufacturers competing to supply him. Removal of the independent repackager as such a competitor is a result which the defendant-manufacturers have not and cannot achieve within the anti-trust laws and the economics of the market place. Yet the proposed Consent Judgment will deliver the wholesaler as a totally captive market to the defendant-manufacturers.

This litigation was commenced to relieve the wholesaler market from specific anti-competitive conditions which the defendants created and maintained. The proposed Consent Judgment will merely substitute evils for those wholesalers (i.e.: Replace some packaged product distribution restrictions with the defendant-manufacturers as exclusive supply sources); and it will create for the independent repackager anti-trust and economic problems sufficient virtually to toll the knell for that entire segment of the refrigerant industry.

These are results and circumstances which the Department of Justice and this Court, in the administration of the anti-trust laws, should vigorously oppose. If the proposed

Consent Judgment is approved, those results and circumstances will follow precisely because of the approvals of the Department and of the Court. The position of the defendant-manufacturers as monopolists or virtual monopolists will be further enhanced, indeed assured. The solutions contained in the proposed Consent Judgment lack legal or economic imperatives. That is to say that even if that Consent Judgment were to be approved, it fundamentally is and would remain legally and economically wrong. And the rule would appear to be obvious that one set of anti-competitive problems cannot be solved properly by merely shifting them to other persons or by creating new ones in their stead. The rights of the independent repackager must not be trammeled roughshod in an effort to alleviate the wholesaler's problems. Although the rights of the wholesaler to operate its business profitably, including open access to supply, are as great as the independent repackager's rights, they certainly are not greater.

The public interest is substantially present in this case both in the preservation and maintenance of competitive sources of supply as well as in the continued viability of the independent repackager segment of the refrigerant industry. In neither of these respects is the public interest served by the proposed Consent Judgment.

The specific deficiencies in the proposed Consent Judgment are as follows:

1. Failure to contain assurances that the defendant-manufacturers' sales of bulk refrigerant to the independent repackager and their sales of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler;

2. Failure to contain assurances that the defendant-manufacturers will provide the independent repackager with physical quantities of bulk refrigerant on a timely basis and in amounts adequate to enable the independent to compete with the manufacturer as a supplier to the wholesaler; and

3. Failure to provide that any reseller including an independent repackager may apply to the Court for relief under Section IX of the Final Judgment.

In the "Conclusion and Proposed Solutions" section of this Comment, IPI suggests amendments to the proposed Consent Judgment which will reduce or eliminate these deficiencies.

Prior and Recent Practices and Events In the Wholesaler Market

A. Background Information

Certain background information, most of which was omitted from the Competitive Impact Statement, is essential to a full understanding of the proposed Consent Judgment's "anticipated effects on competition" (15 U.S.C. 16(b)(3)) in the wholesaler packaged refrigerant market.

1. *IPI and the Other Independent Repackagers.* IPI is a repackager of fluorocarbon refrigerant gas, particularly of grades "12" and "22" (but also including certain other grades of gas). IPI is a publicly held corporation, but is neither wholly nor partially owned by nor otherwise aligned (except by supply contracts) with any fluorocarbon manufacturer, including any of the defendants.

IPI's business consists of purchasing fluorocarbon refrigerant gas (grades "12" and "22" together with certain other grades) in bulk directly from one or more of the defendant-manufacturers, repackaging that gas into cans and cylinders of various sizes, and selling the gas as packaged under its proprietary labels to the wholesaler as well as to other markets (i.e., to "resellers" in the terms of the proposed Consent Judgment).

IPI has been engaged in this business since 1961. It currently employs between 70 and 100 persons, and has an annual payroll of approximately $672,000.00. From its former location in Wichita, Kansas, the company moved in 1968 to near Colwich, Kansas, where it presently is located. IPI received two issues of industrial revenue bonds of the City of Colwich totalling $850,000.00. The bonds are being retired on schedule, and approximately $760,000.00 principal amount of those bonds is now outstanding.

In addition to IPI, other principal independent repackagers also serving the reseller market include: Paramount Chemicals, Drew Chemical Corp., Virginia Chemical, R-I-P, Airosol, Inc., Ig-Lo, Technical Chemicals, Surefire, Chem-Spray, Radiator Specialty, U.S. Aviex, and Interdynamics.

2. *The Product and Its Market.* Two types of refrigerant gas are primarily involved, i.e.: grade "12" and grade "22" refrigerant. The principal application of grade "12" refrigerant gas is to the automotive market. This market is and over the years has been served primarily be repackagers, such as IPI. Manufacturers historically have not successfully served this market to any great extent. By contrast, the principal application of grade "22" refrigerant is to the commercial or wholesaler markets for use in virtually all modern, non-automotive types of air conditioning and refrigeration systems. This market is and over the years has been served primarily by the manufacturers. Other grades of refrigerant gas also are involved, but not to the extent that grades "12" and "22" are.

Sales of packaged refrigerant for the current year are estimated at 200,000,000 pounds. The defendant-manufacturers' current share of the market is an estimated 83 percent, and the independent repackager's share is approximately 17 percent. Prior to the entry of IPI into the cylinder market in 1970, the manufacturer absolutely controlled that market.

An understanding of the distinct manufacturer-repackager-reseller functions within the refrigeration production-distribution chain is important. Refrigerant gas is manufactured in bulk from raw chemicals (i.e., carbon tetrachloride, chloroform, and hydrofluoric acid). An estimated 800,000,000 pounds of fluorocarbon was manufactured by the defendant-manufacturers in 1975 for many applications, only some of which include aerosol propellant, blowing agents for plastic foam, and refrigerant products. The total packaged refrigerant market (all applications) uses approximately 25 percent of the fluorocarbon manufactured. The defendant-manufacturers are the sole domestic manufacturers of refrigerant, and none of the independent repackagers has manufacturing facilities. At the other end of the product-distribution chain, the refrigerant "reseller" distributes or sells packaged refrigerant to retailers or to ultimate consumers. In the middle of this chain are the repackagers. They "package" bulk refrigerant gas into cans and cylinders of various sizes and then distribute the gas to the resellers, principally to wholesalers and automotive users.

Although the foregong manufacturer-repackager-reseller references are to separate functions within the production-distribution chain, they are not necessarily references to separate companies or persons. All the defendant-manufacturers are involved in the dual roles of manufacturing as well as of repackaging. Such defendants in effect purchase bulk refrigerant primarily from themselves, package the refrigerant, and compete directly with the independent repackager as a supplier to the wholesaler. The significance of the three distinct functions within the production-distribution chain, and of the duality of roles played by the defendant-manufacturers, is at the crux of IPI's instant Comment. It is the significance which the proposed Consent Judgment totally misses.

3. *Distribution of packaged refrigerant to the wholesaler market.* Preliminarily, the two trade associations which have been particularly significant in the distribution of refrigerant gas to the wholesaler should be discussed.

Historically, the defendant ARW was composed basically of wholesalers who handled parts and accessories for servicing air conditioning and refrigeration systems. ARW members were not normally engaged either in the sale of the basic system hardware, nor at all in the heating business. They sold the parts and accessories for such equipment. The North American Heating and Air Conditioning Wholesalers Association (NHAW) historically sold but did not carry the accessories and parts for air conditioning and refrigeration as well as heating systems. In recent years, however, the foregoing distinctions between the two associations and their memberships have tended to disappear, and now the members of either association might carry air conditioning systems, parts and accessories therefor. Other wholesalers exist, of course, who are not and have never been affiliated with either trade association.

We turn now to the historic channels of distribution of packaged refrigerant to the wholesaler, being the restricted distribution patterns which gave rise to this litigation.

At the time when IPI commenced its business operations, a very strong demand existed in the non-ARW wholesaler market (principally in the NHAW market) for packaged refrigerant products, especially of grade "22". At that time, such products were available primarily through ARW wholesalers, as this litigation has correctly noted. IPI began and has since maintained a nation-wide sales program aimed at supplying packaged refrigerant to all qualified wholesalers, regardless of any trade association affiliation. Over the past several years, IPI has become one of the major, if not indeed the principal, independent supplier of packaged refrigerant to the non-ARW wholesaler market.

When IPI commenced the refrigerant repackaging aspects of its business, in fashion typical of other repackagers, it served only the "12" automotive market. In approximately 1970, IPI also began to serve the "22" cylinder market, primarily the NHAW wholesaler and other non-ARW wholesalers. In response, the majority of the defendant-manufacturers initially refused to deal further with IPI. At no time during the period 1968–1974 did more than two of the defendant-manufacturers sell bulk refrigerant of either grades "12" or "22" to IPI. Further, during a portion of that time (from 1970–1972) only one of the defendant-manufacturers would sell to IPI. The refusal of the remaining manufacturers to sell or even to quote to IPI has continued until recently.

Nonetheless, during the years 1970–1974, IPI became one of the only two principal repackagers to serve successfully both the "12" and the "22" markets. Thus, IPI is a principal independent repackager of "12" and "22" refrigerant gas, and likewise is a principal independent supplier of such packaged product to the non-ARW wholesaler market. In 1974, for instance, more than 25 percent of the NHAW mebership were IPI customers.

In the 1974 season, IPI's principal manufacturer-supplier refused to sell to IPI at volume levels equal to, much less greater than, the prior year. That manufacturer claimed shortage of product. After the 1974

season's contract was executed, the manufacturer refused to make timely deliveries of product to IPI, as it always had done before and as was necessary for IPI to serve its customers during the limited refrigerant season. Because of such product shortages, IPI was unable to confirm customer orders and experienced significant numbers of customer order cancellations. Thereafter, IPI learned that some of its customers were being actively solicited by that manufacturer, that some of IPI's cancelled orders were being served by it, that the manufacturer was seeking new wholesaler accounts, and that the manufacturer was servicing substantial numbers of its regular customers at volume levels greatly increased over previous years' sales. Also, that manufacturer for the first time adopted IPI's method of marketing, which to that point had not been utilized by the defendant-manufacturers.

For these reasons, IPI commenced an anti-trust action in the federal court in Wichita, Kansas. The legal basis for the suit was that an anti-trust violation and an unfair trade practice occur when a sole or principal supplier competes with its customer and at the same time denies him product. From the consumer's standpoint, such conduct constitutes an additional anti-trust violation and unfair trade practice: The customer-wholesaler is denied the competition between the manufacturer and independent sources of supply. Upon a preliminary finding of likelihood of success by IPI on the merits of its case, that Court ordered the manufacturer to fulfill its existing 1974 contract in a proper manner, and to make timely shipments of product to IPI. The action was ultimately settled between the parties and dismissed.

The background is not yet complete. Beginning in the fall and winter of 1974 and continuing through the spring of 1975, all but one of the defendant-manufacturers offered bulk "12" (and in some cases, "22") to IPI. Thus, two additional manufacturers broke their several-year embargo against sales to IPI, albeit only to a modest extent initially; and IPI's previous manufacturer-suppliers continued to offer product to it. Indeed, in the latter portions of 1974 and in the early part of 1975, these manufacturers offered to flood IPI with product. But the product was expensive. The prices were unprecedentedly high. And the products were offered to IPI only at those high prices. The manufacturers explained that the high prices merely reflected increased costs of production.

The latter portion of 1974 through the the spring of 1975 was the period when bulk suppliers and manufacturers alike were seeking to contract wholesaler sales for the 1975 cooling season, striving in competition with one other. During this period, IPI repeatedly saw that the manufacturers' artificially high bulk prices were eliminating the company as a competitor in major segments of the market place. Further, it saw that correspondingly high prices were not being charged directly by the manufacturers to the wholesalers nor by the manufacturers to others with whom IPI competed. As a result of these inflated price structures, IPI lost a substantial number of its national accounts. These were accounts which it had held for many years and which, but for the artificially high cost of its raw supplies and its lack of assured and timely deliveries, It would have continued to hold. Additionally, the company's profit on the sales which it did make were substantially reduced because of this same pricing structure.

As a further indicator that the high bulk price was simply a manipulative market device, the manufacturers rolled their bulk prices to IPI back in approximately May, 1975—but not before the sales period for that refrigerant season was essentially over and not before IPI had been substantially hurt.

Accordingly, the independent repackagers, led by IPT, have served for many years as the life-line of packaged products for the non-ARW wholesaler. Because of the independent repackager, existing wholesalers of other products were allowed to branch out into the packaged refrigerant field, and new ones were enabled to enter the business. Without the independent repackager, the scope and stature of the non-ARW wholesaler today might well have been insufficient to warrant or to sustain the instant litigation.

B. RECENT DEVELOPMENTS

Certain recent developments also are unnoticed in the Competitive Impact Statement. These developments are significant in that they disclose as to the defendant-manufacturers: A continuing intent to engage in anti-competitive practices in the refrigerant market to the detriment of the wholesaler and the independent repackager alike; an understanding of the appropriate mechanisms to carry out those intentions, particularly the elimination of the independent repackager as a competitor in supplying the wholesaler; and an abundantly adequate power to achieve those ends.

These developments have occurred in the last eighteen months or so, in the very shadow of the proposed Consent Judgment. The defendant-manufacturers presumably have been aware of the essential terms of the proposed Consent Judgment during those months. These recent developments indicate, therefore, the practices, procedures and attitudes which the defendant-manufacturers propose to adopt if the Consent Judgment is approved in its present form.

Those developments are:

1. The pricing of bulk refrigerant gas to IPI and the pricing of packaged refrigerant to the wholesaler all at prices which necessarily result in IPI's having to price packaged refrigerant to the wholesaler at levels which are uneconomical to IPI and non-competitive with the corresponding prices listed by the manufacturer in its publications.

For example, recent manufacturer-published quotes of bulk refrigerant "12" plus only the cost to IPI of the can or cylinder approximate the manufacturer-published list price of packaged product to the wholesaler.

But even based upon IPI's actual costs of bulk refrigerant "12," IPI can meet the manufacturer's published list prices only by absorbing direct and indirect overhead costs, freight and profit. Typically, packaged product is sold to the wholesaler at prices less than the published list prices, various discounts or credits being given for cash and for "competitive conditions." Last year, manufacturers' "competitive discounts" alone at one point reached as much as 20 percent off of published list price, before further reduction for prompt payment. To be competitive with the actual packaged price of the manufacturers, IPI also would have to absorb similar terms, which it cannot do.

Even more startling, recent manufacturer quotes to IPI for certain exotic gas in bulk exceeded the manufacturer's published list price for such packaged gas to the wholesaler. The foregoing are merely some of the examples which could be given.

As a result, competition with the defendant-manufacturers in the wholesaler market is economically disastrous, Profit margins are eroded to the point of elimination. IPI believes that its production and selling costs are at least as favorable as those of the other independent repackagers, and that its position as above set forth is representative of the respective positions of the other independent repackagers as well.

2. The defendant-manufacturers have used and continue to use their control over bulk refrigerant together with their market dominance to keep the prices of packaged refrigerant in the wholesaler market in a constant state of turmoil. The years 1974–1975 were marked by numerous manufacturer-led price changes from manufacturer-published list prices. This contrasts with only a few such price changes per year in each of the preceding several years. In 1974, the prices of bulk and packaged refrigerant were dramatically increased. In 1975, the prices of packaged refrigerant were greatly decreased, but the prices of bulk remained essentially the same. The message implicit in this flex of defendant-manufacturer muscle is clear: Only the manufacturer, not the independent repackager, has certainty of supply; only the manufacturer sets the package price to the wholesaler. The message is not lost upon the trade.

These recent developments have the effect, if not indeed the underlying purpose, of eliminating the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler. These developments reflect the continuing intent of the defendant-manufacturers to pursue anti-competitive ends and means in the refrigerant market. They reflect the defendant-manufacturers' awareness of and power to accomplish the things which will remove the independent repackager from the wholesaler market to the exclusive benefit of the manufacturers. And these developments clearly demonstrate the defendant-manufacturer's view of the proposed Consent Judgment.

C. THE PROPOSED CONSENT JUDGMENT

The proposed Consent Judgment, viewed through the Competitive Impact Statement, constitutes only a fragmented description of the refrigerant market and the most cursory study of the impact which the decree would have upon competition in that market. Few of the circumstances and events described in the preceding section ("Prior and Recent Practices and Events in the Wholesaler Market") of this Comment are reported in the Competitive Impact Statement. Without considering and addressing those matters, the proposed Consent Judgment cannot be in the public interest nor in any way properly approvable by this Court.

By Section IV(A), the proposed Consent Judgment enjoins the defendant-manufacturers from agreeing to refuse to sell refrigerant gas to any group or class of customers. By Section VI, it requires each of the defendant-manufacturers to sell, for a five-year period, refrigerant gas to any "reseller." (See Competitive Impact Statement, pp. 4–5.)

As analyzed by the Competitive Impact Statement, under the foregoing provisions: "Certain classes of customers such as repackagers and resellers who previously supplied these wholesalers may find their business diminished." (Competitive Impact Statement, p. 8.) Explicit in that analysis is the awareness that under the proposed Consent Judgment the independent repackager will lose significant portions of his wholesaler trade to the manufacturers. The analysis does not project that the proposed Consent Judgment will secure unto that trade the benefits of continued and expanded manufacturer-vs.-independent supplier competition. Rather, it clearly reports that the delivery of this trade exclusively to the defendant-manufacturers is a foregone conclusion.

The parties must have been aware that the proposed Consent Judgment would eliminate the independent from the market and reduce manufacturer-independent competition. Why the independent repackager should be eliminated or its vigor reduced so that the

manufacturers will begin properly to serve the wholesaler is not explained. Why the independent repackager should be ousted from or economically penalized in the wholesale market so that the manufacturers will start obeying the anti-trust laws is nowhere justified either in the proposed Consent Judgment document or by the facts of this case.

That competition between manufacturer and independent suppliers falls within the protection of the anti-trust laws is clear from the cases. "*Industrial Building Materials, Inc.* vs. *Interchemical Corp.*" (CA 9, 1970) 437 F. 2d 1336 contains an excellent statement of and application of those principles.

We completely fail to see what interest the Department or this Court can have in returning the wholesaler market to the defendant-manufacturers, who have so long so thoroughly abused it, as witnessed by this action. The public interest would be satisfied, indeed would be extraordinarily well served, by a final decree which would preserve and promote competing manufacturer-vs.-independent sources of supply to the wholesaler.

The Competitive Impact Statement's foregoing analysis of Sections IV(A) and VI then continues: "• • • but they [i.e., the repackagers and resellers] may also find that they now have a more reliable source of supply" (at p. 8).

As a reference to a key provision in the proposed settlement of th's anti-trust case, that statement is an absurdity.

"May" is vague and elusive. A provision which "may" do something, equally "may not" do it. By saying "may," the draftsmen of the proposed Consent Judgment are simply saying that they don't know what will happen, and are not even willing to undertake that anything specific should happen. The defendant-manufacturers know what they intend to do under the Consent Judgment about supplying the independent repackager. Those defendants are not willing to represent that their supplies will "probably" or even "likely" be more reliable, quantitatively or economically, under that decree than they have been in the past. And the Department seems to be at a total loss in the matter. Given the circumstances of the refrigerant market, the role of the independent repackager therein, and the need for anti-trust relief, a decree which only "may" assure competitive manufacturer-vs.-independent supplies to the wholesaler has no inherent necessity or imperative to do anything at all.

The "more reliable supply" statement apparently refers to the quantitative rather than to the economic aspects of supply to independent repackagers. Even so, little may be found in the proposed Consent Judgment as interpreted by the Competitive Impact Statement to support that supposition.

No provision assures that a sufficient supply of refrigerant will be made available to maintain or to promote the independent repackager as a meaningful competitor to the defendant-manufacturers in the wholesaler market. A manufacturer need only to sell "to the extent that it has gas and containers available." Although each defendant "shall afford all resellers a fair opportunity to place orders," nothing prescribes how or when the manufacturer is to fill such orders or ship product thereunder. Recognizing that a defendant-manufacturer will not be in a position at all times to supply all resellers who may seek to purchase refrigerant, the proposed Consent Judgment allows "each defendant-manufacturer [to] determine, unilaterally • • • the manner in which demand or anticipated demand shall be met on the basis of any allocation, reasonable and equitable under all the circumstances." Further, in working out its allocation formula, the manufacturer "may take into account its objectives with regard to container mix." A very suspicious set of provisions, indeed!

The decree provides no guidelines for the parties or the Court in determining whether and to what extent refrigerant shall be deemed "available." May the manufacturers refuse to commit product to the independent repackager based upon actual—or hoped for—demand from the wholesalers or other classes of trade; if so, to what extent and for how long? That is to inquire: May the manufacturers now shove all they can to the wholesaler market, leaving little or nothing available for the independent, who seeks to compete with the manufacturers in that market; or can the manufacturers now hold the orders of the independent until the prime of the refrigerant season has passed before the manufacturers either must accept those orders or ship thereunder? May the manufacturer assert the non-availability of refrigerant to the independent repackager based upon the manufacturer's development and promotion of new products, while at the same time filling refrigerant orders from wholesalers? Neither does the proposed Consent Judgment provide any guidelines for working out allocation and container mix issues in terms of continued and adequate supplies to the independent repackager.

Totally overlooked by the proposed Consent Judgment are any provisions requiring promptness in the manufacturers' acceptance of orders or requiring timeliness in the manufacturers' shipment of refrigerant under accepted orders. IPI has had expensive experience with some of the defendant-manufacturers in delaying acceptance of orders, in refusing to set or to abide by shipping schedules, and in failing to ship in a timely fashion. The result has been that IPI has lost substantial sales because it did not have the refrigerant to package; meanwhile, IPI's manufacturer-suppliers were competing with it directly in the wholesaler market, were filling their own orders, and were exploiting IPI's lack of available and reliable supply. Any final decree entered herein should impose upon the defendant-manufacturers affirmative duties requiring the prompt acceptance of orders as well as the timely and seasonable shipment of refrigerant thereunder, particularly concerning orders of their competitors, the independent repackagers.

The deficiencies in the proposed Consent Judgment's provisions concerning the physical or quantitative aspects of assuring bulk supplies to the independent repackager are significant. Nonetheless, those deficiencies are overshadowed by the omission of any terms concerning the prices at which the defendant-manufacturers are to sell bulk refrigerant to the independent repackager or to themselves as "repackagers," or at which they are to sell packaged refrigerant to the wholesaler. That the defendants must sell "on such defendant-manufacturer's regular terms and conditions of sale • • • to any reseller who pays cash or meets its customary credit requirements" misses the point entirely. As earlier noted in this Comment, the defendant-manufacturers occupy the dual positions of manufacturer as well as repackager. Among the recent developments which were discussed above was that the manufacturers were quoting bulk refrigerant to the independent repackager and were quoting packaged refrigerant to the wholesaler all at prices which would not allow the independent to compete with the manufacturers for the wholesaler trade. One explanation is that the manufacturer-repackager is not "selling" bulk to itself at the same prices as it is quoting to the independent. Because other direct packaging costs, freight, etc. tend to be generally standardized, the only remaining alternative explanation is that the manufacturers are selling to the wholesaler at or below the manufacturers' cost.

The drift of the manufacturer's activities during the course of this litigation has been from the original crude refusal to sell to certain wholesalers to the present sophisticated effective refusal to sell by the deft orchestration of pricing mechanisms. Rather than curing the manufacturer-created anti-trust problems in the refrigerant market, this case in the posture of the proposed Consent Judgment has simply matured those problems. If this Court and the Department of Justice are not up to combating these current refinements of the manufacturer's conduct, the wholesalers' situation will be worsened by the judicially-approved elimination of the independent repackager as a source of supply competitive with the manufacturer.

In sum, the proposed Consent Judgment lacks adequate quantitative and price assurances concerning refrigerant sales from the defendant-manufacturers to the independent repackager. That Consent Judgment will foster the total takeover of the wholesalers' supply channels. The independent repackager segment of the refrigerant market will be eliminated. And the wholesaler as well as the ultimate consumer will be deprived of the benefits of the competition between the manufacturer and the independent supplier. Undoubtedly, so long as the manufacturers' present pricing techniques continue, the wholesaler can purchase packaged refrigerant from those defendants cheaper than he can from the independent repackager. In the balance and over the long term, however, preserving manufacturer-independent supplier competition must be viewed as more in the public interest than any short-term price bargains.

Conclusion

Three principal deficiencies in the proproposed Consent Judgment have been discussed in this Comment: (1) The failure to contain assurances that the defendant-manufacturers will provide the independent repackager on a timely basis with physical quantities of bulk refrigerant adequate to enable the independent repackager to compete with the manufacturer for the wholesaler trade; (2) the failure to contain assurances that the defendant-manufacturers' sale of bulk refrigerant to the independent repackager and their sale of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler; and (3) the failure to provide that any reseller, including an independent repackager, may apply to the Court directly for relief under Section IX of the Final Judgment.

Until these deficiencies are corrected, the proposed Consent Judgment is not in the public interest. This Court should approve that Consent Judgment only if provisions are added covering the following general areas:

A. Prohibiting each defendant-manufacturer from instituting and/or pursuing any practice with regard to pricing, terms of sale, or other types of action in the sale of bulk or packaged refrigerant to IPI or to any other independent repackager or to any wholesaler with the intent or effect of reducing or eliminating competition between such defendant-manufacturer and IPI or any other independent repackager;

B. Providing that it shall be unreasonable for any defendant-manufacturer to institute any plan for the distribution of its refrigerant that gives any less preference to the independent repackager than to any other customer or class of customer of such defendant; and

C. Providing that jurisdiction be retained by the Court for the purpose of enabling IPI or any other independent repackager to apply directly to this Court for relief under Section IX of the Final Judgment.

In Appendix "A" hereto, IPI offers some specific suggestions which might remedy the deficiencies of the proposed Consent Judgment. Being suggestions only and offered solely to be constructive, they do not constitute an essential part of IPI's Comment. Nonetheless, those suggestions do address themselves to the general areas which must be covered if the Consent Judgment is to serve adequately the public interest. And these general areas, as above set out, must serve as reference points to this Court in its determination whether to approve the presently proposed or any future proposed consent decree.

With these deficiencies corrected in the general areas set forth, the proposed Consent Judgment is otherwise generally satisfactory to IPI.

Respectfully submitted,

RICHARD JONES,
ROBERT J. O'CONNOR,
Hershberger, Patterson, Jones & Roth, 700 Farm Credit Banks Building, Wichita, Kansas 67202.

GEORGE F. KARCH, Jr.,
Thompson, Hine & Flory, 1100 National City Bank Building, Cleveland, Ohio 44114.

By RICHARD J. O'CONNOR.

[FR Doc.76-24843 Filed 8-24-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3839]

CALIFORNIA

Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), the Juniper Petroleum Corporation has applied for a 3½" low pressure gas pipeline right-of-way across the following described public lands:

MOUNT DIABLO BASE AND MERIDIAN

CALIFORNIA

T. 30 S., R. 20 E.
Sec. 25, in E½NE¼
T. 30 S., R. 21 E.
Sec. 19, in lot 17

This pipeline will carry gas across 4670.34 feet of national resource lands in Kern County, California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the State Office, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.76-24842 Filed 8-24-76;8:45 am]

MONTANA STATE MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Montana State Multiple Use Advisory Board of the Bureau of Land Management will meet September 8, 9, and 10, 1976. The September 8 session will be held in the meeting room of the First State Bank of Fort Benton, 1502 Main St., Fort Benton, Montana, at 7 p.m. This session will be devoted to briefings and presentations for the Board Members on problems and opportunities associated with managing national resource lands and resources along the Missouri River in Montana.

This meeting is open to the public, and time will be provided for interested persons to make oral presentations to the board on management of national resource lands and resources along the Missouri River.

Written presentations on any subject may be filed for consideration by the board at the meeting or with the State Director, Bureau of Land Management, 222 North 32nd St., P.O. Box 30157, Billings, MT 59107.

Persons wishing to make presentations to the board at the September 8 session should notify the Montana Bureau of Land Management State Director at the above address prior to September 7, 1976.

The September 9–10 sessions will be in the form of a guided field trip on the Missouri River in Montana between Coalbanks Landing and Judith Landing with a campout on the night of September 9 at Hole in the Wall. The field trip is also open to the public. Persons going on the trip will have to provide their own transportation, equipment and meals.

Further information concerning this meeting may be obtained from Gordon W. Flint, Public Affairs Officer, Bureau of Land Management, P.O. Box 30157, Billings, MT 59107. Telephone (406) 245-6711, Ext. 6561.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.76-24808 Filed 8-24-76;8:45 am]

ROSWELL DISTRICT MULTIPLE USE ADVISORY BOARD

Public Meeting

Notice is hereby given that the Roswell District Multiple Use Advisory Board of the Bureau of Land Management will meet in open session September 20, 1976, at the Roswell Inn, 1815 North Main, Roswell, New Mexico.

The morning session will begin at 8 a.m. and will be devoted to review and recommendation on the Department of the Interior's proposed revised regulations for the management of livestock grazing on lands administered by the Bureau of Land Management. Time will be available for a limited number of brief oral statements by members of the public.

The afternoon session will begin at 1 p.m. and will be for further public comments on antelope fencing and fence modifications. No recommendations will be asked for in this session.

Written statements on either subject should be presented to the official listed below. Further information concerning this meeting may be obtained from James H. O'Connor, District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201, telephone number 622-7670.

Dated: August 17, 1976.

JAMES H. O'CONNOR,
District Manager.

[FR Doc.76-24887 Filed 8-24-76;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, September 25, 1976, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long (Chairman), Glen Echo, Maryland.
Mrs. Anthony C. Morella, Bethesda, Maryland.
Mr. Donald Frush, Hagerstown, Maryland.
Honorable Vladimir A. Wahbe, Baltimore, Maryland.
Mr. Anthony Abar, Annapolis, Maryland.
Mrs. John L. Melnick, Arlington, Virginia.
Mrs. Dorothy Grotos, Arlington, Virginia.
Mr. Burton C. English, Berkeley Springs, West Virginia.
Mr. Henry W. Miller, Jr., Paw Paw, West Virginia.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mr. Ronald A. Clites, LaVale, Maryland.
Mrs. Mary Miltenberger, Cumberland, Maryland.
Dr. James H. Gilford, Frederick, Maryland.
Dr. Kenneth Bromfield, Frederick, Maryland.
Mr. Edwin F. Wesely, Chevy Chase, Maryland.
Mr. John C. Frye, Gapland, Maryland.
Mr. Rome F. Schwagel, Keedysville, Maryland.

The matters to be discussed at this meeting include:

1. Whiting's Neck Farm Community.
2. Western Maryland Railway Abandonment.
3. Interpretive Prospectus.
4. Abner Cloud House.
5. Legislation to Dedicate C&O Canal NHP to Justice Douglas.
6. Cumberland Boundary Legislation.
7. Reaction to General Plan.
8. Canal Construction Projects.
9. Montgomery County AWT.

10. Land Acquisition.
11. Commission Goals.
12. Park Maintenance: Mowing Policy.
13. Superintendent's and Area Reports.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at Area Code 202–426–6715. Minutes of the meeting will be available for public inspection 2 weeks after the meeting, at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: August 19, 1976.

RICHARD L. STANTON,
Director, National Capital Parks.

[FR Doc.76-24824 Filed 8-24-76;8:45 am]

Office of the Secretary

COLORADO RIVER STORAGE PROJECT

Notice of Proposed Revised Allocation of Peaking Power

Pursuant to Pub. L. 84–485, April 11, 1956 (70 Stat. 105), and by virtue of authority under the Reclamation Project Act of 1939, August 4, 1939 (53 Stat. 1187, 1194, 1198), the Secretary of the Interior proposes to allocate additional power from the Colorado River Storage Project (CRSP) to be marketed by the Bureau of Reclamation.

There will be 108 megawatts of peaking power available without energy for each summer season (April through September) and 227 megawatts without energy for each winter season (October through March) beginning with the 1977–78 winter season and extending through the end of the 1989 summer season.

Twelve public comments were received on the proposed allocation which was published by notice in the FEDERAL REGISTER, Vol. 40, No. 247, Tuesday, December 23, 1975. A detailed review of the comments received was made, and copies of the comments and the review are available for public inspection at either of the offices below:

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–5337.

Regional Director, Attention: Code 600, Upper Colorado Region, Bureau of Reclamation, Department of the Interior, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5493.

Based on that review, a proposed revised allocation has been made and appears below. The principal changes are that the quantities of peaking power rejected by various allottees have been reallocated among those allottees which requested additional amounts of peaking power.

Northern Division allocations were increased to those allottees which requested additional amounts in proportion to the original allocation since the majority of requests were not for definite amounts but for whatever additional quantities would be available. The Southern Division allocations were increased to those allottees which requested additional amounts of peaking power in proportion to the requests since all such requests were for definite amounts of power.

The proposed revision to the original allocation appears below:

Entities wishing to do so should submit their comments in writing to either of the offices shown above on or before September 24, 1976. After review of any comments received, a final allocation will be prepared and published, after which allottees will have until December 1, 1976, to place their allocations under contract. Any allocations not placed under contract by that date will be automatically rescinded.

Dated: August 17, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

PROPOSED PEAKING POWER ALLOCATION
Colorado River Storage Project

Customer	Summer Season			Winter Season		
	Accepted	Additional	Total	Accepted	Additional	Total
Northern Division						
Arizona						
Navajo Tribal Utility Authority	1,350	272	1,622	4,840	20	4,860
Page	470	95	565	1,720	442	2,162
Sub-total	1,820	367	2,187	6,560	462	7,022
Colorado						
Colorado Springs	1,130	228	1,358	13,440	3,456	16,896
Delta	80	16	96	270	30	300
Fleming	10	2	12	10	3	13
Fort Morgan	590	118	708	1,860	478	2,338
Gunnison	340	/1	340	1,610	/1	1,610
Haxtun	40	8	48	110	28	138
Holyoke	110	22	132	400	103	503
Oak Creek	20	4	24	100	26	126
Platte River Power Authority	8,770	1,768	10,538	36,270	9,327	45,597
Wray	40	8	48	230	59	289
Yuma	80	16	96	290	75	365
Sub-total	11,210	2,190	13,400	54,590	13,585	68,175
Colorado & Wyoming						
Tri-State G. & T. Assn.	18,930	/2	18,930	48,120	/2	48,120
New Mexico						
Energy Research & Development Adm.	15,000	3,025	18,025	15,000	3,858	18,858
Farmington	1,130	228	1,358	4,040	960	5,000
Plains G. & T. Cooperative	8,520	1,718	10,238	35,760	9,196	44,956
Sub-total	24,650	4,971	29,621	54,800	14,014	68,814
Wyoming						
Cody	200	40	240	710	183	893
Consumers L. & P. Assn.	10	/1	10	20	/1	20
Fort Laramie	10	2	12	20	5	25
Guernsey	30	6	36	110	28	138
Lingle	10	2	12	30	8	38
Lusk	20	4	24	270	69	339
Pine Bluffs	10	2	12	50	13	63
Torrington	130	26	156	250	64	314
Wheatland	70	14	84	240	62	302
Willwood	10	2	12	10	3	13
Sub-total	500	98	598	1,710	435	2,145
Utah						
Brigham City	580	117	697	2,960	761	3,721
Levan	30	6	36	110	28	138
Murray	1,920	387	2,307	7,820	2,010	9,830
Intermountain Consumer P.A.						
Beaver	100	20	120	570	147	717
Bountiful	1,870	377	2,247	9,180	706	9,946
Bridger Valley Elec. Assn.	600	121	721	2,260	581	2,841
Dixie R.E.A.	610	123	733	2,900	746	3,646
Ephraim	120	24	144	750	193	943
Escalante Valley Elec. Assn.	690	139	829	1,950	502	2,492
Fairview	40	8	48	200	51	251
Fillmore	130	26	156	510	131	641
Flowell Elec. Assn.	310	62	372	80	21	101
Garkane Power Assn.	1,000	201	1,201	3,980	1,024	5,004
Heber	230	46	276	1,290	332	1,622
Holden	20	4	24	80	21	101
Hyrum	150	30	180	770	198	968
Kanosh	20	4	24	80	21	101
Kaysville	120	24	144	560	144	704
Lehi	200	40	240	1,080	278	1,358
Logan	1,130	228	1,358	4,970	1,278	6,248
Meadow	20	4	24	60	15	75
Moore	50	10	60	310	80	390
Moon Lake Elec. Assn.	3,460	697	4,157	12,770	3,284	16,054
Morgan	120	24	144	530	136	666
Mt. Pleasant	80	16	96	400	103	503
Mt. Wheeler Power, Inc.	1,650	332	1,982	3,440	885	4,325
Oak City	20	4	24	70	18	88
Panguitch	80	16	96	410	105	515
Spring City	20	4	24	60	15	75
U.C.P.A. total	11,840	2,384	15,424	49,260	11,075	60,335
Sub-total	25,370	3,094	28,464	80,150	23,874	74,024
Northern Division total	72,480	10,720	83,200	225,930	62,370	288,300

Customer	Summer Season Accepted	Summer Season Additional	Summer Season Total	Winter Season Accepted	Winter Season Additional	Winter Season Total
Southern Division						
Arizona						
Arizona Elec. Power Coop. /3	2,430	/1	2,430	270	/1	270
Colorado River Indian Agency	80	/1	80	/4	—	—
Electrical District No. 2	2,170	2,537	2,707	470	/1	470
Electrical District No. 6	710	1,186	1,896	/4	—	—
Maricopa County M.W.C.D.	650	1,226	1,876	/4	—	—
Mesa	540	6,269	6,809	/4	—	—
Navajo Tribal Utility Authority	280	1,326	1,606	120	1,980	2,100
Roosevelt Irr. Dist.	580	940	1,520	/4	—	—
Roosevelt Water Conservation Dist.	280	1,140	1,420	/4	—	—
Thatcher	60	/1	60	30	/1	30
Wellton-Mohawk I.D.D.	30	994	1,024	20	693	713
Yuma Proving Ground	50	132	182	30	218	248
Sub-total	5,860	15,750	21,610	840	2,891	3,731
Nevada						
Div. of Colo. River Resources	3,190	/1	3,190	1,820	3,149	4,969
Southern Division total	9,050	15,750	24,800	2,660	6,040	8,700
GRAND TOTAL	81,530	26,470	108,000	228,590	48,410	277,000

/1 Did not request additional peaking power.
/2 Applied for additional peaking power beyond March 1, 1976, deadline.
/3 Includes Mohave Electric Cooperative.
/4 Rejected peaking power.

[FR Doc.76-24713 Filed 8-24-76;8:45 am]

NATURAL SCIENCES ADVISORY COMMITTEE FOR FISH AND WILDLIFE AND PARKS

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Natural Sciences Advisory Committee for Fish and Wildlife and Parks will be held on September 10 and 11 in the Superintendent's Conference Room, Mammoth Hot Springs, Yellowstone National Park.

The purpose of the Advisory Committee is to advise the Secretary of the Interior with regard to the planning and execution of the fish and wildlife research and habitat preservation programs and natural history scientific research programs.

The members of the Advisory Committee are as follows:

Dr. Durward L. Allen (Chairman), Lafayete, Indiana
Dr. A. Starker Leopold, Berkeley, California
Dr. Frank C. Bellrose, Havana, Illinois
Dr. Eric G. Bolen, Sinton, Texas
Dr. Clark Hubbs, Austin, Texas
Dr. Laurence R. Jahn, Washington, D.C.
Dr. F. Wayne King, Bronx, New York
Dr. Willard D. Klimstra, Carbondale, Illinois
Dr. Robert T. Lackey, Blacksburg, Virginia
Mr. John L. Spinks, Jr., (Executive Secretary), Washington, D.C.

Meetings will commence at 9 a.m. on September 10 in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:

Introductory remarks by Assistant Secretary Reed
Review of Predator Research Program of the U.S. Fish and Wildlife Service
Review of Cooperative Wildlife Research Unit Program, U.S. Fish and Wildlife Service

The meeting will continue, commencing 9:00 a.m. on September 11, in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:

National Wildlife Refuge System—Implementation of Recommendations of 1968 Leopold Report, Fish and Wildlife Service
Fisheries Management Program, Yellowstone National Park, National Park Service
Natural Fire Management, Yellowstone National Park, National Park Service
Status, Management, and Possible Reintroductions of *Canis lupus irremotus*
National Park Service, Fish and Wildlife Service
Consideration of Agenda and Confirmation of Dates for next Committee Meeting

The meetings will be open to the public, but facilities and space to accommodate members of the public are limited, and it is expected that not more than 20 people will be able to attend.

Any member of the public may file with the Advisory Committee a statement in writing concerning any of the matters to be discussed. Persons desiring further information concerning this meeting or who wish to file written statements may contact Mr. John L. Spinks, Jr., Office of the Assistant Secretary of Interior for Fish and Wildlife and Parks, Washington, D.C., at 202 343-6767.

Minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3153, Interior Building, Washington, D.C., and in the Superintendent's Office, Yellowstone Park Headquarters.

Dated: August 19, 1976.

JOHN L. SPINKS, Jr.,
Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc.76-24822 Filed 8-24-76;8:45 am]

TASK FORCE ON THE AVAILABILITY OF FEDERALLY-OWNED MINERAL LANDS

Change of Location of Public Hearings

Notice is hereby given that the location of the public hearings being held by the Department of the Interior's Task Force on the Availability of Federally-Owned Mineral Lands, September 15 and 16 at 9 a.m., has been changed from the Department of the Interior's South auditorium to the auditorium of the Main Interior Building at 18th and C Streets, NW.

Hearings in Salt Lake City, Utah, September 8 and 9, will be held at the Salt Palace, as originally scheduled.

DENNIS SACHS,
Chairman,
Deputy Assistant Secretary.

AUGUST 18, 1976.

[FR Doc.76-24810 Filed 8-24-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BOULDER PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Boulder Planning Unit, Forest Service Report Number USDA-FS-R1-04-DES-Adm R1-76-22.

The environmental statement concerns a proposed land use plan for Boulder Planning Unit, Boundary County, Idaho. Approximately 58,000 acres are included in the planning unit of which 55,640 acres are National Forest land. This plan allocates resources and specifies land use prescriptions for National Forest land only. Resource information for lands in other ownership is also included for owners/managers to use as they wish.

With the exception of State or private holdings generally located along the north and west boundaries of the planning unit, most of the National Forest ownership is contiguous. The proposed plan would emphasize timber management for three of the five management units, big game winter range for a fourth, and wildlife and recreation values for a fifth. Critical grizzly bear habitat, which occurs in two management units, would not be developed.

Sizeable undeveloped areas exist within and contiguous to the Boulder unit. Planning processes for this unit included a wilderness evaluation of this total undeveloped acreage. Under the proposed plan for Boulder no portion of the undeveloped areas within this unit would be studied for possible inclusion in the National Wilderness Preservation System. However, much of the unit's currently undeveloped areas, 24,120 acres out of a possible 39,800, would remain in an undeveloped state.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

USDA Forest Service, Bonners Ferry Ranger District, Route No. 1, Box 390, Bonners Ferry, ID 83805.

A limited number of single copies are available upon request to Forest Supervisor Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

Comments must be received by October 18, 1976 in order to be considered in the preparation of the final environmental statement.

RALPH D. KIZER,
Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24888 Filed 8-24-76;8:45 am]

SOUTH FOURCHE UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the South Fourche Planning Unit, Ouachita National Forest, Arkansas, USDA-FS-R8-DES (Adm.)-76-08.

This environmental statement concerns the proposed management direction and resource allocation for the South Fourche Unit, Ouachita National Forest.

This draft environmental statement was transmitted to CEQ on August 16, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road, NW., Room 804, Atlanta, Georgia 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

A limited number of single copies are available upon request to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901. Comments must be received by October 16, 1976 in order to be considered in the preparation of the final environmental statement.

ALVIS Z. OWEN,
Forest Supervisor.

AUGUST 16, 1976.

[FR Doc.76-24806 Filed 8-24-76;8:45 am]

THOMPSON CREEK LAND USE PLAN FOR THE WHITE RIVER NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Thompson Creek Land Use Plan for the White River National Forest. The Forest Service report number is USDA-FS-R2-FES (Adm) FY-76-12.

The environmental statement concerns a proposal to revise the existing multiple use plan for the Thompson Creek area of the White River National Forest.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.
USDA, Forest Service, White River National Forest, Old Federal Building, P.O. 948, Glenwood Springs, CO 81601.
USDA, Forest Service, Sopris Ranger District, Main & Weant, P.O. Box 248, Carbondale, CO 81623.

A limited number of single copies are available upon request to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601. Comments must be received by October 18, 1976, in order to be considered in the preparation of the final environmental statement.

JOHN C. SMITH,
Acting Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24840 Filed 8-24-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, September 14, 1976, at 9 a.m. in Room 1096, 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, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App., Sec. 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, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend areas where improvements can be made.

The agenda for the meeting is:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Status review of parameters format.

(4) Presentation by Donald Sackman: Administrative information system/industry certification.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any ime 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, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington D.C. 20230, telephone: A/C 202–377–4196.

Dated: August 20, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76–24910 Filed 8–24–76;8:45 am]

PRESIDENT'S EXPORT COUNCIL

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. I, (Supp IV, 1974), notice is hereby given that a meeting of the President's Export Council Task Force on Export Promotion will be held on September 16, 1976 from 9 a.m. to 4:30 p.m. in Conference Room 3817 of the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

The Council Task Force was established in accordance with the provisions of Executive Order 11753 of December 20, 1973 (38 FR 34983) and the Federal Advisory Committee Act. The objectives of the Task Force will be that of reviewing export promotion programs and activities of the Department of Commerce and developing recommendations, including proposals for new programs, in this area for Export Council consideration.

The purpose of this meeting will be to receive the recommendations of the Task Force sub-groups on Data Collection, Communicating with Exporters and Communicating with Customers of Exporters and initiate the preparation of the Task Force report to the Export Council.

The meeting is open to the public and approximately 10 seats will be available on a first-come, first-served basis. Inquiries may be addressed to Mr. Friedrich R. Crupe, Executive Secretary of the President's Export Council, U.S. Department of Commerce, Domestic and International Business Administration, Bureau of International Commerce, Washington, D.C. 20230 (telephone 202–377–2373).

Copies of minutes of the meeting will be available on request.

Any member of the public who wishes to file a written statement with the Task Force may do so before or after the meeting.

Dated: August 19, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant Secretary for International Commerce.

[FR Doc.76–24853 Filed 8–24–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N–0303; DESI 8564]

HIGH MOLECULAR WEIGHT DEXTRAN 6 PERCENT

Withdrawal of Approval of New Drug Applications

In a notice (DESI 8564; Docket No. FDC–D–333 (now Docket No. 76N–0303)) published in the FEDERAL REGISTER of May 27, 1971 (36 FR 9670), the Commissioner of Food and Drugs offered an opportunity for hearing on his proposal to issue an order withdrawing approval of the following drug products containing dextran, which is used as a blood volume expander. Approval is now being withdrawn, effective September 7, 1976.

NDA 11–951; 6 Percent Dextran; Cooper Laboratories, Inc., 1259 Route 46, Parsippany, NJ 07054.

NDA 9–310; Plasran 6 Percent; Mead Johnson Laboratories, Division of Mead Johnson & Co., 2404 Pennsylvania St., Evansville, IN 47721.

NDA 8–858; Dextran Injection 6 Percent; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

The basis of the proposed action was that here was lack of substantial evidence that the drug products are effective for certain of their labeled claims, and that the applications had not been supplemented to remove the less-than-effective claims from the labeling.

Neither the holders of the new drug applications nor any other person filed a written appearance of election as provided by the notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.31), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 8–858, 9–310, and 11–951 and all amendments and supplements applying thereto, is withdrawn effective September 7, 1976.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76–24846 Filed 8–24–76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 9, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Anesthesiology Device Classification Panel.
Cardiovascular Device Classification Panel.
Dental Device Classification Panel.
Ear, Nose, and Throat Device Classification Panel.
Gastroenterological and Urological Device Classification Panel.
General and Plastic Surgery Device Classification Panel.
General Hospital and Personal Use Device Classification Panel.
Neurological Device Classification Panel.
Obstetrical and Gynecological Device Classification Panel.
Ophthalmic Device Classification Panel.
Orthopedic Device Classification Panel.
Physical Medicine Device Classification Panel.
Radiological Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the

act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

These newly established panels supersede the following device review panels listed with their dates of establishment:

Panel on Review of Anesthesiology Devices, established on October 3, 1972;
Panel on Review of Cardiovascular Devices, established on March 22, 1972;
Panel on Review of Dental Devices, established on October 3, 1972;
Panel on Review of Ear, Nose, and Throat Devices, established on October 15, 1973;
Panel on Review of Gastroenterological and Urological Devices, established on April 16, 1973;
Panel on Review of General and Plastic Surgery Devices, established on October 15, 1973;
Panel on Review of General Hospital and Personal Use Devices, established on October 15, 1973;
Panel on Review of Neurological Devices, established on October 15, 1973;
Panel on Review of Obstetrical and Gynecological Devices, established on April 16, 1973;
Panel on Review of Ophthalmic Devices, established on October 15, 1973;
Panel on Review of Orthopedic Devices, established on April 25, 1972;
Panel on Review of Physical Medicine (Physiatry) Devices, established on October 15, 1973;
Panel on Review of Radiological Devices, established on October 15, 1973.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24850 Filed 8-24-76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 10, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Clinical Chemistry Device Classification Panel.
Clinical Toxicology Device Classification Panel.
Hematology Device Classification Panel.
Immunology Device Classification Panel.
Microbiology Device Classification Panel.
Pathology Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectivenes of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24849 Filed 8-24-76;8:45 am]

[Docket No. 76N-0246; DESI 11730]

MEPERIDINE HYDROCHLORIDE AND PROMETHAZINE HYDROCHLORIDE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 11730; Docket No. FDC-D-440 (now Docket No. 76N-0246)) published in the FEDERAL REGISTER of July 11, 1972 (37 FR 13563), the Food and Drug Administration (FDA) announced its conclusions that the drug product described below is (1) effective as a preanesthetic medication and as an adjunct to local or general anesthesia; (2) possibly effective for the analgesic claims made for it (because of a lack of evidence that promethazine contributed to the analgesic effectiveness of meperidine) and for use as an antiemetic; and (3) lacking substantial evidence of effectiveness for its amnesic action. The notice also offered an opportunity for a hearing concerning the indication concluded at that time to lack substantial evidence of effectiveness. The FDA has reconsidered the information available with respect to the various analgesic claims for which the product was regarded as possibly effective and it is concluded that the drug is effective as an analgesic (and sedative) in preanesthetic medication. The manufacturer of the drug has deleted from the labeling all of the other possibly effective claims and the indication stated to lack substantial evidence of effectiveness. No person has submitted any data in support of the remaining possibly effective indications and those indications are now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before September 24, 1976.

The notice that follows does not pertain to the indication stated in the notice of July 11, 1972, to lack substantial evidence of effectiveness. No person requested a hearing concerning it and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

NDA 11-730; Mepergan Injection containing meperidine hydrochloride and promethazine hydrochloride; Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.

Wyeth Laboratories supplemented the new drug application to modify the effective indications, to state that the fixed combination was effective as a preanesthetic medication when both analgesia and sedation were indicated. The supplement was approved on June 11, 1973.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indications evaluated as possibly effective in the notice of July 11, 1972.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated

supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

As a preanesthetic medication when analgesia and sedation are indicated. As an adjunct to local and general anesthesia.

3. *Marketing status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 26, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314,111 (a) (5), and 21 CFR 300.50, demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subjects to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 24, 1976, a written notice of appearance and request for hearing, and (2) on or before October 26, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 11730, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences—National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24848 Filed 8-24-76;8:45 am]

Health Services Administration

ARIZONA

Poll of Physicians; Correction

In FR Doc. 76-23881 appearing at page 34665 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-24925 Filed 8-24-76;8:45 am]

ILLINOIS; PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Intention To Enter Into Agreement

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act (42 USC 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Chicago Foundation for Medical Care for PSRO Area III, which area is designated a Professional Standards Review Organization area in 42 CFR 101.17.

The Secretary has determined that the Chicago Foundation for Medical Care is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Illinois, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois.

As stipulated in its Articles of Incorporation, the principal officers of the Chicago Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Andrew J. Brislin, M.D., President.
2. Maynard I. Shapiro, M.D., Vice President.
3. Audley F. Connor, Jr., M.D., Treasurer.
4. Richard L. Jenson, D.O., Secretary.

The official address of the corporation is 10 South Riverside Plaza, Suite 1558, Chicago, Illinois 60606.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois who objects to the Secretary entering into an agreement with the Chicago Foundation for Medical Care, on the grounds that this organization is not representative of the doctors in such area may, on or before September 24, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 11,657 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area III of the State of Illinois. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Chicago Foundation for Medical Care is representative of such doctors in the area; Provided that pursuant to section 108(b) of Pub. L. 94-182, the provisions of section 1152(f) (42 USC 1320c-1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organziation representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 18, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-25078 Filed 8-24-76;8:45 am]

INDIANA

Poll of Physicians; Correction

In FR Doc. 76-23883 appearing at pages 34665-34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24926 Filed 8-24-76;8:45 am]

LOUISIANA

Poll of Physicians; Correction

In FR Doc. 76-23884 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24927 Filed 8-24-76;8:45 am]

NORTH CAROLINA

Poll of Physicians; Correction

In FR Doc. 76-23886 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24928 Filed 8-24-76;8:45 am]

VIRGINIA

Poll of Physicians; Correction

In FR Doc. 76-23888 appearing at page 34667 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24929 Filed 8-24-76;8:45 am]

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Special Committee on Rural Women of the Advisory Council on Women's Educational Programs will be held from 9 a.m. to 5 p.m. September 10 and 11, 1976, at Mabry Hall of the State Department of Education, Don Gaspar Street, Santa Fe, New Mexico.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commission with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the

allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meeting of the Special Committee on Rural Women will be open to the public. The agenda for the meeting will include (1) a public consultation session on educational equity for rural girls and women in the Southwest, from 9 a.m. to 5 p.m. on September 10 and from 9 a.m. to 3 p.m. on September 11; (2) a Committee discussion of the information gathered at the consultation session from 3 p.m. to 5 p.m. on September 11.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C., on August 18, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76-24913 Filed 8-24-76;8:45 am]

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

Closing Date for Receipt of State Plans and Applications for the Transition Quarter Appropriation

Notice is hereby given that, pursuant to the authority contained in section 842 of the Education Amendments of 1974 (20 U.S.C. 246), State plans or proposals to develop State plans for a program of financial assistance to local educational agencies to assist such agencies in the provision of free public education and applications for reimbursement for the development or administration of such plans or proposals are being accepted by the U.S. Office of Education, that a closing date has been set for the receipt of such plans or proposals and applications for reimbursement from the funds made available for section 842 by Pub. L. 94–303, approved June 1, 1976. In addition, a table of maximum reimbursement entitlements for States is contained in this Notice at paragraph C. The President, by message of July 28, 1976, has requested Congress to rescind the Transitional Quarter appropriation for this program. The Office of Education reaffirms the reasons stated in the President's rescission message as to why this program should not be funded. However, should these funds be available for obligation at the end of the rescission period, it will be necessary to be able to process applications in a timely manner in order to obligate funds by September 30, 1976.

A. *Submission of plans, proposals and reimbursement applications.* A State plan or proposal and a reimbursement application must be received by the U.S. Office of Education on or before September 24, 1976 in order to be considered for funding under the appropriation available for the period July 1, 1976 to September 30, 1976. A proposal to develop a State plan must be accompanied by a schedule of activities which will provide that the State plan developed pursuant to the proposal will be submitted to the Office of Education before July 1, 1977. States shall submit State plans and proposals under cover of a presentation in conformance with applicable regulations in Part 156, Title 45 of the Code of Federal Regulations.

(1) Plans, proposals and reimbursement applications sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.572. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) The plan, proposal, or reimbursement application was sent by registered or certified mail not later than September 20, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The plan, proposal, or reimbursement application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(2) A plan, proposal, or reimbursement application to be hand delivered must be taken to the Office of Education Application Control Center, Rm. 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand delivered plans, proposals, or reimbursement applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Plans, proposals and reimbursement applications will not be accepted after 4:00 p.m. on September 24, 1976.

B. *Program information and forms.* Information and application forms may be obtained from the Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

C. *Table of maximum reimbursement entitlements.* Paragraph (c)(1) of section 842 of the Education Amendments of 1974 establishes a maximum reimbursement schedule for States in the development or administration of State plans meeting the statutory and regulatory requirements under that section. The schedule is based upon the ratio of the population of each State to the population of all the States, with the further limitation that no State shall receive less than $100,000 and no State shall receive more than $1,000,000. The following table sets forth the maximum amount that each State may be reimbursed, based upon appropriations sufficient to pay full entitlements. In the event that the funds appropriated for Section 842 for the period July 1, 1976 to September 30, 1976 are insufficient to satisfy the maximum reimbursement entitlements, as calculated under the provisions of 45 CFR 156.6(a), then the entitlements shall be calculated under the provisions of 45 CFR 156.6 (b), (c), and (d).

State	*Amount*
Alabama	$241,739
Alaska	100,000
Arizona	179,723
Arkansas	175,690
California	1,000,000
Colorado	195,281
Connecticut	220,307
Delaware	110,344
Florida	440,015
Georgia	298,802
Hawaii	122,484
Idaho	119,942
Illinois	574,171
Indiana	317,911
Iowa	210,270
Kansas	184,368
Kentucky	232,053
Louisiana	249,934
Maine	131,930
Maryland	264,934
Massachusetts	339,211
Michigan	484,631
Minnesota	256,203
Mississippi	187,349
Missouri	294,200
Montana	117,356
Nebraska	152,593
Nevada	110,212
New Hampshire	120,468
New Jersey	405,961
New Mexico	134,098
New York	876,379
North Carolina	320,628
North Dakota	112,929
Ohio	555,983
Oklahoma	202,557
Oregon	183,886
Pennsylvania	604,018
Rhode Island	126,165
South Carolina	206,677
South Dakota	114,902
Tennessee	266,896
Texas	611,731
Utah	136,728
Vermont	105,566
Virginia	300,249
Washington	238,189
West Virginia	163,243
Wisconsin	285,172
Wyoming	100,921

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and regulations governing Assistance to States for State Equalization Plans (45 CFR Part 156), published in the FEDERAL REGISTER on August 1, 1975, at 40 FR 32329.

(20 U.S.C. 246)

(Catalog of Federal Domestic Assistance, Number 13.572; Assistance to States for State Equalization Plans)

Dated: August 23, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76-25050 Filed 8-24-76;8:45 am]

Office of the Secretary

HOME HEALTH CARE

Public Hearings

This is a Notice to announce the plans of the Department of Health, Education, and Welfare to conduct a series of public hearings on issues in home health, and to encourage widespread participation by interested and knowledgeable individuals, public and private groups and organizations, and Federal, State, and local government agencies.

Date: Monday, September 20 and Tuesday, September 21, 1976.
Time: 9 a.m. to 6 p.m.
Place: Americana Hotel, 801 7th Ave. between 52nd and 53rd Streets, New York, New York.
Person to Contact: Mr. Robert O'Connell (212/264–3620), Department of Health, Education, and Welfare, Room 3835 Federal Building, 26 Federal Plaza, New York, N.Y. 10007.

Date: Tuesday, September 21 and Wednesday, September 22, 1976.
Time: 9 a.m. to 6 p.m.
Place: Cibola Inn, 1601 East Division, Arlington, Texas 76010.
Person to Contact: Mr. Jerry Stephens or Mr. Weldon Grundy (214/655–3338), Department of Health, Education, and Welfare, Room 1135, 1200 Main Tower, Dallas, Texas 75202.

Date: Wednesday, September 22 and Thursday, September 23, 1976.
Time: 9 a.m. to 6 p.m.
Place: Atlanta Hilton, Courtland and Harris Streets, Atlanta, Georgia.
Person to Contact: Mr. Joe Juska (404/526–5001), Department of Health, Education, and Welfare, Room 434, 50 Seventh Street, N.E., Atlanta, Georgia 30323.

Date: Thursday, September 23 and Friday, September 24, 1976.
Time: 9 a.m. to 6 p.m.
Place: Holiday Inn, 300 East Ohio Street, Chicago, Illinois.
Person to Contact: Ms. Arline Bredin (312/353–7801), Department of Health, Education, and Welfare, 35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Date: Thursday, September 30 and Friday, October 1, 1976.
Time: 9 a.m. to 6 p.m.
Place: Convention Center, 1201 South Figueroa, Room 217–A, Los Angeles, California.
Person to Contact: Mr. Allen Marer (415/556–1961), Department of Health, Education, and Welfare, Room 427 Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

Instructions to Witnesses

Those individuals desiring to comment during a particular hearing should register prior to the meeting either by writing or telephoning the contact person in the city in which they wish to be heard, or they may register in person at the hearing room on either day of the hearing. Preference will be given to those who register in advance but efforts will also be made to hear those who register on either day of the hearing. Persons who register or who submit written comments should provide their name, address, telephone number and, if appropriate, the organization they represent. An organization will be permitted to make an oral presentation at only one of the five hearings. All speakers will be limited to five minutes of oral presentation.

Since the oral presentation for any one person will be limited, written comments are encouraged so that they may be introduced into the record of the hearings. In addition, those who will not be able to attend a hearing may submit written comments to the appropriate contact person no later than the second day of the hearing. It is requested that ten (10) copies of each set of written comments be furnished, but the furnishing of a lesser number of copies will in no way affect the consideration given. Equal consideration will be given to oral and written comments.

Transcripts of the hearings and materials submitted for each hearing will be available for public inspection in the Office of Public Affairs, Room 647D HEW Building (South Portal), 200 Independence Avenue, S.W., Washington, D.C. 20201, and in the Office of Public Affairs in each of the following Department of Health, Education and Welfare Regional Offices:

REGION I:

Room 2411, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

REGION II:

Room 3835, Federal Building, 26 Federal Plaza, New York, New York 10007.

REGION III:

Room 10400, 3535 Market Street, Philadelphia, Pennsylvania 19101.

REGION IV:

Room 434, 50 Seventh Street, NE., Atlanta, Georgia 30323.

REGION V:

35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

REGION VI:

Room 1100, 1200 Main Tower Building, Dallas, Texas 75202.

REGION VII:

Room 612C, 601 East 12th Street, Kansas City, Missouri 64106.

REGION VIII:

10th Floor, 1961 Stout Street, Denver, Colorado 80202.

REGION IX:

Room 401, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

REGION X:

Room 6132, Arcade Plaza, 1321 Second Avenue, Seattle, Washington 98101.

Purpose of the Hearings

During the next year, the Department will give further consideration to several important issues in home health care and will take necessary action to modify Medicare (Title XVIII, Social Security Act) and Medicaid (Title XIX, Social Security Act) regulations and further develop Federal policy concerning home health services. Public participation and comment are vital to these Departmental efforts and such participation is invited early in the process.

The Department considers these hearings to be an essential step in the evolution of a more uniform, coordinated, and rational approach to the Federal financing of home health care. Public participation at this stage of the process will contribute to (1) the identification of specific local, State and national concerns regarding home health care, particularly as related to Federal financing efforts; (2) the further clarification of critical issues affecting the development of administrative, regulatory, and legislative approaches; and (3) an increased awareness and sensitivity on the part of the Department to the public's views in this area.

It should be noted that in this volume of the Federal Register, (FR Doc. 76–24915) final Medicaid regulations are issued by the Department, through the Social and Rehabilitation Service, to remove certain restrictions and ambiguities regarding persons eligible to receive home health services and to specify the types of services States must provide (i.e., nursing, home health aide, and supplies and equipment). Provisions related to increased participation by proprietary home health agencies and participation of single-service agencies, which were contained in the notice of proposed rule making of August 21, 1975 (40 CFR 36702), have been omitted from the final regulations and are included as issues for discussion at these hearings.

The hearings are expected to produce a report which will be transmitted to the Secretary (HEW) for use in determiing the future direction of Departmental efforts in home health care. Other activities to be undertaken by the Department are: (1) The continuation of efforts to achieve greater uniformity between the Medicare and Medicaid programs, as exemplified by the publication of the revised Medicaid regulations on home health services; (2) the development of a plan for increasing public attention to the problems and issues surrounding home health care, and for fostering media participation in the discussion of the issues; (3) the conduct of in-depth analyses of home health issues, with particular attention to the impact of reimbursement procedures and regulatory requirements on the delivery and utilization of services; (4) the implementation and careful monitoring of HEW-supported home health projects; and, if necessary, (5) the development of legislative proposals covering desired programmatic improvements.

Topics for Discussion

The Department seeks to determine its role in home health care as a part of the broader health care delivery system. In relation to this objective, the following issues are set forth as a general framework for the hearings, and should be viewed as a guide in the preparation of oral and written comments. Participants may choose to comment on as many of the issues as desired, and additional issues may be persented as well. Private citizens who wish to be heard, and who do not choose to speak to any one of the issues listed, are invited to comment on the basis of personal knowledge of, and experience with home health care.

In considering the issues listed below, the following working definition of home health care may be used: services of physicians, nurses, social workers, therapists, home health aides, and medical equipment and supplies, delivered to a patient in his place of residence.

1. *The Significance of Home Health Care.* 1.1 To what extent is home health care an effective alternative to inappropriate institutional care by: a) preventing or delaying institutionalization; b) allowing individuals to be discharged from an institution and still obtain necessary services; or c) providing a less costly alternative to inappropriate institutional care?

1.2 To what extent does home health care prevent illness, disability, and dependency, and promote, maintain or restore health (i.e. what is its effectiveness apart from its impact on institutionalization)?

1.3 What type of individual is more appropriately cared for through home health care?

2. *Community Need for Home Health Services.* 2.1 What is the extent of community need for home health services and other in-home support services such as transportation and escort services, friendly visiting, home-delivered meals, homemaker services, chore services, etc.?

2.2 What effective measures are there to determine a community's overall needs for home health services?

2.3 How can a community determine whether existing resources are adequate to meet those needs?

2.4 If significant unmet need for home health services exists, is this attributable to lack of eligible providers, restrictions on recipient eligibility or restrictions on services that are reimbursable?

2.5 If existing resources do not meet existing needs, what steps should be taken?

2.6 Are there barriers to the acceptance and continued use of home health services by the physician and other providers and by consumers? If so, what are they and how may they be surmounted?

3. *Eligibility for Care and Extent of Coverage under Titles XVIII (Medicare), XIX (Medicaid), and XX (Social Services).* 3.1 What health and support services should be included in the benefits under Titles XVIII, XIX and XX?

3.2 Should home health care be defined in terms of services or patient needs?

3.3 Should income criteria be used to determine eligibility for home health services? If so, what?

3.4 Should there be limitations regarding length of care and type of service? If so, what?

3.5 Should other limitations be placed on federally-financed home health services? If so, what?

3.6 What Federal programs should pay for which kinds of services?

3.7 Should benefits be assured for special groups, for example, the developmentally disabled, the mentally ill, the terminally ill, etc.? If so, how?

4. *Home Health Service Development.* 4.1 What are and should be the roles of Federal, State, and local governments and community agencies and organizations in the initial development, expansion, and operation of home health programs?

4.2 What are and should be the roles of Federal, State, and local governments in planning, and regulating in-home services (including home health services) through the Health Planning Act (Pub. L. 93–641) and other mechanisms?

4.3 What Federal, State, and local government statutory and regulatory restrictions on the development of in-home services (including home-health services) currently exist; and what is their impact?

4.4 What is the appropriate role for consumers in the planing and development of home health services?

4.5 Are there better ways to organize and finance home health and other long-term care services than the approaches currently in use?

4.6 Are there barriers to the acceptance, continued use, and financing of home health care from a local perspective? From a State or Federal perspective? If so, what can and should be done to eliminate these barriers?

5. *Home Health Services Delivery.* 5.1 What types of agencies should provide and be reimbursed for home health services (i.e., public, voluntary, private nonprofit, proprietary)?

5.2 What types of personel should provide home health services? How much supervision is needed and by whom? What licensure or certification requirements should be considered for home health personnel?

5.3 How can economy in the organization and distribution of home health resources, and efficiency in the delivery of home health services, be encouraged and maintained? What measures should be taken to contain costs?

5.4 How should home health agencies coordinate their services with other health care providers and existing social and support services in the community such as transportation, home-delivered meals, homemaker services, etc.?

5.5 What other alternatives to inappropriate institutional care should be developed (e.g., day care, day hospitals, etc.)?

5.6 What strategies should be employed to assure adequate coordination of resources and services at the local level, including ways to provide services to medically underserved populations in urban and rural areas?

5.7 How should statewide coordination of such services be attained?

6. *Quality Assurance.* 6.1 Are present health care and administrative standards for home health services delivery appropriate, enforceable and measureable in terms of outcomes of care; If not, how should they be modified;

6.2 What should be the role of mechanisms such as Profesional Standards Review Organizations, or Medical Review in determining the quality of home health services;

6.3 What mechanisms are there to prevent fraud and abuse in home health care?

6.4 Should licensure of home health agencies be considered as a means of assuring quality? If so, at what level should it be carried out?

6.5 Should accreditation of home health agencies be considered at this time? If so, by whom?

6.6 What difficulties do home health agencies participating in both Titles XVIII and XIX encounter in administering the program standards?

6.7 What need is there for basic and continuing technical, health professional and managerial training for all home health agency personnel?

7. *Reimbursement.* 7.1 Can and should reimbursement policies (e.g., those related to eligibility and benefits) be more consistent among all private and public third-party payors?

7.2 Should reimbursement be on a per visit, per diem, prospective, retrospective, or other basis?

7.3 What changes are needed in Federal reimbursement policies to contain costs? Do the policies and procedures of non-governmental reimbursement sources require modification? If so, what modifications?

7.4 Should in-home services under Title XX be mandated on a statewide basis to supplement Title XIX?

7.5 For purposes of Federal reimbursement, who should be permitted to authorize home health services (i.e. physicians, physician extenders, nurse practitioners, others)?

Dated: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76-24916 Filed 8-24-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-518-DR; Docket No. N-76-623]

VERMONT

Amendment to Notice of Major Disaster

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary of Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 13, 1976, the President amended his major disaster declaration of August 5, 1976, as follows:

I hereby amend my August 5, 1976, declaration of a "major disaster" for the State of Vermont to read as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms, high winds, and flooding, beginning about July 11, 1976, and from severe storms and flooding associated with Hurricane Belle, beginning about August 9, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Vermont.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development, Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. E. Paul Hartzell, HUD Region I, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Vermont to have been adversely affected by this declared major disaster:

The counties of:

Addison	Orange
Bennington	Orleans
Caledonia	Rutland
Chittenden	Washington
Franklin	Windham
Lamoille	Windsor

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–24857 Filed 8–24–76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N–76–616]

ALTO VILLAGE, ET AL.

Hearing

In the matter of: Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, OILSR No. 0–0425–36–10 (A–B), Docket No. 76–221–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Alto Villages, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on November 16 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 26, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24858 Filed 8–24–76;8:45 am]

[Docket No. N–76–620]

CAMELOT, UNIT 1 ET AL.

Hearing

In the matter of: Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, OILSR NO. 0–3049–36–143, Docket No. 76–196–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Camelot, Unit 1, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 13, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washintgon, D.C., on November 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 4, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default in the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24862 Filed 8–24–76;8:45 am]

[Docket No. N–76–618]

EMERALD LAKES, ET AL.

Hearing

In the matter of: Emerald Lakes, James B. Rabold, President and Unidel Corporation, OILSR NO. 0–0258–44–8 and (A–H), Docket No. 76–205–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Emerald Lakes, James B. Rabold, President, and United Corporation, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 27, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Emerald Lakes, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 9, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on September 27, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 30, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24860 Filed 8-24-76;8:45 am]

[Docket No. N-76-621]

GLENDALE YEAROUND, ET AL.

Hearing

In the matter of: Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, OILSR No. 0-1752-44-84 and (A-C), Docket No. 76-173-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1745(b)(1) and 1720. 125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Glendale Yearound, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 71456, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 3, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24863 Filed 8-24-76;8:45 am]

[Docket No. N-76-617]

GREENWOOD ACRES, ET AL.

Hearing

In the matter of: Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, OILSR NO. 0-2360-44-143, Docket No. 76-211-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Greenwood Acres, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 10, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 20, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24859 Filed 8-24-76;8:45 am]

[Docket No. N-76-622]

GRIZZLEY PARK ET AL.

Hearing

In the matter of: Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, OILSR NO. 0-2554-04-38, Docket No. 76-235-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued August 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Grizzley Park, located in El Dorado County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 13, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 15, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 18, 1976.

By the Secretary.

JAMES W. MASTA,
Administrative Law Judge.

[FR Doc.76-24864 Filed 8-24-76;8:45 am]

[Docket No. N-76-619]

SUNSET VALLEY ET AL.

Hearing

In the matter of: Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, OILSR No. 0-1145-42-7, Docket No. 76-148-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Sunset Valley, located in Cherokee County, Oklahoma, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 27, 1976 in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 12, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 14, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24861 Filed 8-24-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 29490, 29500, 29565, 29567, 29569; Order 76-8-111]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC.

Tariffs Containing New Air Fares Over the North Atlantic; Order of Deferral

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of August, 1976.

On June 28, 1976 and July 22, 1976, Trans World Airlines, Inc. (TWA) and Pan American World Airways, Inc. (Pan American), respectively, filed tariffs establishing new transatlantic air fares for transportation commencing November 1, 1976.[1] Complaints against the TWA proposal have been filed by Pan American, the member carriers of the National Air Carrier Association (NACA), and the Department of Transportation (DOT). All of the complainants have requested that the tariffs be suspended and investigated. TWA filed a consolidated answer to the complaints. Complaints against the Pan American proposal have been filed by TWA, National Airlines, Inc. (National), NACA, and DOT. Pan American has filed an answer.

TWA's Proposal

TWA's proposal would increase first-class fares; establish a single-factor, year-around normal economy-class fare; consolidate the present 14/21-day and 22/45-day excursion fares into a 14/45-day excursion fare with 2 stopovers available at $25 each; retain the present APEX fares but with more liberal conditions; and introduce at the APEX levels a new advance-purchase inclusive-tour fare (APIT) available for 14/21 day travel during the peak season and 7/21 days during the basic (off-peak) season. All group fares—affinity, incentive, and inclusive-tour group fares as well as youth fares—would expire under their own terms effective October 31, 1976. TWA's proposed fare levels and related conditions are detailed in the attachment.[2]

In support of its filing TWA states that its proposal represents a basis for resolving the present impasse in IATA fare negotiations while at the same time providing the traveling public with low-cost scheduled-service fares totally free of group requirements. TWA alleges that reducing the number of fares and the complexity of the fare structure will better enable the individual traveler to comprehend his fare options and to choose the fare that most adequately fills his needs; will eliminate unneeded and uneconomic fares; and, along with some upward adjustment in fare levels, will assist TWA to realize a profitable scheduled-service operation. TWA estimates a pre-tax profit of $5.3 million with the proposed structure versus an $18.6 million loss if the present structure is continued. The carrier estimates a return on investment of 6.7 percent under the proposal versus a negative 3.4 percent under status quo fares. Under both fare assumptions, load factors are expected to improve over the historical 1975 results of 53.6 percent to 57.4 percent under present fares and to 58.7 percent under the proposed fares.

As noted previously all of the complainants request suspension and investigation of TWA's proposal. Pan American, while endorsing TWA's objectives, contends the fare structure will not result in revenue improvement. Pan American argues that the levels for the APEX and the APIT fares are unnecessarily low and that TWA's projected increases in normal economy-fare traffic are unrealistic. The DOT commends TWA for its efforts to revise the structure; however, it alleges that TWA has failed to provide data which is critical to an evaluation of its proposal and that additional supporting data must be submitted.[3] In the event the data required to justify the proposal are not provided, the tariffs should be suspended. NACA alleges that the tariffs should be suspended because the normal

[1] Trans World Airlines, Inc., International Local and Joint Passenger Fares Tariff No. F-11, C.A.B. No. 305, issued June 28, 1975, and Passenger Fares Tariff No. PF-6, C.A.B. No. 70, Air Tariffs Corporation, Agent, issued July 22, 1976.

[2] Filed as part of original document.

[3] DOT filed a motion to submit a late-filed document which is hereby granted.

economy-fare levels are unreasonably high while the APIT and APEX fares are unreasonably low.

In its consolidated answer TWA avers that NACA's contentions, that TWA's proposal would reduce discount fares and that the proposed normal-promotional fare differentials are improper, are false; that the problems raised by DOT cannot be solved now and that TWA's justification is adequate; and that Pan American fails to show that TWA's proposal will not improve revenues and fails to give any other reason for suspension.

PAN AMERICAN'S PROPOSAL

Pan American would increase first-class fares; establish a single-factor, year-around normal economy fare with limited free stopovers and a weekend surcharge; and provide three 14/45-day excursion fares, with no stopovers, at various levels depending on the time of purchase—no advance purchase, 30 days, and 60 days. In addition, Pan American would extend the peak season from three to four months. As with TWA's filing Pan American proposes elimination of all group and youth fares. The proposed fares and related conditions are shown in the attachment.[4]

In support of its filing, Pan American alleges that its proposal presents a logical and simple structure, easily marketable and understandable by sellers and purchasers of air transportation alike; that the structure would be at a compensatory level under prevailing regulatory standards; and that it would enable carriers, after years of unsatisfactory financial results, to offer their services on a reasonably compensatory basis. Pan American forecasts that with status quo fares, its operating profit would be $17 million and its net income would be $3 million, producing a rate of return on investment of 6 percent with a 56 percent passenger load factor. The proposed package, Pan American alleges, would increase operating profit to $46 million and improve net income to $19 million for a 12 percent rate of return with a 52 percent seat factor.[5]

Insofar as the proposed scheduled-service fare structure is concerned, NACA's complaint is directed to Pan American's proposed normal economy fares which it alleges are unreasonably high, unjustly discriminatory, and unlawful, and which should be suspended pending investigation. TWA requests suspension on the grounds that the promotional fares proposed are not set at low enough levels and as a consequence significant diversion of scheduled-service traffic to charter services will occur. Comparing Pan American's proposal with its own, TWA estimates that the Pan American fare structure (including the charter-transfer facility) would have the effect of reducing passengers by 16 percent and revenues by 9 percent. A similar comparison with status quo fares, TWA alleges, would reduce passengers by 14 percent and revenues by 3 percent. National objects to Pan American's proposal on the grounds that it does not contain an attractive, low-cost, individual promotional fare. DOT generally supports the various requests for suspension and investigation.

In its consolidated answer, Pan American alleges, in response to the NACA complaint, that at most there is a 9.5 percent variance between total economic costs including a 12 percent return on investment and its proposed normal economy fares and that its proposal will not complicate the fare structure as alleged by TWA.

Upon consideration of the carriers' tariff filings and their justifications in support of those filings, the complaints, answers, and all other relevant matters, we have decided to take no action with respect to the tariff filings at this time. Our action herein is not to be construed as a final action on North Atlantic fare issues for the period after November 1, 1976, but rather an action of deferral in order that our views may be made known on both carrier proposals and with the expectation that additional U.S.-and foreign-carrier proposals will be considered within the IATA framework before a final proposal on North Atlantic fares for the period after November 1 will be submitted. Having in mind our statutory authority to take suspension action against these tariffs at any time in the future, we believe our present action is a proper course of action and that it accomplishes the objective sought by TWA which requests prompt consideration of its proposal to "provide the catalyst that is needed to bring about a sound IATA fare agreement for the transaltantic travel market."

Both Pan American and TWA are to be commended for their efforts to bring about a simplified fare structure, a structure easily understood by both buyers and sellers of air transportation and geared to individual rather than group sales, thus eliminating the potential for abuses which have long been associated with group fares. The present structure of nine distinct fares with varying conditions geared to age, group travel, inclusive tours, and affinity groups would be replaced with a total of five fares all geared to individual travel with charges for stopovers and with appropriate advance-purchase and penalty conditions on usage of the lowest-level fares. We favor the Pan American proposal insofar as it would more closely relate economy fares to costs by limiting the presently unlimited free stopovers to one free stopover in each direction. In addition, no stopovers would be permitted on Pan American's three 14/45-day excursion fares. On the other hand, TWA's 14/45-day excursion-fare proposal would permit 2 stopovers at $25 each, which does not appear unreasonable. Board fare-structure pronouncements have long called for movement in the direction of additional payment for more costly circuitous and broken-journey travel, and we are encouraged by this aspect of Pan American's and TWA's filings.

TWA proposes a 14–22/90-day advance-purchase excursion fare and a 7–14/21-day advance-purchase inclusive-tour fare (APIT). The latter fare, the APIT, has, in our view, the potential of significant diversion from higher-rated fares, especially in the basic season when the fare would be available for a 7- to 21-day duration and require only a 30-day advance purchase and a minimum ground package of only $100. We also have serious reservations about the potential for abuses associated with inclusive-tour fares and question the economic vability of this type fare because of the unresolved question of who puts the ground packages together and at what cost. In sum, while we tend to favor the Pan American structure of excursion fares, the Board would approve promotional fares which include charges for stopovers as TWA proposes as well as such fares with a prohibition on stopovers such as Pan American proposes. Much more economic detail as to the costs associated with TWA's advance-purchase inclusive-tour fare and its significant potential diversion from higher-rated fares would be required before we could consider approval.

Turning now to the proposed fare levels, we shall focus on the two proposals for normal economy fares and advance-purchase fares. By Order 76–6–180, June 18, 1976, the Board suspended tariffs of both Pan American and TWA which proposed increases to normal economy fares in varying amounts. Earlier, by Order 76–4–175, April 30, 1976, the Board disapproved an IATA agreement which would have increased normal fares in greater amounts than unilaterally proposed by the two carriers. The Board's disapprovals were based on the carriers' failure to demonstrate differences in the costs of transporting an economy-class passenger which warranted charging that passenger up to twice the amount charged certain promotional-fare passengers. The Board continues to believe that present normal economy-class-fare passengers pay fares well in excess of the costs of providing the service. In the instant case both Pan American and TWA propose to increase normal economy fares. TWA would charge a $700 round-trip, year-round fare, New York-London, compared with the $584, $626, and $764 currently in effect during the winter, shoulder, and peak seasons, respectively. Based on IATA's North Atlantic normal economy-class traffic distribution in 1974 the average fare to be charged, at today's levels, would equal $652—$48 be-

[4] Pan American also proposes to revise its charter rules and permit the carriage of charter groups on scheduled service. This proposal, called the "charter transfer facility" by Pan American, is being dealt with separately.

[5] Pan American's results include $5.5 million in revenue from charter transfer passengers and the reduction in passenger load factor results from altering its economy class seating configuration from 9 abreast to 10 abreast.

low TWA's proposal.[6] To Rome TWA proposes a normal economy fare of $934 which represents an increase of $77 over present average fares. While Pan American proposes a lesser increase than does TWA, ($674 vs. $700 New York-London round trip), the Pan American proposal represents potential increases even more severe than those proposed by TWA. First, TWA would retain the existing scheme of free stopovers and no weekend surcharges. On the other hand, Pan American, although proposing a New York-London level only $26 below TWA, would limit stopovers and would charge $15 each way for weekend travel.[7] Thus, both proposals would significantly increase normal economy fares which, in our view, are already set well above compensatory levels.

Two additional points warrant comment. Both Pan American and TWA propose a single year-round economy fare and two- rather than three-tier promotional-fare pricing. The Board has in the past approved the carriers' efforts to alleviate the problems of traffic peaking through differentiated seasonal pricing, and full justification from the carriers would be necessary before such a fundamental change could be accepted. Also, both carriers propose significant increases in first-class fares. We have no difficulty with the level of these fares *per se*. However, to the extent that efforts are made to continue to set the level of excess-baggage charges to first-class fares, and significant progress is not made in implementing our decision in Docket 24869, Baggage Allowance Tariff Rules in Overseas & Foreign Air Transportation, we very well might not be able to approve the increases.

The APEX fares proposed by Pan American are set at relatively high levels which indicate that carrier's obvious reliance on the "charter-transfer facility" (see fn. 3) as its lowest scheduled-service promotional fare. Were the charter-transfer facility not implemented, Pan American might well revise its APEX fare proposals. On the other hand, TWA's proposed advance-purchase fares appear abnormally low during the basic off-peak season especially considering the diversion possibilities from other higher-rated fares. In addition, TWA's limitation of use of the APIT and APEX fares to a maximum one-third of weekly economy seats over a given route does not sufficiently restrict usage of these fares. In its justification TWA expects 43 percent of its total passengers to avail themselves of these fares. This 43 percent is probably understated considering the passenger load factors projected. The levels of $325 to London and $402 to Rome during the basic season provide discounts significantly in excess of 50 percent from the proposed normal economy fares and their use would represent savings to the one-way passenger (who would otherwise be required to fly at a normal economy fare) of $25 to London and $65 to Rome. The undercut from normal economy round-trip fares would be twice that, or $50 to London and $130 to Rome. Even if the present normal economy fares were to be retained, TWA's proposed low fares during the basic season would not entirely correct this undercut situation although it would be significantly ameliorated. We further note that TWA's proposal represents only marginal increases over the present below-cost APEX fares to London and reductions from the present APEX fares to Rome.

Neither carrier has made any effort to demonstrate that the various fare levels contained in its proposal are cost-related. Rather each carrier estimates usage of each fare in its proposed structure to produce a bottom-line profit figure for comparison with what it expects with status quo fares. While we are unqualifiedly convinced that the fare structure can and should be simplified with fares geared to individual rather than group travel and with free stopovers curtailed, which both carriers are proposing, we are equally convinced that normal economy fares are already excessive in relation to cost and that promotional fares must be set at levels and must be adequately restricted so as to limit diversion and yield dilution and to insure that only truly generative promotional fares are included in the structure.

In view of the foregoing, we would expect the carriers to take steps to revise their tariff filings sufficiently well in advance of November 1, 1976 or to reach an early agreement within IATA which is acceptable and approved by the Board for implementation on November 1, 1976. In the event that no acceptable agreement is reached within IATA and the carriers do not refile tariffs more in line with our views herein, we will take whatever suspension or other action we may then deem appropriate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 404, 801, and 1002 thereof,

It is ordered, That: 1. Action be and hereby is deferred on the complaints filed by Pan American World Airways, Inc., the member carriers of the National Air Carrier Association, and the Department of Transportation in Dockets 29500 and 29490 requesting suspension and investigation of tariffs filed by Trans World Airlines, Inc. proposing transatlantic fares for sale beginning November 1, 1976;

2. Action be and hereby is deferred on the complaints filed by Trans World Airlines, Inc., the member carriers of the National Air Carrier Association, and National Airlines, Inc., and on the request of the Department of Transportation in Dockets 29565, 29567, and 29569, for suspension and investigation of tariffs filed by Pan American World Airways, Inc. proposing transatlantic air fares for sale beginning November 1, 1976; and

3. Copies of this order shall be served on Trans World Airlines, Inc., Pan American World Airways, Inc., National Airlines, Inc., the National Air Carrier Association, the Department of Transportation, and the International Air Transport Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24905 Filed 8-24-76;8:45 am]

[Docket 29519; Order No. 76-8-109]

TRANS WORLD AIRLINES, INC. AND COMPAGNIE NATIONALE AIR FRANCE

Bulk Specific Commodity Rate; Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of August, 1976.

By Tariffs filed July 12, 1976 effective August 11, 1976, Trans World Airlines, Inc. (TWA) proposed to reduce from 61 cents to 57 cents per kilogram the specific commodity rate (SCR) for bulk carriage of horseflesh (Item 0670), tendered in minimum-sized shipments of 5,000 kilograms, from New York to Paris. In addition, by tariffs filed July 28, 1976 for effect August 27, 1976, Compagnie Nationale Air France (Air France) has filed to meet TWA's horseflesh rates citing arguments in support that are substantially similar to TWA's arguments set forth herein.[1] Seaboard World Airlines, Inc. (Seaboard) has filed a complaint requesting suspension and investigation of TWA's proposed revision.

In support of its filing, TWA contends that under present rates for horseflesh, Montreal enjoys a 4-cents-per-pound (8-cents-per-kilogram) advantage over New York; that with single large-sized shipments such as horseflesh,[2] small rate differentials can influence a shipper's routing; and that U.S. carriers are losing a considerable share of this traffic to carriers who move horseflesh via Montreal using a combination of air-truck rates. TWA claims that reducing the present 4-cents differential to approximately 2 cents per pound will provide both a satisfactory alternative rate and service for U.S. shippers and an acceptable revenue return per pallet position for the carrier. The carrier esti-

[6] Of the total normal economy-fare passengers flying the North Atlantic in 1974, 35 percent, 35 percent, and 29 percent flew in the winter, shoulder, and peak seasons, respectively. The weighted average of such travel, based on present fares, is $652, New York-London round trip.

[7] We do not intend by this, however, to discourage Pan American's commendable movement to limit the number of stopovers which can be made at the normal economy fare without additional payment, and to charge for weekend travel to even out peaking.

[1] Trans World Airlines, Inc., Tariff C.A.B. 230, 16th Revised Page 69, and Air Tariffs Corporation, Agent, C.A.B. No. 50, 14th Revised Page 234.

[2] TWA states that its single horseflesh shipments have ranged from 30,000 lbs. (13,609 kgs.) to 42,500 lbs. (19,278 kgs.) during the last few months and averaged 34,590 lbs. (15,690 kgs.) during 1975.

mates that, with this rate change, over 10 million pounds of a total 22 million pounds of horseflesh now originating in the U.S. will move through U.S. gateway points rather than through Canadian gateway points.

In support of the reasonableness of the reduction, TWA claims that horseflesh is so dense that the average per pallet return at the proposed rate would be greater than the average per pallet return both from horseflesh carried in charter service and from average-density traffic carried in scheduled service. Thus, the carrier maintains that increased carriage of horseflesh, used as filler traffic on scheduled service, can bring about better use of aircraft space since more pallet positions will be occupied, and can make a significant contribution to recovery of fully allocated costs per flight since fewer tons of higher-rated normal-density traffic would be needed.

In its complaint against the rate, Seaboard states that the reduction is contrary to past Board policy statements concerning undue carrier reliance on heavily discounted SCRs. In addition, while not arguing for a further rate reduction, Seaboard considers that TWA's proposal is senseless as it still leaves Montreal with a rate advantage, will generate no additional traffic, and will achieve nothing but dilution of TWA's revenue since it is clearly uneconomic based upon TWA's own cost data. Lastly, Seaboard contends that TWA has provided no support for its estimates of horseflesh traffic that would be diverted to U.S. gateways from Canada under its proposed rate.

In its reply [*], TWA claims Seaboard's complaint is without merit and should be dismissed. The carrier reiterates its arguments concerning the diversionary and generative aspects of the present and proposed rates, and states that although the reduced rate approximates the present rate available at Boston, horseflesh does not move through Boston due to inadequate freighter and/or wide-bodied capacity. The carrier further argues that Seaboard's charges that the reduced rate is uneconomic are invalid since Seaboard's conclusions were reached based on an analysis of yields and costs per ton-mile; that it is inappropriate to use cost/revenue per ton-mile to measure profitability when the per pallet and per plane-mile revenue can be determined; and that the reduced rate is economic.

Upon full consideration of the tariff filings, the carriers' justifications and reply, Seaboard's complaint, and all other relevant factors, the Board has determined to dismiss the complaint and permit the filings to become effective.

While TWA's arguments are not entirely persuasive and the question is close, the fact remains that there is a large 8-cents-per-kilogram differential between the New York-Paris and Montreal-Paris horseflesh rates and that no carrier has disputed the allegation that movement of horseflesh by air is extremely sensitive to differences in transportation costs. In view of all this, it is plausible that U.S. horseflesh traffic has diverted to Montreal in significant quantities and that some adjustment in the New York rate is needed to regain a share of this traffic for U.S. carriers. TWA's reduction of this differential by half to 4 cents per kilogram falls short of fully equalizing the New York and Montreal rates, but appears to be a reasonable compromise which could aid in regaining some of the lost traffic to U.S. carriage, and could make some contribution to improved U.S. carrier economics.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 1002 thereof,

It is ordered, That: 1. The complaint of Seaboard World Airlines, Inc. in Docket 29519 be and hereby is dismissed; and

2. The motion of Trans World Airlines, Inc. for leave of file an otherwise unauthorized document in Docket 29519 be and hereby is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24904 Filed 8-24-76;8:45 am]

[*] TWA's reply was filed with a motion for leave to file an unauthorized document, which will be granted.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Cancellation of Meeting

AUGUST 20, 1976.

Notice is hereby given of the cancellation of the meeting of the Task Force on Demonstration Projects as a Commercialization Incentive of August 27, 1976, which was published in the FEDERAL REGISTER August 5, 1976, 41 FR 32777.

K. DEAN HELMS,
Acting Advisory Committee Management Officer.

[FR Doc.76-24920 Filed 8-24-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on October 4, 1976, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list below or with any other application on file by the close of business on October 1, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 1, 1976. 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 below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: August 10, 1976.

Released: August 17, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

BPH-9720 NEW PATTERSON, NEW YORK
PATTERSON BROADCASTING CORP.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 1.11 KW; HAAT: 460 FT.

BPH-9841 NEW BOZEMAN, MONTANA
NORTHERN SUN CORPORATION
REQ: 93.7 MHZ; CHANNEL NO. 229C
ERP: 100 KW; HAAT: 221 FT.

BPH-9862 WQWK STATE COLLEGE, PENNSYLVANIA
STATE COLLEGE COMMUNICATIONS CORP.
HAS: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 78 FT. (LIC)
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: .225 KW; HAAT: 919 FT.

BPH-9900 NEW DEMING, NEW MEXICO
LUNA COUNTY B/CTING CO.
REQ: 94.3 MHZ; CHANNEL NO. 232A
ERP: 3 KW; HAAT: 195 FT.

BPH-9902 NEW HILO, HAWAII
CHRISTIAN BROADCASTING ASSOCIATION
REQ: 97.1 MHZ; CHANNEL NO. 246C
ERP: 100 KW; HAAT: -98 FT.

BPH-9903 NEW PALM SPRINGS, CALIFORNIA
GRAY-SCHWARTZ BROADCASTING
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: .575 KW; HAAT: 619 FT.

BPH-9904 NEW PANA, ILLINOIS
PANA BROADCASTING CORPORATION
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: [illegible] KW; HAAT: 292 FT.

BPH-9907 NEW GILMER, TEXAS
DANIELS BROADCASTING, INC.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.4 KW; HAAT: 420 FT.

BPH-9908 WIVY-FM JACKSONVILLE, FLORIDA
JACKSONVILLE BROADCASTING CORP.
HAS: 102.9 MHZ; CHANNEL NO. 275C
ERP: 29 KW; HAAT: 205 FT. (LIC)
REQ: 102.9 MHZ; CHANNEL NO. 275C
ERP: 60 KW; HAAT: 572 FT.

BPH-9909 NEW EUNICE, LOUISIANA
TRI-PARISH B/CTING CO., INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: .2 KW; HAAT: 105.6 FT.

BPH-9910 NEW BERRYVILLE, VIRGINIA
BERRYVILLE MEDIA GROUP
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.

BPH-9913 NEW COLUMBIA, SOUTH CAROLINA
OASIS MEDIA LIMITED
REQ: 103.1 MHZ; CHANNEL NO. 276A
ERP: 3 KW; HAAT: 300 FT.

BPH-9914 NEW JEFFERSONTOWN, KENTUCKY
PUBLICAST COMMUNICATIONS, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: 300 FT.

BPH-9915 NEW LEWISBURG, WEST VIRGINIA
LEWISBURG FM BROADCASTERS
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO RONCEVERTE, WV.)

BPH-9917 NEW FRANKFORT, MICHIGAN
BENZIE COUNTY COMMUNICATIONS, INC.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 300 FT.

BPH-9918 NEW LAKE VILLAGE, ARKANSAS
JACK A. CARPENTER
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

BPH-9920 KBRE-FM CEDAR CITY, UTAH
NEW ERA BROADCASTING COMPANY
HAS: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.5 KW; HAAT: -160 FT. (LIC)
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.3 KW; HAAT: 1681 FT.

BPH-9921 NEW BETHLEHEM, WEST VIRGINIA
RADIO WHEELING, INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO MOUNDSVILLE, WV.)

BPH-9923 NEW ASHLAND, OREGON
FAITH TABERNACLE, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: -1298 FT.

BPH-9924 NEW PRENTISS, MISSISSIPPI
JEFF DAVIS BROADCASTING SERVICE
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 1 KW; HAAT: 94 FT.

BPH-9926 NEW MARIPOSA, CALIFORNIA
MARIPOSA BROADCASTING, INC.
REQ: 96.3 MHZ; CHANNEL NO. 242B
ERP: 1.1 KW; HAAT: 2079 FT.

BPH-9928 WTWE MANNING, SOUTH CAROLINA
CLARENDON COUNTY BROADCASTING CO.
HAS: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 160 FT. (LIC)
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9929 KDES-FM PALM SPRINGS, CALIFORNIA
TOURTELOT BROADCASTING COMPANY
HAS: 104.7 MHZ; CHANNEL NO. 284B
ERP: 20 KW; HAAT: -600 FT. (LIC)
REQ: 104.7 MHZ; CHANNEL NO. 284B
ERP: 41.5 KW; HAAT: 543 FT.

BPH-9930 WKPT-FM KINGSPORT, TENNESSEE
HOLSTON VALLEY BROADCASTING CORP.
HAS: 98.5 MHZ; CHANNEL NO. 253C
ERP: 45 KW; HAAT: 960 FT. (LIC)
REQ: 98.5 MHZ; CHANNEL NO. 253C
ERP: 100 KW; HAAT: 1260 FT.

BPH-9931 NEW PRICE, UTAH
EASTERN UTAH BROADCASTING COMPANY
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 3 KW; HAAT: -144 FT.

BPH-9932 NEW LIVINGSTON, MONTANA
YELLOWSTONE B/CTING SERVICES, INC.
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: -245 FT.

BPH-9934 NEW LAKE ARROWHEAD, CALIFORNIA
ARROWHEAD BROADCASTING CORPORATION
REQ: 103.9 MHZ; CHANNEL NO. 280A
ERP: .087 KW; HAAT: 1486 FT.

BPH-9937 NEW HIGH SPRINGS, FLORIDA
COUNTRY BROADCASTING COMPANY
REQ: 104.9 MHZ; CHANNEL NO. 285A
ERP: 3 KW; HAAT: 300 FT.

BPH-9938 KDUX-FM ABERDEEN, WASHINGTON
ABERDEEN BROADCASTING CO.
HAS: 104.7 MHZ; CHANNEL NO. 284C
ERP: 48 KW; HAAT: 155 FT. (LIC)
(OCEAN SHORES, WASHINGTON)
REQ: 104.7 MHZ; CHANNEL NO. 284C
ERP: 31.3 KW; HAAT: 361 FT.
(ABERDEEN, WASHINGTON)

BPH-9948 NEW GAYLORD, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.8 KW; HAAT: 371 FT.

BPH-9949 NEW ST. IGNACE, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 102.3 MHZ; CHANNEL NO. 272A
ERP: 3 KW; HAAT: 300 FT.

BPH-9952 WDAS-FM PHILADELPHIA, PENNSYLVANIA
MAX M. LEON, INC.
HAS: 105.3 MHZ; CHANNEL NO. 287B
ERP: 50 KW; HAAT: 185 FT. (LIC)
REQ: 105.3 MHZ; CHANNEL NO. 287B
ERP: 3.31 KW; HAAT: 872 FT.

BPH-9954 NEW BASTROP, LOUISIANA
HAGAN BROADCASTING, INC.
REQ: 100.1 MHZ; CHANNEL NO. 261A
ERP: 3 KW; HAAT: 182 FT.

BPH-9955 NEW PLYMOUTH, NORTH CAROLINA
RALPH D. EPPERSON
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 2.6 KW; HAAT: 326 FT.

BPH-9956 NEW SLATON, TEXAS
FAITH BROADCASTING SERVICE
REQ: 92.7 MHZ; CHANNEL NO. 224A
ERP: 3 KW; HAAT: 300 FT.

BPH-9957 KWHO-FM SALT LAKE CITY, UTAH
RADIO STATION KWHO
HAS: 93.3 MHZ; CHANNEL NO. 227C
ERP: 37 KW; HAAT: -93 FT. (LIC)
REQ: 93.3 MHZ; CHANNEL NO. 227C
ERP: 13 KW; HAAT: 3650 FT.

BPH-9965 NEW MINEOLA, TEXAS
A-C CORPORATION
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 300 FT.

BPH-9967 NEW AZTEC, NEW MEXICO
BASIN BROADCASTING COMPANY
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 30 KW; HAAT: 429 FT.

BPH-9971 KSND SPRINGFIELD-EUGENE, OREGON
STERLING RECREATION ORGANIZATION CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 2.6 KW; HAAT: 81 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 26.7 KW; HAAT: 814 FT.

BPH-9972 KSUM-FM ONTARIO, CALIFORNIA
MEDIA MANAGEMENT CO., INC.
HAS: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: -400 FT. (LIC)
REQ: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: 89 FT.

BPH-9974 KTYL TYLER, TEXAS
OIL CENTER BROADCASTING CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 4.8 KW; HAAT: 380 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 100 KW; HAAT: 468.2 FT.

BPH-9977 NEW ALLIANCE, NEBRASKA
QUIVEN O. FORTNER & ROBERT V. HILL
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9980 NEW BETHANY, MISSOURI
JERRELL A. SHEPHERD
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

BPH-9981 NEW HERMISTON, OREGON
HERMISTON BROADCASTING CO.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 78 FT.

BPH-9996 KLSN BROWNWOOD, TEXAS
G.B.E., INC.
HAS: 99.3 MHZ; CHANNEL NO. 257A
ERP: .7 KW; HAAT: 115 FT. (LIC)
REQ: 104.1 MHZ; CHANNEL NO. 281C
ERP: 25 KW; HAAT: 206 FT.

BPH-10111 NEW HEALDSBURG, CALIFORNIA
CARROLL E. BROCK
REQ: 92.9 MHZ; CHANNEL NO. 225B
ERP: 18 KW; HAAT: 730 FT.

BMPH-14866 WBJH TRENTON, NEW JERSEY
WBUD, INC.
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 130 FT. (LIC)
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 120 FT. (CP)
REQ: 101.5 MHZ; CHANNEL NO. 268B
ERP: 50 KW; HAAT: 120 FT.

BMPH-14875 KRKE-FM ALBUQUERQUE, NEW MEXICO
GAYLORD BROADCASTING CO., INC.
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 1.6 KW; HAAT: -150 FT. (LIC)
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 3.5 KW; HAAT: -155 FT. (CP)
REQ: 94.1 MHZ; CHANNEL NO. 231C
ERP: 8.14 KW; HAAT: 4104 FT.

BMPH-14876 KNCY-FM NEBRASKA CITY, NEBRASKA
THE KNCY RADIO CORP.
HAS: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 125 FT. (CP)
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 300 FT.

BPED-2146 NEW CHESTER, PENNSYLVANIA
WIDENER COLLEGE
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2210 NEW BAINBRIDGE, OHIO
KENSTON LOCAL SCHOOL DISTRICT
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2215 NEW RICHMOND, VIRGINIA
UNIVERSITY OF RICHMOND
REQ: 90.1 MHZ; CHANNEL NO. 211D
TPO: .01 KW.

BPED-2239 NEW PRAIRIE VIEW, TEXAS
PRAIRIE VIEW A & M UNIVERSITY
REQ: 88.3 MHZ; CHANNEL NO. 202C
ERP: 50 KW; HAAT: 402 FT.

BPED-2245 NEW CAROLINA, PUERTO RICO
CHRISTIAN BROADCASTING CORP.
REQ: 90.5 MHZ; CHANNEL NO. 213B
ERP: 25 KW; HAAT: 1861 FT.

BPED-2246 NEW ELKTON, MARYLAND
MANANATHA BIBLE INSTITUTE, INC.
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: 3 KW; HAAT: 260.6 FT.

BPED-2248 NEW ELON COLLEGE, NORTH CAROLINA
ELON COLLEGE
REQ: 89.3 MHZ; CHANNEL NO. 207D
TPO: .01 KW.

BPED-2252 WVXU-FM CINCINNATI, OHIO
XAVIER UNIVERSITY
HAS: 91.7 MHZ; CHANNEL NO. 219D
ERP: .065 KW; HAAT: 650 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219B
ERP: 6.39 KW; HAAT: 683 FT.

BPED-2254 NEW NEW ORLEANS, LOUISIANA
NEW ORLEANS BAPTIST THEOLOGICAL SEM.
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

BPED-2259 KVIT DALLAS, TEXAS
RESEARCH EDUCATIONAL FOUNDATION, INC
HAS: 91.7 MHZ; CHANNEL NO. 219C
ERP: .78 KW; HAAT: 69 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219C
ERP: 100 KW; HAAT: 786 FT.

BPED-2260 NEW MONROE, MICHIGAN
MONROE PUBLIC SCHOOLS
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2261 NEW UTICA, NEW YORK
SYRACUSE UNIV. UTICA COLLEGE BRANCH
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

PAGE 9

BPED-2264 NEW BOXFORD, MASSACHUSETTS
MASCONOMET REGIONAL SCHOOL SYSTEM
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: .710 KW; HAAT: 19 FT.

BPED-2265 NEW LAKE HAVASU CITY, ARIZONA
ROYAL RANGER TRAILBLAZER OUTPOST #67
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2267 WKTL STRUTHERS, OHIO
BD. OF EDUC., STRUTHERS CTY SCH. DIST
HAS: 90.7 MHZ; CHANNEL NO. 214A
ERP: .91 KW; HAAT: 26 FT. (LIC)
REQ: 90.7 MHZ; CHANNEL NO. 214A
ERP: 14.9 KW; HAAT: 23 FT.

BPED-2272 NEW SODUS, NEW YORK
SODUS CENTRAL SCHOOL
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2276 NEW LANCASTER, PENNSYLVANIA
LANCASTER BIBLE COLLEGE
REQ: 90.3 MHZ; CHANNEL NO. 212A
ERP: 1.06 KW; HAAT: 87.5 FT.

BPED-2281 KAVS THIEF RIVER FALLS, MINNESOTA
AREA VOCATIONAL TECHNICAL INSTITUTE
REQ: 90.1 MHZ; CHANNEL NO. 211A
ERP: 1.8 KW; HAAT: 82 FT.

BPED-2359 KDVS DAVIS, CALIFORNIA
UNIVERSITY OF CALIFORNIA
HAS: 91.5 MHZ; CHANNEL NO. 218D
TPO: .01 KW. (LIC)
REQ: 90.3 MHZ; CHANNEL NO. 212B
ERP: 5 KW; HAAT: 149 FT.

BMPED-1291 WEVL MEMPHIS, TENNESSEE
SOUTHERN COMMUNICATION VOLUNTEERS
HAS: 90.3 MHZ; CHANNEL NO. 212D
TPO: .01 KW. (CP)
REQ: 89.9 MHZ; CHANNEL NO. 210C
ERP: 6.3 KW; HAAT: 279 FT.

[FR Doc.76-24896 Filed 8-24-76;8:45 am]

[Docket No. 20824; File No. BPH-9300]

WILLIAM HENRY BRITT

Designating Application for Hearing on Stated Issues

In reference application of William Henry Britt, Lubbock, Texas, Docket No. 20824, File No. BPH-9300, Requests: 102.5 MHz, Channel 273; 29.15 kW; 436 feet; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned application of William Henry Britt (Britt) for a construction permit for a new commercial FM broadcast station at Lubbock, Texas.

2. Analysis of Britt's financial documentation indicates that he will require $85,663 to construct his proposed facility and operate for one year, itemized as follows:

Equipment	$15,876
Loan curtailments	5,843
Interest on loan	4,674
Miscellaneous	9,290
Working capital (1st-yr.)	49,980
Total	85,663

To meet this requirement, Britt intends to rely upon existing capital, a bank loan, and anticipated revenues. However, it does not appear that these funds are, in fact, available to him. Since Britt's balance sheet fails to segregate current liabilities from long-term liabilities, as required by the instructions in section III of the application (FCC Form 301), the staff has been unable to determine the amount of capital available. Although Britt has indicated his intention to apply for a bank loan from the Lubbock National Bank, he has submitted no letter of commitment from that bank nor from any other financial institution. Finally, Britt has not submitted any advertising commitments in support of his intent to rely upon anticipated revenues. Rather, he has submitted a letter from a Webster and Harris Advertising Agency of Lubbock stating that it would consider placement of advertising for its clients on Britt's proposed station. However, such a letter from an advertising agency in lieu of advertising commitments, as required by the instructions to section III of the application, is insufficient. Therefore, a financial issue will be specified.

3. In addition, Britt has failed to comply with the requirements of the "Primer on the Ascertainment of Community Problems by Broadcast Applicants", 27 FCC 2d 650, 21 RR 2d 1501 (1971). Based upon the information contained in Britt's demographic material, it does not appear that he has surveyed leaders of all significant groups within his proposed community of service. "Voice of Dixie, Inc.", 45 FCC 2d 1027, 29 RR 2d 1127 (1974). For example, Britt states that the "principal business opportunities in Lubbock county are centered around agricultural business," including farming and farm related industries (e.g., farm machinery, fertilizer, and related farm products.) However, Britt has consulted no agricultural leaders nor leaders of farm related industries. In addition to Britt's omission of agricultural leaders, he has also excluded industrial leaders, religious leaders, professional leaders, and leaders of students and youth despite the fact that Lubbock is the home of Texas Tech University, one of Texas' largest universities. Further, it does not appear that all of Britt's community leader consultations were conducted by principals or management-level employees, as required by question and answer 11(a) of the "Primer".

4. In his application, as amended, Britt has ascertained the existence of 13 community problems. However, his entire programming proposal in response to these problems consists of one 15-minute program entitled, "Twist the Action"

which will be broadcast three times daily, three days per week. Britt's attempt to correlate one program with all of Lubbock's ascertained community problems and needs is so vague and overly general as to reflect but a token effort to comply with the requirements of the "Primer Southeast Arkansas Radio, Inc.," 47 FCC 2d 835, 30 RR 2d 769 (1974). Therefore, a "Suburban"[1] issue will be included.

5. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

6. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether William Henry Britt is financially qualified to construct and operate as proposed.

2. To determine the efforts made by William Henry Britt to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

3. To determine, pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

7. *It is further ordered*, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

8. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 9, 1976.

Released: August 17, 1976.

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

[FR Doc.76-24895 Filed 8-24-76;8:45 am]

[1] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01084---	The West Hartlepool Steam Navigation Company Limited: *Granteyhall.*
01088---	Schulte & Gruns, Kingstrasse 2: *Lucie Schulte.*
01150---	Chevron Transport Corporation: *Elmer R. Peterson.*
01181---	Smith Sorensen Tankrederi A/S: *Orion.*
01252---	Aktieselskapet Havtor: *Havprins.*
01425---	Johnston Warren Lines Limited: *Nova Scotia.*
01817---	The Clan Line Steamers Limited: *Clan MacLeod.*
02013---	Granges AB: *Adak, Anaris, Arvidsjaur, Raunala, Avafors, Aurivaara.*
02146---	Pittston Marine Transport Corporation: *Cortland.*
02198---	The Peninsular and Oriental Steam Navigation Company: *Busiris.*
02295---	The Great Eastern Shipping Co., Ltd.: *Jag Anand.*
02473---	Irish Shipping Ltd.: *Irish Stardust.*
02492---	Interstate Oil Transport Co.: *Ocean 250, Ocean 135, Ocean 115, Ocean 96, Ocean 90, Ocean 80, Interstate No. 52, Interstate No. 53, Interstate No. 50, Interstate No. 48, Interstate No. 34, Interstate No. 30, Offshore 2401, Argoil 185, Interstate No. 19, Interstate No. 12, Interstate No. 17, Argoil 150, Argoil 160, Argoil 130, Chem Ten, Chesapeake, Interstate No. 8, Interstate No. 1, Argoil 105, R.T.C. No. 51, Interstate 54, Interstate 55, Interstate 36, Elk River, Interstate 72, Ocean States, Ocean 190, Interstate 71, Atlantic 28, York River, Ocean 155, Tide 119, Interstate 37, Interstate 35, Argoil 175, Interstate 70, Interstate 29, Ocean 255, Interstate 38.*
02715---	Allied Towing Corporation: *Hot Oil 17, ATC-141.*
02831---	Ednasa Company Ltd.: *Robina, Lorina, Louisana, Lamaria, Lindana, Lalinda, Lisana, Lennia, Losina, Larina, Lafumina, Lynda, Lissa, Larissa, Lasinda, Lilliana.*
02889---	Showa Kaiun K.K.: *Tonen Maru.*
02952---	Blandford Shipping Co., Ltd.: *Bamford, Bedford, Castleton Bulford Bideford Boxford.*
03068---	Pacific Shipping Company Limited: *Loi Kim.*
03214---	Saleninvest AB: *Sea Song.*
03293---	Maritime Fruit Carriers Company Limited: *Mandarincore.*
03447---	K.K. Kyokuyo: *Kyo Maru No. 15, Kyo Maru No. 23, Kyo Maru No. 25.*
03477---	Nissui Kaiun K.K.: *Seiko Maru, Soyokaze Maru, Toko Maru, Hakukaze Maru, Matsukaze Maru, Hokko Maru, Asakaze Maru.*
03508---	Taiyo Gyogyo K.K.: *Azumar Maru No. 8.*
03513---	Tanda Sangyo Kisen Kabushiki Kaisha: *Seiran Maru.*
03521---	Tokushima Kisen Kaisha, Ltd.: *Tokusei Maru.*
93595---	Artagan Shipping Company Limited: *Artiba.*
03645---	Tidewater Morgan City Inc.: *Tide Mar 21, Tide Mar 20.*
03692---	Marmac Corporation: *WGH-14.*
04358---	Holland Bulk Transport B.V.: *Ameland.*
04503---	Okutsu Suisan K.K.: *Zenkomaru No. 18.*
04569---	Marasia S.A.: *Pacifico.*
04767---	Texaco Inc.: *Texaco Illinois.*
04768---	Texaco Overseas Tankship Limited: *Texaco Durham.*
04770---	Texaco Panama Inc.: *Texaco Missouri.*
05098---	EXXO Tankers Inc.: *ESSO Libya.*
05265---	Oceanostar Compania Maritima S.A.: *Valencia.*
05526---	Eastern Shipping Lines, Inc.: *Eastern Meteor.*
05578---	Baltic Shipping Company: *Alapajevkles, Arkhangelskles, Nikolai Krylenko, Nikolai Tjuljpin, Iuljam Foster, Alexandr Pushkin, Chernyakhovsk, Krasnogvardejsk, Krasnovraljsk, Olyga Ulyanova Dmitrij Ulyanov, Karachaevo Cherkessija, Vereya, Ilovaisk, Akademik Rikachev, Alecandr Ulianov, Valerian Kuibyshev, Nikolaj Pogodin.*
06074---	Quinto Navigation Corporation: *Island Engineer.*
06950---	Syra Compania Maritima S.A.: *Syra.*
06952---	Far East Shipping Co., Ltd.: *Mercury Gas.*
07141---	Miyagi Ken: *Miyagi Maru.*
07374---	Ocean Tramping Company Limited: *Mingchang, Nebula, Weili, Kailok.*
07817---	Yick Fung Shipping and and Enterprises Co. Ltd.: *China Sea, Steed.*
07990---	Partrederiet Proctor VI: *Pacific Proctor.*
08176---	Esso Italiana Spa.: *Esso Napoli.*
08414---	I.F.R. Services Limited: *Newcastle Clipper, Labrador Clipper, Lapland.*
08765---	Landmo Shipping Services Limited: *Bonnydale.*
09074---	Zuito Shipping Co., Ltd.: *Toko Maru.*
09164---	Aquanaves, C.A.: *Aquanaves II.*
09206---	Societe Navale Chargeurs Delmas Vieljeux: *Delchim Bearn.*
09580---	Tiana Shipping Co., Ltd.: *Sea Trader.*
09623---	Sea Goblin, Inc.: *Sea Goblin.*
09997---	Robina Shipping Co., S.A.: *Wisteria, Sunny Pioneer, Atlantic Pioneer.*
10260---	Hollywood Marine, Inc.: *T-220.*
10332---	Fukujin Kisen Kabushiki Kaisha: *Matsufukujin Maru.*

Certificate No.	Owner/operator and vessels
10369---	Monarch Cruise Lines, Inc.: *Monarch Sun.*
10675---	Gilbralter Strait Shipping Inc.: *Fedtrade.*
10772---	Daiwa Line S.A.: *Michaelson Queen, Count Albatross, Atlantic Albatross, Tokelau.*
11011---	Power Corporation of Canada Ltd.: *Eskimo.*
11065---	C & M Shipping Co., S.A.: *Gloria Takeshi.*
11271---	China Merchants Steam Navigation Co. Ltd.: *Hai Hui.*
11286---	Binion Marine Service, Inc.: *ETT-105.*
11291---	Hull Investments Limited: *Manoora, Kanimbla.*
11498---	Herald Shipping Co., Ltd.: *Gomasa*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24771 Filed 8-24-76;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Issuances

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01016---	C. Clausen Dampskibsrederi A/S: *Linda Clausen, Helene Clausen.*
01233---	Buries Markes Ltd.: *La Selva.*
01330---	Shell Tankers (U.K.) Ltd.: *Limopsis.*
01425---	Johnston Warren Lines Ltd.: *Tropic.*
01426---	Kuwait Shipping Co.: *Ibn al Haitham, Ibn al Najees, Ibn al Atheer.*
01449---	The Cairn Line of Steamships Ltd.: *Saxon Prince.*
01613---	Reardon Smith Line Ltd.: *Eastern City.*
01755---	Hugo Stinnes: *Pampero.*
01758---	Chotin Transportation, Inc.: *NMS 1802.*
01805---	Suisse Atlantique Societe d'Armement Maritime S.A.: *Los Andes, Lavaux.*
01889---	Gazocean Armement: *Pythagore.*
01935---	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Anders Maersk, Arild Maersk.*
02145---	Memphis Boat Refueling Service, Inc.: *CE 62.*
02344---	Empresa Lineas Maritimas Argentinas S.A.: *Catamarca II.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Sandgate.*
02462---	Hellenic Lines Ltd.: *Hellenic Patriot.*
02497---	Transworld Drilling Co.: *Transworld Rig 64.*
02560---	Aethalia Shipping Corp.: *Island Sky.*
02654---	Neuenfelder Reederei H. J. Wesch kg.: *Scol Trident.*
02836---	The Scindia Steam Navigation Co., Ltd.: *Jalaputra.*
02844---	Gloria Bahama, Ltd.: *Albion.*
02877---	Nippon Yusen Kabushiki Kaisha: *Kasuga Maru.*
02975---	Venture Shipping (Managers) Ltd.: *Summit Venture, American Venture.*
02977---	J. Ray McDermott & Co., Inc.: *McDermott Tidelands 010.*
03434---	Hoko Suisan K.K.: *Yashima Maru, Ebisu Maru, Shintoku Maru No. 26.*
03482---	Ryutsu Kaiun K.K.: *Mikata Maru.*
03484---	Sanko Kisen K.K.: *Eastern Dale, World Eminence.*
03517---	Tokyo Kaiji Kabushiki Kaisha: *Yucaly.*
03564---	A/S Mosvolds Rederi: *Mospoint.*
03680---	Murphy Pacific Marine Salvage Co.: *Gear.*
03692---	Marmac Corp.: *KS-101, Jane Houghland, JGH-33, WGH-10, RWH-43.*
03836---	Splosna Plovba: *Kranj.*
93878---	Ingram Barge Co.: *Sam M. Fleming.*
03918---	Mobile Shipping & Transportation Co.: *Mobil Hawk.*
04150---	Jan C. Uiterwyk Co., Inc.: *Susie U, Vera U.*
04172---	Eklof Marine Corp.: *E-16, E-24.*
04199---	Commercial Oil Carriers Ltd.: *Solana.*
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Belgium, Mol.*
04285---	Western Contracting Corp.: *Western Condor.*
04417---	Howaldt Schiffahrts-K.G.: *Paula Howaldt Russ.*
04768---	Texaco Overseas Tankship Ltd.: *Texaco London.*
04961---	Solar Navigation Corp.: *Andromachi.*
05098---	Esso Tankers Inc.: *Esso Saint Petersburg.*
05520---	Union Carbide Corp.: *USL-494, USL-601, USL-498.*
05559---	Maryland Shipbuilding & Drydock Co.: *Valerie F.*
05624---	Perusahaan Pertambangan Minyak Dan Gas Bumi Negara: *Permina Samudra XIV.*
05736---	Flota Cubana de Pesca: *Rio Contra Maerstre, Rio Mayabeque.*
06248---	Commercial Corp. "Sovrybflot": *Kvant.*
06290---	Dockside Elevators, Inc.: *S-24, Mr. Bert.*
06389---	Sears Oil Co., Inc.: *Rome Sears.*
06721---	Kooil Industrial Co. Ltd.: *O Dae Yang No. 202, Endeavourers No. 7.*
06806---	Korea Marine Transport Co. Ltd.: *Royal Sapphire.*
06818---	Globus Reederei GMBH Hamburg: *Sa Sabie.*
06995---	Novorossisk Shipping Co.: *Apsheron.*
06996---	Akita Senpaku K.K.: *Akitsushima Maru.*
07019---	Allied Shipping International Corp.: *Astron.*
07307---	Nagashiki Kisen K.K.: *Kamishio Maru.*
07458---	Galissa Compania Maritima S.A.: *Galissa.*
07640---	Exxon Co. U.S.A.: *CTCO 194-25, CTCO 195-25, TTC-1, Exxon Barge No. 312, Exxon Barge No. 313, Exxon Barge No. 333.*
08390---	The Interlake Steamship Co.: *James R. Barker.*
08584---	The Mogul Line Ltd.: *Jana Priya, Jana Vijay.*
08931---	American River Transportation Co.: *Ardyce Randall.*
08990---	Compagnie Navale des Petroles: *Rigel, Cassiopee, Betelegeuse.*
09094---	Lambert Brothers Shipping Ltd.: *Temple Hall.*
09096---	Dong Won Industrial Co. Ltd.: *Dong Won No. 51.*
09206---	Societe Navale Chargeurs Delmas-Vieljeux: *Lucien Delmas.*
09408---	Partenreederei M.S. Woermann Sanaga: *Sanaga.*
09724---	Kagaya Matsuei: *Yachiyo Maru No. 26.*
09785---	San Diego Transportation Co.: *450-5.*
09792---	United Fair Agencies Ltd.: *Grand Universe, San Pollux.*
10260---	Hollywood Marine Inc.: *B-524.*
10314---	Edipsos Compania Naviera S.A.: *Kallimachos.*
10454---	West Coast Carriers Ltd.: *Fortune Carrier.*
10552---	F. Laeisz Maritime & Trading Co., Ltd.: *Josefa, Eva Maria, Vanessa.*
10768---	South Caribbean Shipping Co., Ltd.: *Stavros, G.L.*
10769---	North Caribbean Shipping Co., Ltd:. *Tina.*
10771---	Alexandria Shipping and Navigation Co.: *Al Anoud, Kuwait, Gada.*
10813---	Benitses Shipping Corp.: *Vassilis.*
10834---	Transports, Inc.: *Southern Isle.*
11065---	C & M Shipping Co. S.A.: *Glory Universe, Glory Friendship.*
11082---	Interocean Management Corp.: *Maryland.*
11211---	Princeland Maritime Corp.: *Euro Princess.*
11256---	Field-Swire Drilling Co.: *Pacific Driller.*
11267---	Hae Woi Industrial Co. Ltd.: *Espoir No. 103, Espoir No. 105.*
11276---	Petula Shipping Co. Ltd.: *United Fortune.*
11277---	Caribe Tugboat Corp.: *MM 366.*
11289---	Sajo Industrial Co. Ltd.: *Oryong No. 31.*
11301---	SBB, Stahl-Und Blech-Bau GmbH: *Matthias III.*
11339---	Eastern Street Maritime Co. S.A.: *Eastern Street.*
11345---	Norfolk Shipping Ltd.: *Aster.*
11351---	Sea Containers (Cyprus) Ltd.: *Deckship Arabella.*
11361---	Boston Tow Boat Co.: *Harold Smith.*
11372---	Crowley Maritime International S.A.: *Barge H-32.*
11384---	Frendo A/S: *Frendo Carib.*
11409---	Himmelman Shipping Ltd.: *O.K. Service.*
11421---	Karavos Compania Naviera S.A. Panama: *Swede Tonia.*
11422---	Dorycnium Shipping Corp.: *Swede Pride.*
11449---	Mare Shipping Co. Ltd.: *Eurco Faith.*
11462---	Reinante Oceanica Armadora S.A. Panama: *St. Vincent.*
11466---	Lee-Vac, Ltd.: *S & H No. 1, GW 50, Z-61, H & S No. 3, H & S No. 2, GW 701, Z-71, Z-112, Z-110, Z-111, UMI 1807B, Z101, Minnesota, Z-120, Z-122, Domar 2502, Ceco 2501, Domar 2503, Domar 6501.*
11477---	Jackson Towing Co., Inc.: *LRL-109.*
11479---	Marvel Shipping Co. S.A.: *Angelina.*
11482---	IO Shipping Co. S.A.: *IO.*
11486---	Oriental Central America Lines Inc.: *Hongkong Success.*
11487---	Selefkos S.A. of Panama: *Arta.*
11488---	Poong Yang Industrial Co.: *Poong Yang No. 2.*

Certificate No.	Owner/operator and vessels
11490---	United Overseas Container Services Inc.: *Oriental Statesman.*
11492---	Wakamatsu Kaiun Kabushiki Kaisha: *Wakatake Maru.*
11493---	A/S Shipping Enchant: *Emanuel.*
11496---	Transworld No. 3 Tanker Services Inc.: *Brazilian Faith.*
11497---	Alto Pool S.A.: *Dimitris P. Lemos.*
11498---	Herald Shipping Co. Ltd.: *Gomasa.*
11499---	Firstmark Maritime Co. Ltd.: *Michelle F.*
11500---	Reina Guillermina Compania de Navegacion S.A. Panama: *Apex.*
11502---	Transportes Del Mar: *Isla de San Andres.*
11504---	Transportes de Liquidos SNA Andres Ltd.: *Jacqueline.*
11505---	Tokuei Kaiun Yugen Kaisha: *Tokuei Maru No. 27.*
11506---	Pacific Bulk Carriers: *Argosy Pacific.*
11507---	Gavaly Caribe S.A.: *Marissa I.*
11508---	Endymion Shipping Corp.: *Gaudeamus.*
11509---	Southern Seas Navigation Ltd.: *Messiniaki Floga.*
11510---	Taeping Overeas Services, Inc.: *Taeping.*
11511---	Seth Shipping Corp.: *Jade.*
11513---	Sissy Steamship Co. Ltd.: *Archipelagos.*
11515---	Palmer Barge Line Inc.: *APT 300, APT 301.*
11517---	Tunegoro Shoji: *Daiki Maru No. 8.*
11520---	Noah Naviera Corp. S.A.: *Seed Leaf, Fortune Leaf.*
11522---	Green Mariner Corp.: *Gladiator.*
11523---	Irano-British Ship Service Co. Ltd.: *Shoush, Semnan, Shadgan, Minab, and Nokran.*
11524---	St. Godric's Shipping Co. Ltd.: *Caricom Adventurer.*
11526---	Sockabo Transports Inc.: *REB 1901, and REB 1902.*
11528---	Stolt Spirit Inc.: *Stolt Spirit.*
11529---	Ssangyong Shipping Co. Ltd.: *Gayong.*
11530---	Glory Maritime Ltd.: *Aquaglory.*

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24912 Filed 8-24-76;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Gladys C. Moreno, 215 SW. 17th Avenue, Miami, FL 33135.

Eui Man Kim, 147-30 38th Avenue, Apt. No. 1D, Flushing, NY 11354.

Air Sea Forwarding Corp., 115-52 Lefferts Blvd., Jamaica, NY 11420, Officers: Joseph Cacici, President/Treasurer, Donna M. Cacici, Vice Pres./Secretary, Bernard Mazzocchi, Vice Pres./Traffic, Ruth Loeffler, Vice Pres./Traffic.

Bratt International (Thomas W. Bratt, dba), 406 Waters Street, Baltimore, MD 21202.

By the Federal Maritime Commission.

Dated: August 20, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24911 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

Order Granting Withdrawal of Application for Change in Land Rights and Vacating Order Providing for Hearing

AUGUST 18, 1976.

On October 30, 1972, Arkansas Power & Light Company (AP&L), licensee for the Carpenter and Remmel Project No. 271,[1] filed an application for change in land rights at Project No. 271. The application sought Commission approval of a proposed conveyance of 100 acres of Electric Island and 16.2 acres of Little Goat Island, both located in the project's Lake Hamilton reservoir, to the City of Hot Springs, Arkansas. The City in turn proposed to grant a 50 year lease for the two islands to a private individual, who planned extensive development of a resort/recreational complex. AP&L stated in its application that, following Commission approval of the conveyance, it would amend Exhibit R of its application for new license for Project No. 271, currently pending before the Commission, to reflect the proposed new recreational development at Electric and Little Goat Islands.

Before us now is a motion filed on April 7, 1976, by which AP&L seeks to withdraw the above-described application. For the reasons stated below, and subject to the conditions imposed by this order, we find it appropriate to grant AP&L's motion.

PROCEDURAL BACKGROUND

The confusing procedural background of the instant application dates back to February 4, 1970, when AP&L filed its application for new major license for Project No. 271.[2] Subsequently, AP&L filed a number of applications for change in land rights, including that which AP&L now seeks to withdraw. On September 10, 1973, the Commission issued three orders, which approved changes in land rights at Project No. 271 to allow the construction and maintenance of effluent outfall lines for a motel complex and two residential subdivision.[3]

In a fourth order issued on September 10, 1973, we expressed our concern with "the practice of allowing increased use of project lands and waters on a piecemeal basis rather than being related to a comprehensive consideration of the capacity of the project lands and waters to serve known and forseeable [sic] public uses * * *."[4] Pursuant to that concern, we noted the pending application for change in land rights involving the transfer of portions of Electric and Little Goat Islands to the City of Hot Springs, and referred that application to hearing with other existing applications for easements or other permission to utilize project lands and waters, so that they could be considered in light of a comprehensive analysis of the project lands and waters as a whole.

DISCUSSION

In support of its motion to withdraw the Electric and Little Goat Islands application, AP&L states that the time limits of its offer to donate the property to the City of Hot Springs have expired, and further, that the City has informed AP&L that financing for the proposed development is no longer feasible and, for the foreseeable future, cannot be obtained. In view of these allegations, and in view of the substantial opposition to the proposed development voiced by local citizens following public notice and the uncertain effect of such development on a fish hatchery maintained by the Arkansas Game and Fish Commission near Electric Island, we have no objection to withdrawal of the application.

In an order issued September 9, 1975, we considered an application for change in land rights at Project No. 271, filed subsequent to the order providing for hearing.[5] We decided that the original hearing order encompassed only applications involving project lands and waters then before the Commission, and that applications filed after September 10, 1973, would be considered in light of the underlying policy of the September 10, 1973 hearing order, to determine whether consolidation within the hearing is appropriate.

Aside from AP&L's application for new license, the only application filed prior to September 10, 1973, that will be left before the Commission following withdrawal of the Electric and Little Goat Islands proposal will be an application for approval of an easement filed on December 4, 1966. This application seeks approval of an easement granted by AP&L to the Union Carbide Corporation for placement of intake and outflow facilities to serve a vandium processing plant at Lake Catherine. The application proposes no additional construction, and

[1] Project No. 271 is located on the Ouachita River in Garland County, Arkansas, near the City of Hot Springs.

[2] The original license for Project No. 271 expired on February 6, 1973. Since that time, the project has been maintained and operated under annual licenses.

[3] Orders Approving Change in Land Rights, Arkansas Power and Light Co., Project No. 271, 50 F.P.C. 687, 692, 695 (1973).

[4] Order Providing for Hearing, Arkansas Power and Light Co., Project No. 271, issued September 10, 1973, slip op. at 1 (unreported).

[5] Order Denying Motion for Severance and Granting Application for Easement, Arkansas Power & Light Co., Project No. 271, issued September 9, 1975, slip op. at 1, 54 F.P.C. ---- (1975).

therefore is not within the ambit of the concern which prompted our hearing order in this proceeding. Accordingly, with the withdrawal of the Electric and Little Goat Islands application there being no applications for change in land rights for which a hearing on comprehensive uses of project lands and waters might be held, we find it appropriate to vacate the Order Providing for Hearing of September 10, 1973. The intent of that Order, however, remains our policy respecting the use of project lands and waters in relation to a comprehensive consideration of their capacity to serve known and foreseeable public uses. To this extent, any future applications which might result in intensified use of the project's resources will be evaluated from a comprehensive resource utilization perspective. We reserve the right, also, to provide for hearing on AP&L's application for new license or on any future applications that come before us, should a hearing be found necessary or appropriate.

In Exhibit R of its application for new license for Project No. 271, AP&L stated that its proposed plans for project recreation included development of Electric Island; in fact, according to the application, "Electric Island is the largest single projected recreational development of the project." The application that AP&L now withdraws included the detailed proposal for development of Electric Island. This being so, we believe that AP&L should reassess its Exhibit R to consider what, if any, recreational development at the project should be proposed in lieu of the development proposed in the withdrawn application. If appropriate, AP&L should then file a revision to the pending Exhibit R.

The Commission finds: (1) It is appropriate for purposes of the Federal Power Act and in the public interest to grant the motion of Arkansas Power & Light Company to withdraw the application for change in land rights, which application was filed on October 30, 1972, and proposed to convey 100 acres of Electric Island and 16.2 acres of Little Goat Island, located in Lake Hamilton, to the City of Hot Springs, as hereinafter provided.

(2) It is appropriate for purposes of the Federal Power Act to vacate the Order Providing for Hearing in this proceeding, issued September 10, 1973.

The Commission orders: (A) The motion of Arkansas Power & Light Company to withdraw its application for change in land rights, as described in paragraph (1), above, is hereby granted.

(B) Arkansas Power & Light Company shall reassess the pending Exhibit R of its application for new license for Project No. 271 to determine what, if any, alternative recreational development should be proposed in lieu of that which was proposed at Electric and Little Goat Islands by the withdrawn application and, if appropriate, shall file a revision to the Exhibit R to propose such alternative recreational development.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24837 Filed 8-24-76;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER & LIGHT CO.
Order Granting Amendment to Motion To Intervene and Extending Procedural Dates

AUGUST 17, 1976.

On September 29, 1975, Delmarva Power and Light Company and its subsidiaries (Delmarva) tendered for filing, pursuant to § 35.13(b)(4)(ii), proposed changes in the intercompany Power Supply Agreement. By order issued October 31, 1975, the Commission accepted for filing and suspended the proposed changes, established procedures, and allowed the intervention of the Public Service Commission of Maryland (Maryland). The Commission also granted intervention to the Public Service Commission of the State of Delaware (Delaware), the State Corporation Commission of the State of Virginia (Virginia), and the People's Counsel of the Maryland Public Service Commission (People's Counsel) by separate orders dated December 4, 1975, December 18, 1975, and May 18, 1976, respectively.

On June 29, 1976, Delaware filed its direct evidentiary presentation [1] and an amended notice of intervention along with direct evidence relating to the new issues raised in the Amendment.[2] On July 8 and July 9, 1976, Maryland and Virginia, respectively, filed objections to Delaware's Amendment to Motion to Intervene and both requested that it be stricken along with Delaware's testimony relating thereto. In the alternative, both requested that the procedural dates in this proceeding be postponed to allow all parties an opportunity to prepare testimony on the issues raised by Delaware. Delmarva, on July 9, 1976, and staff, on July 14, 1976, filed responses to Delaware's motion.

Although all parties except staff basically objected to the amendment, their main concern involved the extension of procedural dates. All parties have filed their direct evidence and the hearing is now scheduled to begin on August 27, 1976.[3]

It is clear that the changes proposed in the Amendment have an impact upon the distribution of costs of Delmarva's generating and transmission plant among the three states. Although including these issues will mean that additional time will be required for the parties to file supplemental testimony thereby prolonging the case, it is more appropriate to include them in this docket than, as Delaware has stated in its reply, to institute "a new docket merely to raise these questions" which would result in "needless expense, delay, and, moreover, confusion" in the resolution of the questions raised by the initial petition.

After a careful review of the issues in this proceeding, we will grant the Amendment to the Motion to Intervene and extend the procedural dates as hereinafter ordered.

The Commission finds: (1) Good cause exists to grant the Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976.

(2) Good cause exists to extend the procedural dates as hereinafter ordered.

The Commission orders: (A) The Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976, is hereby granted.

(B) The procedural dates in the above matter are modified as follows:

Service of Company's Revised Case, August 26, 1976.
Service of Supplemental Intervenor Testimony, September 10, 1976.
Service of Supplemental Staff Testimony, September 24, 1976.
Service of Company Rebuttal, October 8, 1976.
Hearing, October 26, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24827 Filed 8-24-76;8:45 am]

[Docket Nos. E-9453 and ER76-648]

DUKE POWER CO.
Order Adopting Settlement and Terminating Proceeding

AUGUST 17, 1976.

By order of June 18, 1975, we suspended the rate filing of Duke Power Company (Duke) in this proceeding. By order of May 27, 1976, we suspended Duke's filing of a revised schedule to its agreement with Yadkin, Inc., Docket No. ER76-648, and consolidated Docket Nos. E-9453 and ER76-648 since they involved "equivalent" rates. Settlement negotiations among Duke and the customers have ripened into an uncontested settlement, which was certified to us by the Administrative Law Judge on June 15, 1976. On July 16, 1976, the Commission staff filed comments on the settlement agreement favoring the settlement with one minor adjustment with regard to interest on leased nuclear fuel in Account 518. On July 30, 1976, Duke and the Joint Intervenors filed a joint response to the Commission staff's comments indicating their concurrence with staff's revision of the fuel adjustment clause provided the base cost of fuel were changed from .7923¢/kilowatt-hour to .8018¢/kilowatt-hour.

[1] Rate of return was the only issue raised in its original notice of intervention.

[2] The issues raised by Delaware in its Amendment include the overall rate of return, cost of money component, fixed charge rate, the return on production materials and supplies, construction work in progress with allowances for funds used during construction, renaming the Power Supply Agreement and treatment of the impact of depreciation on tax expense.

[3] Originally, the hearing was scheduled to begin on July 27, 1976. On July 21, 1976, Staff filed a motion to extend the procedural dates. This motion was granted on July 26, 1976.

Based on our review of the record in these proceedings, including the settlement agreement itself, the filings, documents and pleadings submitted, we conclude that the settlement agreement represents a reasonable resolution of the issues in the proceeding in the public interest, and that accordingly the settlement should be approved, subject to the above modification.

The Commission finds: The settlement agreement certified by the Presiding Judge to the Commission in this docket, should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The settlement agreement certified by the Presiding Judge in this docket on June 15, 1976, is hereby approved and made effective.

(B) Within 30 days from the date of this order, Duke shall file with the Commission revised rate schedule supplements applicable to the customers served in Docket Nos. E–9453 and ER76–648 in conformity with the terms of the settlement agreement approved herein. Duke's filing should include a revision of the fuel clause to make it consistent with the requirements of 18 CFR 35.14, with the base cost of fuel changed from .7923¢/kilowatt-hour to .8081¢/kilowatt-hour.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, against Duke or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24828 Filed 8–24–76;8:45 am]

[Docket Nos. RP72–150 (Rate Design), RP73–104, RP74–57, and RP75–39]

EL PASO NATURAL GAS CO.

Filing of Stipulation and Agreement

AUGUST 17, 1976.

Take notice that on August 6, 1976, El Paso Natural Gas Company (El Paso) filed with the Commission a Stipulation and Agreement (Stipulation) which proposes to dispose of all issues in the above-captioned rate proceedings.

El Paso states that the Stipulation has the support of all parties to these proceedings, including the Commission's Staff, on all issues except three: (1) The rate design issue related to Rate Schedule A–1–X; (2) the rate treatment for payments made to owners of special overriding royalty interests; and (3) El Paso's proposal to supplement its Reserve for Exploration. El Paso states further that these three issues have been left for determination by the Commission following initial decision thereon by the Presiding Administrative Law Judge, and that the parties have agreed to briefing dates for the three issues.

Copies of the Stipulation are on file with the Commission and are available for public inspection. Any person desiring to comment on the matters contained therein should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 27, 1976. Any reply comments should be filed on or before September 3, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24829 Filed 8–24–76;8:45 am]

[Docket No. ER76–830]

MISSISSIPPI POWER & LIGHT CO.

Tariff Change

AUGUST 17, 1976.

Take notice that Mississippi Power & Light Company on July 30, 1976, tendered for filing in accordance with Section 35.13 of the Commission's Regulations proposed changes in its FPC Electric Service Tariff to Electric Power Associations, FPC Rate Schedules No. 123, 124, 125 165, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 184, 185, 186, 188, 189, 190, 191, 192, 194, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 216, 218, 219, 220, 222, 223, 224, 225, 226, 227, 231, 232, 233, 238 and to municipal electric utilities FPC Rate Schedules No. 39, 87, 88, 93, and 238. The proposed changes would increase revenues $3,406,000 based on the 12 months period ending December 31, 1976.

The Company states that the tariff changes requested are necessary to reflect its cost of service for the projected period. In support thereof the company states that it earned a rate of return of 7.58 percent on its sales for resale to electric power associations and 7.63 percent on its sales for resale to municipal electric utilities in the calendar year 1975, and that the projected rate of return under the present electric service tariff for the 12 months ending December 31, 1976, for sales for resale to the electric power associations is 7.24 percent and for sales to the municipal electric utilities is 7.22 percent.

The company is also requesting that construction work in progress (CWIP) be included in the rate base in the proceeding.

Copies of the filing were served upon the customers receiving services under the above listed FPC Rate Schedules and upon the Mississippi Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 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 August 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24830 Filed 8–24–76;8:45 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE AND COORDINATING COMMITTEE

Determination and Certification With Respect to Renewal

The Chairman of the Federal Power Commission has determined that renewal of the terms of the Executive Advisory Committee and the Coordinating Committee of the National Power Survey to a date not later than December 31, 1976, is necessary in the public interest in connection with the performance of duties imposed on the Commission by law.

The notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, 38 FR 1083, as amended by Commission General Order No. 464–A, issued August 2, 1974, and authorities referred to therein, 39 FR 28929. See also Office of Management and Budget. Advisory Committee Management, Circular A–63, Revised, March 27, 1974, 30 FR 12389, as amended July 19, 1974.

The Executive Advisory Committee was established by Commission order, dated August 11, 1972, 37 FR 24213, and the Coordinating Committee by order, dated November 2, 1972, 37 FR 23868. These orders refer to the Commission order issued June 29, 1972, 37 FR 13380, which announced initiation of the National Power Survey, authorized formation of advisory committees, and established procedures therefor. By order issued December 19, 1972, 37 FR 28661, the Commission amended its earlier orders to conform with the requirements of the subsequently enacted Federal Advisory Committee Act, 86 Stat. 770.

The continued existence of these two committees is desirable during preparation of the Commission report. Specifically, the Executive Advisory Committee will be solicited for its views and comments regarding the staff report, while the Coordinating Committee is the remaining link between the Commission staff and technical advisory committees whose work, in some cases, may form the basis for Commission action; these technical advisory committees have expired.

The Commission continues or reestablishes these committees in accordance with the terms of this order, and the following Commission orders:

Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures, issued June 29, 1972, 37 FR 13380.

Order Establishing National Power Survey Executive Advisory Committee and Designating Initial Membership and Chairmanship, issued August 11, 1972, 37 FR 24213.
Order Establishing National Power Survey Coordinating Committee and Designating Initial Membership and Chairmanship, issued November 2, 1972, 37 FR 23868.
Order Amending National Power Survey Orders issued December 19, 1972, 37 FR 28661.
General Order No. 464–A, issued August 2, 1974, 39 FR 28929.
Order Renewing National Power Survey Executive Advisory Committees, issued August 7, 1974, 39 FR 29233.
Order Renewing National Power Survey Coordinating Committee, issued January 13, 1975, 39 FR 3250.
Order Renewing National Power Survey Executive Advisory Committee and Coordinating Committee, issued June 3, 1976, 41 FR 23246.

By Notice of Determination and Certification with Respect to Renewal with Respect to Renewal of National Power Survey Advisory Committees, dated July 30, 1974, 39 FR 27608, the Chairman of this Commission has determined and certified that the renewal of the aforesaid advisory committees of the National Power Survey for the period set forth herein is necessary in the public interest in connection with the performance of duties imposed upon the Commission by law. The Office of Management and Budget, Advisory Committee Management, has ascertained that the renewal of the aforesaid advisory committees of the National Power Survey is in accord with the requirements of the Federal Advisory Committee Act, 86 Stat. 770, 773–4.

1. *Purposes.* The purposes of the Executive Advisory Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of August 11, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein. The purposes of the Coordinating Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of November 2, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein.

It is anticipated that the continuance of these National Power Survey Advisory Committees for the period ending December 31, 1976, will facilitate the conclusion of the Commission's work on the current phase of the continuing National Power Survey.

2. *Membership.* The Chairman, Secretary and other members of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix below. The Chairman, coordinating representatives, secretaries and other members of the Coordinating Committee established herein, as selected by the Chairman of the Commission with the approval of the Commission, are designated in the appendix below.

3. *Selection of Future Committee Members.* All future Executive Advisory Committee members, and persons designated to act as Committee Chairmen shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary. All future Coordinating Committee members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission's order issued June 29, 1972, as amended by Commission order issued December 19, 1972, and by Order Further Amending National Power Survey Orders, August 7, 1974, are hereby incorporated by reference herein:

3. Conduct of Meeting.
4. Minutes and Records.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recommendations offered by the Committee.

5. The National Power Survey Executive Advisory Committee and the Coordinating Committee renewed by this order shall terminate not later than December 31, 1976.

6. The Secretary of the Commission shall file with the Chairman, Committee on Commerce, United States Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of this order along with the Order Further Amending National Power Survey orders, issued concurrently herewith, as constituting charters of the National Power Survey Advisory Committees renewed by this order.

7. This order shall take effect immediately upon the issuance thereof and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Bernard B. Chew, Chief, Division of Power Surveys and Analyses, Federal Power Commission.
Members:
Edward E. Cobb, General Manager, Huntsville Utilities.
Michael E. Collins, General Manager, Wakefield Municipal Light Department.
D. C. Cook, President, American Electric Power Company, Inc.
J. E. Corette, Chairman of the Board, Montana Power Company.
Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Leo A. Daly, President, Leo A. Daly Company.
William E. Dean, Association of Illinois Electric Cooperatives.
Paul Donovan, President, Donovan, Hamester, & Rattien, Inc.
William M. Elmer, Chairman of the Board, Texas Gas Transmission Corporation.
Bernard Falk, President, National Electrical Manufacturers Assn.
T. J. Galligan, Jr., President, Boston Edison Company.
R. F. Gilkeson, Chairman, Philadelphia Electric Company.
J. L. Grahl, General Manager, Basin Electric Power Cooperative.
Lt. General William C. Gribble, Chief of Engineers, Department of the Army.
Dr. David A. Hamil, Administrator, Rural Electrification Administration.
John D. Harper, Chairman, Aluminum Company of America.
Edwin I. Hatch, President, Georgia Power Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Durwood W. Hill, General Manager, Nebraska Public Power District.
Jack K. Horton, Chairman of the Board, Southern California Edison Company.
Timothy L. Jenkins, Chairman, The MATCH Institution.
Ms. Virginia H. Knauer, Director, Office of Consumer Affairs.
Donald C. Lutken, President, Mississippi Power and Light Company.
William A. Lyons, Chairman and Chief Executive Officer, New York. State Electric and Gas Corporation.
D. Bruce Mansfield, President, Ohio Edison Company.
Paul Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Marshall McDonald, President, Florida Power and Light Company.
T. Justin Moore, Jr., President, Virginia Electric and Power Co.
Dr. Laurence I. Moss, Consultant.
Dr. Bruce Netschert, Vice President, National Economic Research Associates.
G. W. Nichols, President and Chief Executive Officer, New England Electric System.
Arthur L. Padrutt, Wisconsin Public Service Commission.
Dr. Ruth Patrick, Curator and Chairman, Dept. of Limnology, Academy of Natural Sciences of Philadelphia.
Russell W. Peterson, Chairman, Council on Environmental Quality.
Charles H. Pillard, President, International Brotherhood of Electrical Workers.
John G. Quale, resident, Wisconsin Electric Power Company.
Dr. Henry J. Ramey, Jr., Department of Petroleum Engineering, Stanford University.
William P. Reilly, President, Arizona Public Service Company.
P. H. Robinson, Chairman, Houston Lighting and Power Company.
Dr. Robert C. Seamans, Jr., Administrator, Energy Research and Development Administration.
Raymond J. Sherwin, Superior Court Hall of Justice, Fairfield, California.
Shermer L. Sibley, Chairman of the Board, Pacific Gas and Electric Company.
M. Frederik Smith, Rockefeller Associates.
Irwin M. Stelzer, President, National Economic Research Associates.
Louis Strong, General Manager, Kentucky Rural Cooperatives Corporation.
W. C. Tallman, President, Public Service Company of New Hampshire.
W. Reid Thompson, Chairman of the Board and President, Potomac Electric and Power Company.
Russell E. Train, Administrator, Environmental Protection Agency.
Alvin W. Vogtle, Jr., President, The Southern Company.
Aubrey J. Wagner, Chairman, Tennessee Valley Authority.

Colston E. Warne, President, Board of Directors, Consumers Union of the U.S., Inc.
M. Frank Warren, President, Portland General Electric Company.
Ben T. Wiggins, Chairman, Georgia Public Service Commission.
Jack L. Wilkins, Chairman, National Electric Reliability Council.
Charles E. Wyckoff, President, National Rural Electric Cooperative Assn.

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Daniel G. Lewis, Assistant Director for Research and Development, Office of Energy Systems, Federal Power Commission.

Members:

Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Bruce Netschert, Vice President, National Economic Research Associates.
Paul Donovan, President, Donovan, Hamester and Rattien.
Irwin M. Stelzer, President, National Economic Research Associates.

[FR Doc.76-24743 Filed 8-19-76;1:02 pm]

[Docket Nos. E-7700, etc.]

NEW ENGLAND POWER CO.

Cost of Service; Tax Normalization

AUGUST 17, 1976.

By order of November 30, 1973, in these dockets, we approved a rate settlement relating to certain rates of the New England Power Company (NEPCO) 50 FPC 1729. On January 30, 1976, NEPCO filed a motion to consolidate these 3 dockets with Docket Nos. E-8641, E-8251, E-8169, E-8476[1] and ER76-304 and ER76-317, and for designation of a Presiding Judge to hear the Issue of Normalization. NEPCO's motion in Docket Nos. E-7700, E-7729, E-7800, E-8641, E-8251, E-8169 and E-8476 was denied by operation of law 18 CFR 1.12(e).

Our order of November 30, 1973, recognized that the settlement did not include a reserved issue relating to "the reduction in Federal income taxes resulting from the deduction for tax purposes of actual interest charges allocated to NEPCO's investment in construction work in progress." 50 FPC 1729, 1730-1731.

The reserved issue was the subject of 3 Commission orders, Order 530 40 FR 26981, Order 530-A 41 FR 3849, and Order 530-B 41 FR 28474. Pursuant to Order 530-B the tax deduction due to construction work in progress taken for tax purposes but capitalized in the cost of utility plant for book purposes is a tax timing difference which may be normalized by a public utility.

The Commission finds: It is necessary and appropriate for the purposes of the Federal Power Act that these dockets be terminated and that NEPCO be permitted pursuant to Order 530-B to normalize the interest expense deduction related to construction work in progress.

The Commission orders: (A) The issue reserved by our earlier order 50 FPC 1729, 1730-1731 has been resolved by Order 530-B which permits NEPCO to normalize. These proceedings are hereby terminated.

(B) The Secretray shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24831 Filed 8-24-76;8:45 am]

[Docket No. CP71-273]

SOUTHERN NATURAL GAS CO.

Extension of Time

AUGUST 16, 1976.

On July 29, 1976, Southern Natural Gas Company filed a motion to extend the date fixed by Order issued October 16, 1975, for facilities certificated in this proceeding to be constructed and placed in service.

Upon consideration, notice is hereby given that the date on which facilities are to be constructed and placed in service in the above-designated docket is extended to and including April 16, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24825 Filed 8-24-76;8:45 am]

[Docket No. ER76-629]

TAMPA ELECTRIC CO.

Compliance Filing

AUGUST 17, 1976.

Take notice that on August 2, 1976 Tampa Electric Company (Tampa) tendered for filing a revised page 1 of Supplement No. 1 to its Rate Schedule FPC No. 5 (Schedule WR-1). Tampa states that the purpose of this revision is to comply with the Commission's letter order of July 1, 1976 requiring Tampa to submit a fuel adjustment clause in the format specified in Section 35.14 of the Commission's Regulations. The effective date shown on the tendered page 1 is July 8, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24832 Filed 8-24-76;8:45 am]

[Docket Nos. CP60-94, etc.]

TENNESSEE GAS PIPELINE CO.

Application To Amend

AUGUST 16, 1976.

Take notice that on August 2, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed pursuant to Section 7(c) of the Natural Gas Act an application to amend certain of the Commission's orders issued September 19, 1963, October 1, 1965, June 22, 1970, January 29, 1971, and October 31, 1974, in Docket Nos. CP60-94, CP66-20, CP70-185, CP69-222 (Phase II), and CP-74-318, respectively, which orders among other things, authorized Tennessee to serve Connecticut Natural Gas Corporation (Connecticut Natural) a contracted demand volume of 36,794 Mcf per day under Tennessee's Rate Schedule CD-6 and The Connecticut Gas Company (Connecticut Gas) and the Hartford Electric Light Company (HELCO) a combined maximum contract quantity of 39,631 Mcf per day under Tennessee's Rate Schedules G-6 and GS-6, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Tennessee states that the purpose of the application to amend is (1) to reflect the acquisition by Connecticut Natural, an existing CD-6 customer, of the gas distribution facilities and properties of Connecticut Gas and HELCO; (2) to reflect the assignment by Connecticut Gas and HELCO to Connecticut Natural of their gas sales contracts with Tennessee for the Derby-Shelton, Norwalk, Winsted, Stamford and Torrington service areas, which contracts provide for service by Tennessee to Connecticut Gas and HELCO under Rate Schedules GS-6 and G-6; and (3) to request authorization for service by Tennessee to Connecticut Natural at each of such service areas, in addition to the service areas of Connecticut Natural presently being served by Tennessee, under Rate Schedule CD-6 and under a single new gas sales contract providing for a contracted demand volume of 76,425 Mcf per day, at the daily volume limits and at the delivery points set forth in such new gas sales contract.

It is indicated that the proposed consolidation of gas sales contracts would allow Connecticut Natural the flexibility to operate its distribution system so as to maximize the use of pipeline natural gas by its high priority residential and small commercial customers, thereby reducing the requirements during winter periods for supplemental gas sources such as propane-air. Tennessee states

[1] On June 25, 1975 and February 3, 1976, Presiding Administrative Law Judge Levant issued Initial Decisions in Docket Nos. E-8641, E-8476, E-8251, and E-8169.

that Connecticut Natural is not requesting any increase in maximum contract quantities presently authorized for the Connecticut Natural, Connecticut Gas and HELCO service areas combined.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before September 3, 1976, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24826 Filed 8-24-76;8:45 am]

[Docket No. ER76-847]

UNION ELECTRIC CO.

Letter Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing a Letter Agreement establishing a new delivery point under the Interchange Agreement dated March 27, 1968, as amended, between Associated Electric Cooperative, Inc. and Union. Union states that the new delivery point will provide support to Associated's system. Union requests that the Letter Agreement become effective on the in service date of the delivery point of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 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 be filed on or before August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24833 Filed 8-24-76;8:45 am]

[Docket No. ER76-851]

UNION ELECTRIC CO.

Amendatory Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing an Amendatory Agreement to the Interchange Service Contract dated July 18, 1967 between the City of Columbia, Missouri and Union. Union states that said Amendatory Agreement establishes an additional connection between the parties to cover contingencies and expected load growth.

Union requests that the Amendatory Agreement become effective on the in-service date of the connection of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 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 August 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24834 Filed 8-24-76;8:45 am]

[Docket No. CP76-469]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-469 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to use up to 19,900 Mcf per day of its 200,000 Mcf per day reserved capacities in the pipeline systems of Stingray Pipeline Company (Stingray) and Natural Gas Pipeline Company of America (Natural) to transport gas to be purchased by Sea Robin Pipeline Company (Sea Robin) in Blocks 532, 533, and 586, West Cameron Area, offshore Louisiana, to a point onshore near Texaco Inc.'s Henry Plant in Vermilion Parish Louisiana where Applicant's and Natural's facilities Interconnect, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Sea Robin has or expects to acquire the right to purchase 41.67 percent of the reserves underlying Block 586, West Cameron Area, and that Sea Robin proposes in Docket No. CP76-418[1] to construct facilities to transport gas for itself and others from the producers' platform to a point of interconnection with Stingray's system in Block 595, West Cameron Area. Applicant states further that Sea Robin has purchased 3.335 percent of the reserves underlying Blocks 532 and 533, West Cameron Area. Stingray would transport Sea Robin's gas for Applicant's account, in accordance with Stingray's Rate Schedule T-2, to the northern terminus of its system near Holly Beach, Louisiana, where Natural would take the gas for further transportation for the account of Applicant to the Henry Plant delivery point in accordance with Natural's Rate Schedule X-48. At the Henry Plant delivery point Sea Robin would sell one-half of the gas to each of Applicant and Southern Natural Gas Company.

The application states that in return for the right to utilize a portion of Applicant's reserved capacities in the Stingray and Natural systems, Sea Robin would reimburse Applicant for a pro rata share of the monthly charges paid by Applicant to Stingray and Natural. Further, it is stated, Applicant would credit the revenues from Sea Robin against its own cost of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own revew of the matter finds that a grant of the certificate is required by the public conven-

[1] Notice published July 30, 1976 (41 FR 31947).

lence 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 to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24835 Filed 8-24-76;8:45 am]

[Docket No. CP76-471]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-471 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain metering and compression facilities in Calcasieu Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate three 3,100 horsepower turbine-driven centrifugal compressor units and a multiple 12-inch tube meter station and related station piping in Calcasieu Parish where the existing pipeline facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), intersect. The application shows the estimated cost of these facilities to be $5,496,700, which cost would be financed from funds on hand.

Applicant states that it has or expects to obtain commitments to purchase gas attributable to reserves underlying a substantial number of blocks located in the High Island Area, offshore Texas, to be served by the proposed pipeline system to be constructed by High Island Offshore System (HIOS). Said gas, it is stated, would be transported from various points in the High Island Area to a point in West Cameron Block 167, offshore Louisiana, by HIOS pursuant to a transportation agreement, dated February 15, 1976, between HIOS and Applicant. It is indicated that at the northern terminus of the HIOS system in West Cameron Block 167, U-T Offshore System (U-TOS) would take delivery of the offshore Texas gas Applicant expects to purchase and would transport said gas to a point of interconnection onshore with existing facilities of Transco near Johnson's Bayou, Cameron Parish, Louisiana, in accordance with the terms of a transportation agreement, dated February 15, 1976, between U-TOS and Applicant.

Applicant asserts that by agreement, dated February 15, 1976, between it and Transco, Transco agreed to transport Applicant's offshore Texas gas from the terminus of the U-TOS system north through its existing system to a proposed point of interconnection near Starks, Calcasieu Parish, Louisiana, with an existing 30-inch pipeline owned by Tennessee. Further, it is stated that pursuant to a letter, dated June 16, 1976, Tennessee has agreed to transport Applicant's gas from the interconnection with Transco to various mutually agreeable existing points of interconnection between the systems of Applicant and Tennessee.

Applicant indicates that the proposed metering and compression facilities are necessary to enable Applicant to effect deliveries to Tennessee since Tennessee's facilities are operated at a higher line pressure than the adjacent facilities of Transco.

Applicant states that the proposed facilities would materially assist it in meeting its urgent customer requirements by enabling it to deliver new gas supplies to Tennessee for ultimate redelivery to its existing pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisison's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commisison on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24836 Filed 8-24-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANKERS TRUST NEW YORK CORP.

Order Denying Acquisition of Bank

Bankers Trust New York Corporation, New York, New York ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares of The First National Bank of Mexico, Mexico, New York ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Bank, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in the State of New York, controls nine banks with aggregate deposits of approximately $10.4 billion, representing approximately 7.7 percent of the total deposits in commercial banks in New York.[1] Acquisition of Bank ($9.8 million in deposits) would increase Applicant's share of the total commercial bank deposits in the State by 0.01 of one percent and would not significantly increase the concentration of banking resources in New York.

Bank ranks eleventh among the 15 banking organizations located in the Syracuse banking market (approximated by the western half of Madison County and all of Onondaga and Oswego Counties) and controls approximately 0.7 of one percent of total market deposits. The closest branch of any of Applicant's banking subsidiaries to Bank is located approximately 25 miles southeast of Bank in the same banking market. While there is some existing competition between Applicant's banking subsidiaries and Bank, the amount of such competition that would be eliminated as a result of this proposal does not appear to be significant. Similarly, the effects of the proposal on potential competition do not appear to be significant. Bank is one of the smaller banks in the market, and its acquisition by Applicant would not raise significant barriers to entry by other organizations not presently in the

[1] All banking data are as of December 31, 1975.

market. Therefore, on the basis of the facts of record, the Board concludes that consumption of the proposal would not have significant adverse effects on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Bank are generally satisfactory.[2]

As the Board has stated on a number of occasions, a bank holding company should be a source of financial and managerial strength for its subsidiaries. With regard to the financial and managerial resources and future prospects of Applicant, information in the record, including all bank examination information available to the Board, indicates that Applicant has been experiencing financial difficulties that have detracted from its overall financial condition and lessened its ability to serve as a source of strength for its subsidiaries. The subject application by its very nature would to some extent impose an additional burden on Applicant's operations. In these circumstances, it is the Board's view that Applicant's resources should be directed toward developing and maintaining strong and efficient operations within its existing structure. Accordingly, the Board concludes that considerations related to the financial and managerial aspects of Applicant's proposal weigh against approval of the application.

There is no evidence to indicate that the banking needs of the community to be served are not being met currently. Applicant states that the proposed transaction would allow Bank to offer additional services to its customers, including trust and investment services, international banking services, savings incentive plans and underwriting and advisory services for municipalities. While convenience and needs considerations appear to be consistent with approval of the application, they are not sufficient, in the Board's judgment, to outweigh the aforementioned adverse banking factors reflected in the record. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

[2] In connection with this proposal, Applicant indicates that it intends to finance the proposed transaction through the issuance of $1.9 million in promissory notes maturing over a 13 year period and that Bank's earnings alone will be sufficient to retire the debt while maintaining an adequate capital position for Bank. On the basis of the facts of record and its analysis of the proposal, however, the Board is unable to conclude that Applicant's assumptions are correct and that the financing of the proposal solely from Bank's earnings would not result in a deterioration of Bank's capital position.

By order of the Board of Governors,[3] effective August 18, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24879 Filed 8-24-76;8:45 am]

INDUSTRIAL LOAN AND INVESTMENT CO.

Formation of Bank Holding Co.

Industrial Loan and Investment Company, Sedalia, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.67 percent of the voting shares of Bank of Ionia, Ionia, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Industrial Loan and Investment Company, Sedalia, Missouri has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the business of an industrial loan and investment company in Sedalia, Missouri, and to continue to engage in the sale of credit related insurance associated with loans made by Applicant. Notice of the application was published on June 30, 1976 in the Sedalia Democrat, a newspaper circulated in Sedalia, Missouri.

Applicant states that it will continue to engage in the activities of an industrial loan and investment company and will continue to engage in the sale of insurance that is directly related to extensions of credit by Applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 19, 1976.

Board of Governors of the Federal Reserve System, August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24880 Filed 8-24-76;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson and Partee. Absent and not voting: Governor Lilly.

OLD NATIONAL BANCORPORATION

Order Approving Acquisition of Shares of Old National Life Insurance Co.

Old National Bancorporation (formerly Washington Bancshares, Inc.), Spokane, Washington ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire shares of Old National Life Insurance Company, Phoenix, Arizona ("Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's lending subsidiaries in the State of Washington. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 24634). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act.

Applicant, the fifth largest banking organization in Washington, controls two subsidiary banks with aggregate deposits of approximately $605.5 million, representing approximately 6.1 percent of the total deposits in commercial banks in the State.[1] Applicant also engages, through nonbank subsidiaries, in equipment leasing, mortgage banking and servicing, investment advising and insurance agency activities.

Company will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance in connection with extensions of credit by Applicant's lending subsidiaries. Company will be formed as an Arizona insurance corporation and will be qualified to underwrite insurance di-

[1] All banking data are as of December 31, 1975.

rectly only in Arizona. Accordingly, the insurance sold by Applicant's lending subsidiaries will be directly underwritten by an unaffiliated insurance company qualified to do business in Washington, and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since Applicant proposes to engage in this activity de novo, consummation of the transaction would not have any significant adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a) (10) n. 7)

Applicant has stated that following consummation of the proposed acquisition, Company will offer the several types of credit-related insurance that it will reinsure at premium rates ranging from 3.3 percent to 20.0 percent below the maximum allowable rates in the State of Washington for example, reducing term joint life insurance and level term joint life insurance will be offered at rates 12.0 and 18.8 percent, respectively, below the maximum allowable rates. In addition, credit accident and health insurance will be offered at rates 5 percent below the statutory maximum. Applicant has committed to similar rate reductions for each type of insurance coverage that Company will underwrite. The Board is of the view that Applicant's proposed reductions in insurance premiums are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[1] effective August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24881 Filed 8-24-76;8:45 am]

GENERAL ACCOUNTING OFFICE

CIVIL AERONAUTICS BOARD AND INTERSTATE COMMERCE COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 18, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and ICC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of "Application for Operating Authorization (CAB Form 351)." This form is used by the Board to determine whether an applicant should be granted authority to operate as an air freight forwarder. CAB estimates it receives approximately 50 applications a year and that respondent burden averages 15 hours per application.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension no change clearance of Quarterly Report Form CBS, required to be filed by some 65 Class I linehaul railroads, pursuant to Section 20 of the Interstate Commerce Act. Data collected on Form CBS are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 7 hours per report.

ICC requests an extension no change clearance of Annual Report Form MP-2 required to be filed by some 870 Class II and III motor carriers of passengers having annual operating revenues of less than $1 million pursuant to order of the Interstate Commerce Commission 49 CFR 1249.6. Data collected on Form MP-2 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. Reporting burden for carriers to average 2½ hours per report.

ICC requests an extension no change clearance of Annual Report Form W-3 required to be filed by some 105 Class III carriers by water having annual carrier operating revenues of less than $100,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1250.30. Data collected on Form W-3 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 4 hours per report.

ICC requests an extension no change clearance of Quarterly Report Form RE&I, required to be filed by some 65 Class I line-haul railroads, pursuant to section 20 of the Interstate Commerce Act. Data collected on Form RE&I are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 6 hours per report.

ICC requests clearance of a revision to Quarterly Report Form QFR, required to be filed by some 900 Class I and 2600 Class II common and contract motor carriers of property pursuant to section 220 (a) of the Interstate Commerce Act. Data collected on Form QFR are used for economic regulatory purposes. Reports are mandatory and available for use of the public. One minor change has been made on page 11 of Form QFR, a new Item 283 has been added. ICC states this item is part of a routine accounting procedure and is readily available from carriers records and will not add any burden on respondents. Item 283 reads "(2611 through 2661) Total Stockholder's Equity." Previous items 283 through 285 are renumbered 284 through 286. ICC estimates reporting burden to average 4¼ hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-24889 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was re-

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

ceived by the Regulatory Reports Review Staff, GAO, on August 19, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC report are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

FEDERAL POWER COMMISSION

The FPC requests clearance of a new Form 108, Questionnaire Schedules For Continuing Review of Rate Schedules Analysis, Filed Rates, Volumes and Quality Conditions. Form 108 will be used by the Commission to (1) give a detailed breakdown of rate schedules on file with the Commission; (2) provide a basis for estimating the revenue impact of nationwide and/or area ratemaking proposals by pricing area, state, purchaser; (3) provide a means of determining the potential effects of periodic price escalations and indefinite price provisions; and (4) monitor changes in gas sales contracts and gas quality and their effect on consumers. The following schedules as part of Form 108 will be filed as shown:

Schedule No.	Frequency	Frequency date
501	Annually	March 31.
502–504	Initially	Before Mar. 31, 1977.
502–504	Event	Application for rate certificate and amendment to the rate schedule.
505	Annually	March 31.
507	Event	As rate changes are requested.

FPC estimates Form 108 will be filed by approximately 888 natural gas producers and that the burden will average approximately 18 hours per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–24890 Filed 8–24–76;8:45 am]

INTERSTATE COMMERCE COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 19, 1976. See 43 U.S.C 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

INTERSTATE COMMERCE COMMISSION

ICC requests clearance of a revised Annual Financial Report for Class III Common and Contract Motor Carriers of Property, Form M–3, required to be filed by all carriers having annual carrier operating revenues (including interstate and intrastate) of less than $500,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1249.4.

The report form is revised to incorporate the needs of the majority of State regulatory commissions and the Interstate Commerce Commission. Carriers and State commissions will benefit from the use of the same form. Carriers can avoid restructuring similar data for different State reports and State regulatory commissions can reduce printing costs by utilizing the uniform printed report. Reporting burden is reduced on smaller carriers by exempting carriers with operating revenues of $100,000 or less from completing the balance sheet, income statement and other detailed disclosures. A $50,000 revenue exemption was previously used from 1957 to 1975. The corporate ownership disclosure requirement was expanded and a schedule disclosing salaries, wages, and other compensation was added. Household goods operations are now required to be segregated for certain operating statistics and unpaid cargo loss and damage claims must be disclosed. The disclosure requirements on pages 7 and 8 were inserted to more closely align Class I, II and III motor carrier reports. The additional disclosures were added to keep pace with recent changes in Commission accounting rules, satisfy the information needs of the Commission, State regulatory commissions and interested parties. Reports are mandatory and must be filed by some 12,500 carriers. ICC estimates annual reporting burden for carriers with operating revenues of $100,000 or under to be one-half hour, and two hours for carriers whose operating revenues exceed $100,000.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.76–24891 Filed 8–24–76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. F–396]

ADMINISTRATOR, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government in intrastate gas rate proceedings.

2. *Effective date.* This regulation is effective August 9, 1976.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205 (d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government before the Missouri Public Service Commission involving the filing by the Gas Service Company of Kansas City for new rates for the provision of natural gas (Docket No. 18662).

b. The Administrator, Energy Research and Development Administration, may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

T. M. CHAMBERS,
Acting Administrator of General Services.

AUGUST 16, 1976.

[FR Doc.76–24807 Filed 8–24–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 17, 1976.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule

12f–1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Albany International Corp. $1.25 Par Capital, File No. 7–4860.
Commonwealth Edison Co. $1.25 Convertible Preferred NPV, File No. 7–4861.
Congoleum Corp. Common $1.00 Par, File No. 7–4862.
Nalco Chemical Co. Common $0.75 Par, File No. 7–4863.
Northwest Telecom Ltd., Common Stock NPV, File No. 7–4864.
Rio Algom Ltd. Common Stock NPV, File No. 7–4865.
Spencer Companies, Inc. Common Stock $1.00 Par, File No. 7–4866.

Upon receipt of a request, on or before August 30, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24818 Filed 8–24–76;8:45 am]

[File No. 500–1]

IMAGE SYSTEMS, INC.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Image Systems, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 1:05 p. m. (e.d.t.) on August 18, 1976 through August 27, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24819 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24820 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions

of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to Section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's Rules of Practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of tre Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management, or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24821 Filed 8-24-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0317]

BOHLEN CAPITAL CORP.

Application for a License

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Bohlen Capital Corporation (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its principal place of business at 30 East 42nd Street, New York, New York 10017 will begin operations with $1,000,000 of paid-in capital and surplus and will be solely owned by Bohlen Industries of North America, Inc. (BINA), which is a wholly owned subsidiary of Bohlen Industrie Aktiengesellschaft (BIAG), a German Corporation.

BIAG, which is principally located at Maximillian Strasse 22, D-8,000, Munich, West Germany, is owned by Messrs Berthold von Bohlen und Halbach and Harold von Bohlen und Halbach who each own 49 percent and 50 percent respectively of the company's stock. Mr. Raiser is President and Director of BIAG.

The officers and directors of the applicant will be as follows:

NAME AND TITLE

Helmut Raiser, 14 Franz-Joseph Strasse, Munich, Germany, Chairman of the Board and Director.

Harvey J. Wertheim, 9 Rawlins Drive, Melville, New York 11746, President, Treasurer and Director.

Emilio A. Dominianni, 5 Spring Lake Drive, E. White Plains, New York 10604, Secretary and Director.

Maximo Gonzales, 1 bis rue clement Marot, Paris, France, Director.

John H. French II, 151 East 72nd Street, New York, New York 10023, Director.

The applicant will conduct its operations principally in the New York area and will not concentrate its investments in any particular industry.

Research and Science Investors, Inc., 30 East 42nd Street, New York, New York 10017 (RSI), a privately held venture capital investment company will serve as investment advisor/manager of the Applicant. Messrs. French and Wertheim are president-director and vice president, treasurer, director respectively of RSI. Messrs. Wertheim and French also serve as the President and a Director respectively of Van Rietschoten Capital Corp., a licensed Small Business Investment Company, 30 East 42nd Street, New York, New York 10017.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the SBA Rules and Regulations.

Any person may, on or before September 9, 1976, submit to SBA written comments on the proposed Licensee. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 18, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-24844 Filed 8-24-76;8:45 am]

CLEVELAND DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Cleveland District Advisory Council will hold a public meeting at 9:45 a.m., Friday, September 17, 1976, in the Bond Court Hotel, 777 St. Clair Avenue, NE, Cleveland, Ohio, to discuss such matters as may be presented by members, staff of the Small Business Administration,

or others present. For further information, write or call S. Charles Hemming, Jr., District Director, U.S. Small Business Administration, 1240 East Ninth Street, AJC Federal Building, Room 317, Cleveland, Ohio 44199, 216/293–4182.

Dated: August 13, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76–24900 Filed 8–24–76;8:45 am]

[License No. 01/01–0018]

MASSACHUSETTS CAPITAL CORP.

Transfer of a Small Business Investment Company License

On April 27, 1976, a Notice of application for a transfer of control of Massachusetts Capital Corporation, a small business investment company, was published in the Federal Register (Vol. 14, No. 82) pursuant to § 107.701 of the Small Business Administration (SBA) Regulations governing small business Administration (SBA) Regulations governing small business investment companies (13 CFR 107.701 (1976)).

Interested parties were given 10 days to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA approves the transfer of control of Massachusetts Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 12, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76–24902 Filed 8–24–76;8:45 am]

SYRACUSE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Syracuse District Advisory Council will hold a public meeting at 8:30 a.m., Thursday, September 16, 1976, in the Board Room, Manufacturers & Traders Trust Company, 1 M & T Plaza, Buffalo, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Federal Building, Room 1073, Syracuse, New York 13202, 315/951–3460.

Dated: August 13, 1976.

HENRY V. Z HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76–24901 Filed 8–24–76;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in Room 119 of the main Veterans Administration building, 810 Vermont Avenue, NW, Washington, DC, on October 26 and 27, 1976. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on its findings.

The meeting will be open to the public up to the seating capacity of the room from 1:30 to 2 p.m., October 26, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC, (202–389–3702) prior to October 8.

The meeting will be closed from 2 p.m. to 4:45 p.m. October 26 and all day on October 27 for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Pub. L. 92–463 and Sections 552(b)(2) and 552(b)(6) of Title 5, U.S. Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: August 19, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76–24892 Filed 8–24–76;8:45 am]