Vol.41—No.229
11–26–76
PAGES
52043–52285

federal register

FRIDAY, NOVEMBER 26, 1976

highlights

PART I:

FLUOROCARBONS
HEW/FDA proposes regulations on aerosol propellants, phasing out of nonessential uses and warning statements (3 documents); comments by 1–25–77 52070–52078

CHILD NUTRITION
USDA/FNS amends breakfast meal pattern; effective 11–22–76 52057

COMMUNITY EDUCATION PROGRAM
HEW/OE announces closing date of 2–7–77 for receipt of applications 52107

MENTAL HEALTH
HEW/PHS issue regulations on crisis counseling services and training in disaster relief; effective 11–26–76 52052

MEDICARE
HEW/SSA adopts regulations on Provider Reimbursement Determinations and Appeals; effective 12–27–76 .. 52050
HEW/SSA proposes regulations on reimbursement of federally-funded health centers; comments by 1–10–77 .. 52065
HEW/SSA proposes elimination of combination method of apportionment and modified cost finding; comments by 1–10–77 52067

NEW ANIMAL DRUGS
HEW/FDA amends regulations and withdraws approval on metibiotic foam and infusion (2 documents); effective 11–26–76 ..... 52051, 52104

CHARTER TRIPS
CAB proposes to establish regulations on business oriented flights; comments by 12–17–76; reply comments by 1–7–77 52065

NONPASSENGER AUTOMOBILES
DOT/NHTSA proposes average fuel economy standards for model year 1979 vehicles; comments by 1–10–77 52087

BUS AIR BRAKE SYSTEMS
DOT/NHTSA extends suspension of stopping distance requirements to 9–1–77; effective 11–26–76 52055

TRANSPORTATION SAFETY
NTSB publishes safety recommendations and responses .. 52115

CONTINUED INSIDE

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 Nov. 25, 1976

DOT/FAA—Standard Instrument Approach Procedures; Fitzgerald, Ga. et al 45820; 10–18–76

Standard Instrument Approach Procedures; Hillsboro, Wisc. 45821; 10–18–76

Standard Instrument Approach Procedures; Mansfield, Mass. et al 45820; 10–18–76

Rules Going Into Effect Today

DOT/FAA—Airborne Interim Standard Microwave Landing System Converter Equipment 46843; 10–26–76

Airworthiness directive; Bell Model 47K Helicopters 46431; 10–21–76

FCC—Amateur Radio Service; Portable and Mobile Operation of Stations 47450; 10–29–76

HEW/FDA—New animal drugs; maintenance of copies of approved medicated feed applications..... 36200; 8–27–76

SRS—Prohibition against reassignment of claims, factoring..... 36207; 8–27–76

Treasury/CS—Establishment of Orlando, Fla., as port of entry.. 47032; 10–27–76

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.

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
	HEW/FDA			HEW/FDA

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

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

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

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FEDERAL REGISTER, Daily Issue:

Subscriptions and distribution	202–783–3238
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

contents

CONTENTS

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

RESERVATIONS: JANET SOREY, 523–5282

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.

CUMULATIVE LIST OF PARTS AFFECTED DURING NOVEMBER

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 November.

1 CFR

Ch. 1 47909
301 47909

PROPOSED RULES:

405 49491
438 51613

3 CFR

PROCLAMATIONS:

4445 (See Proc. 4477) 50969
4476 49083
4477 50969

EXECUTIVE ORDERS:

November 21, 1916 (Revoked in Part by PLO 5607) 51603
11846 (Amended by EO 11947) 49799
11947 49799

MEMORANDUMS:

January 2, 1973 (amended by Memorandum of November 5, 1976) 50625
November 5, 1976 (2 documents) 50625, 50627

5 CFR

Ch. I 49473
151 48110
213 ..... 49473, 49969, 50993
293 51579
300 51579
305 51579
316 48317
591 51579
771 48110
772 48110
733 49473
890 52043
1303 49085
2505 50993
2510 50993
2515 47910

7 CFR

Ch. I 48317
2 ..... 49473, 50803, 51582
16 50264
26 49473
47 50803
58 48509
220 52057
246 48119
271 ..... 50411, 51022–51028
354 50412
360 49987
401 51582
905 ..... 49474, 49801, 51029, 51796
906 ..... 48510, 48719, 49625
907 ..... 49802, 49824, 50803, 51387, 52057
908 ..... 48720, 49988, 51387
910 ..... 48720, 49988, 51387, 51583
944 49109
947 52058
958 51797
966 ..... 50264, 50629
971 ..... 49625, 51388
980 ..... 50266, 51797
982 49475
984 51798
1030 49110
1068 51389
1205 51030

7 CFR—Continued

1421 49476
1430 48120
1464 ..... 49989, 50412
1802 49104
1806 49990
1822 ..... 48317, 51030, 51584
1823 50267
1867 49991
1871 51798
1873 51799
1901 51799
1980 49109

PROPOSED RULES:

26 50268
58 49826
272 50454
729 49492
730 52060
905 ..... 48366, 49992
907 52060
909 ..... 50452, 50695
913 48540
918 51818
945 49992
981 50452
984 49637
987 49492
989 48540
1032 50695
1033 ..... 47940, 50696
1040 50453
1063 49827
1065 50696
1094 ..... 49112, 51404
1096 ..... 49112, 51404
1108 51819
1205 50270
1427 48131
1430 48570
1701 ..... 48744, 49992
1802 50272
1822 51404
1871 47944
1924 50272
1933 51404

8 CFR

PROPOSED RULES:

3 47939
204 ..... 49994, 52061
205 49994
211 49994
212 ..... 49994, 52061
214 52061
245 ..... 49827, 49994
292 47939

9 CFR

73 49969
78 52043
97 48721
151 50450
202 50450
317 48721
319 ..... 48721, 48743, 50451
327 48722
331 50995
381 49969
445 48723
447 48723

PROPOSED RULES:

92 50000

10 CFR

205 49625
206 48318
211 ..... 48319, 49476, 49627
212 ..... 48319, 48324
420 48325
710 ..... 48727, 52045

PROPOSED RULES:

2 50829
50 49123
209 48129
210 51832
211 51832
212 ..... 49113, 50455, 50960, 51832
710 51420

12 CFR

4 ..... 47934, 48334
5 ..... 47934, 48334
8 48335
9 ..... 47934, 47937
202 ..... 49087, 51389
217 50242
221 48335
226 ..... 51389, 51390
267 49802
329 50804
526 50413
545 50413
563 50413
563b 50414
546 48727
584 48728

PROPOSED RULES:

202 ..... 49123, 51837
250 50001
329 51422
330 ..... 49492, 50274
331 ..... 49492, 50274
545 49639
563 48377
570 48377

13 CFR

123 49970
309 51585
316 ..... 48116, 49803

PROPOSED RULES:

121 ..... 50002, 50274
123 51837

14 CFR

37 48511
39 ..... 47911, 47912, 48511–48513, 49088, 49089, 49804, 50243, 50244, 50805, 52046, 52047
61 51391
71 ..... 47913, 48513, 48514, 49090, 49805, 50244, 50806, 51392, 52047, 52048
73 49091
75 ..... 47913, 48514, 49091, 52048
97 ..... 47913, 48515, 49806, 50806, 52048
232 49477
300 ..... 48116, 48119, 52050
385 51033

25 CFR

11 51012
60 48735
104 48735
183 50648
700 49982

PROPOSED RULES:

141 50299

26 CFR

1 50649
13 50649
601 48740

PROPOSED RULES:

1 ..... 48132–48134, 49160, 49656, 49838, 50299, 50698, 50699, 51039, 51840
48 ..... 48346, 49656, 50004
301 49178
601 48746

27 CFR

5 48120

PROPOSED RULES:

4 ..... 50004, 51428

28 CFR

19 50822
50 51735

PROPOSED RULES:

16 51039
42 51762

29 CFR

20 51012
50 51012
51 51012
55 51012
71 51012
94 50110
95 50110
96 50113
97 50114
97a 50114
1404 50657
1607 51984
1910 48742
1952 ..... 51012–51014, 51016
2608 48480
2610 48484

PROPOSED RULES:

60 48947
402 51040
1611 49656
1910 ..... 48746, 48950, 50008
1915 ..... 48950, 50008
1916 ..... 48950, 50008
1917 ..... 48950, 50008
1918 ..... 48950, 50008
1926 ..... 48950, 50008
1952 ..... 51040, 51041
2608 48492
2610 48498
2615 48504

30 CFR

PROPOSED RULES:

11 49506
75 49838
77 50299
211 50008

31 CFR

1 51396
700 49808

PROPOSED RULES:

205 51847
350 47959

32 CFR

155 51041
701 50661
842 50420
879 49630

PROPOSED RULES:

251 50009
701 51849
819b 51615
1611 51618

32A CFR

110 51396

33 CFR

74 49809
117 48516

PROPOSED RULES:

40 47944
110 50842
117 ..... 47945, 50842, 50843
183 49838
204 48747

35 CFR

133 51794

36 CFR

7 49628
9 49824
221 48538

PROPOSED RULES:

221 50699

37 CFR

PROPOSED RULES:

201 ..... 50300, 51428

38 CFR

3 49636

PROPOSED RULES:

3 ..... 48747, 49838, 49839
21 49506

39 CFR

265 52052

PROPOSED RULES:

111 50301

40 CFR

35 51016
52 ..... 49635, 50446, 50822, 51017, 51018
60 ..... 48342, 51397
61 48342
110 49810
120 48737
180 51400
406 50823
407 48736
415 ..... 51598, 51601

40 CFR—Continued

416 48516
435 50446
439 50676
455 48088
600 49752

PROPOSED RULES:

39 51619
52 ..... 47949–47956, 48044, 48750, 48752, 49840, 50700, 51619, 51620
60 ..... 48706, 51621, 52079
85 50566
129 51048
146 50701
180 50843
415 51621
435 50458

41 CFR

1–1 50687
5B–1 50447
5B–2 50447
5B–12 50447
5B–16 50448
8–1 51018
8–7 48516
8–18 48516
8–75 51018
9–3 50823
15–4 50688
60–3 51744
101–11 48737
101–32 48519

PROPOSED RULES:

9–4 50844
60–1 50015
60–2 ..... 48128, 50015
60–5 ..... 48128, 50015
60–8 ..... 48128, 50015

42 CFR

38 52052
82 49636
50 49986

PROPOSED RULES:

54 48242
84 48753
122 52079
124 52079

43 CFR

2 51401
28 51794
2650 49487
3720 50257
3740 50690

PROPOSED RULES:

4 51048
5 50845
2920 50845
3500 ..... 48124, 48754
3510 48124
9230 48754

PUBLIC LAND ORDERS:

5607 51603
5608 51401
5609 51035

45 CFR

103 51603
112 50777
113 50781
144 51946
176 51946
250 ..... 48738, 51401
581 49094
801 ..... 47938, 48739
1005 48739
1069 50825
1611 51604
1617 51607
1618 51608
1620 51609

PROPOSED RULES:

5 50846
177 ..... 48862, 48910
1061 49179
1901 51050
1902 51050

46 CFR

206 50257
207 50257

PROPOSED RULES:

502 51621
522 51622

47 CFR

0 ..... 48343, 49095, 51610
1 50399
2 49820
15 49095
21 47931
73 ..... 47931, 49095–49103, 49823, 51610
74 48519
89 48520
91 48520
93 48520
94 ..... 50690, 51403

PROPOSED RULES:

21 49182
67 50009
73 ..... 47956, 49182, 49659, 49858, 49859

49 CFR

Ch. V 49811
1 ..... 48122, 49487
173 50262
218 48343
225 50690
501 47933
571 ..... 50826, 52055
922 50691
1033 ..... 48122, 48343, 48344, 50448, 50449
1090 48344
1100 50826
1101 50827
1121 48520
1201 48972

PROPOSED RULES:

Ch. II 50302
172 52083
173 ..... 48553, 52083, 52086
174 52083
176 52083
177 52086
210 49183
221 50701
225 51428
231 51429
265 51052
533 52087
571 48555
218 48126
265 48371
268 ..... 50014, 50303
393 47948
630 51535
1100 49282
1090 48130

50 CFR

17 ..... 51019, 51022, 51611
20 ..... 48534, 51612
26 ..... 49487, 49488, 49823, 50449, 50828, 51795
32 ..... 48345, 48535, 50449, 51403, 51795
33 ..... 49488, 49824, 49987, 50449, 50828, 51795
215 49488
216 51795
222 51611
260 51796

PROPOSED RULES:

10 50010
17 ..... 48757, 49859, 51430
216 ..... 49507, 49859, 50458, 50842, 51052

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
47909–48096	Nov. 1
48097–48315	2
48317–48508	3
48509–48718	4
48719–49081	5
49083–49472	8
49473–49623	9
49625–49797	10
49799–49967	11
49969–50197	12
50199–50397	15
50399–50624	16
50625–50801	17
50803–50992	18
50993–51385	19
51387–51577	22
51579–51785	23
51787–52041	24
52043–52285	26

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Restoration of Eligibility for Health Benefits Coverage

By virtue of the authority vested in the U.S. Civil Service Commission by 5 U.S.C. 8913, and under Pub. L. 94-342, 90 Stat. 808, the health benefits regulations are hereby amended to provide for the restoration of eligibility for health benefits coverage to certain surviving spouses whose survivor annuities were terminated by remarriage and are later restored..

Since this is a matter relating to agency management, the public rulemaking process is unnecessary and not in the public interest.

Part 890 is amended by adding a new paragraph (s) to § 890.301 and by revising § 890.306(d) as set out below:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(s) *Survivor annuity restored.* A surviving spouse who was covered by a health benefits enrollment under this part immediately before his or her survivor annuity was terminated because of remarriage, and whose survivor annuity is later restored, may register to enroll in a health benefits plan under this part within 60 days after the mailing by the Commission of a notice of eligibility and registration forms.

§ 890.306 Effective dates.

* * * * *

(d) *Generally.* The effective date of any other enrollment or change of enrollment is the first day of the first pay period which begins after the health benefits registration form is received by the employing office and which follows a pay period during any part of which the employee or annuitant is in pay or annuity status except that enrollment under § 890.301(s) may be effective (1) on a prospective basis, namely the first day of the month after the date of receipt by the Commission of registration forms; or (2) on a retroactive basis, namely the date of restoration of survivor annuity or October 1, 1976, whichever is later.

(5 U.S.C. 8913.)

Effective date: November 26, 1976.

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

[FR Doc.76-35018 Filed 11-24-76;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

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

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Phelps County in Missouri.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Cape Girardeau, Cass, and Vernon Counties in Missouri; McCurtain County in Oklahoma.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are revised to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

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

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States:*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahooche, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Clearwater, Custer, Fremont, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Black Hawk, Boone, Bremer Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dickinson, Dubuque, Em-

met, Fayette, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Plymouth, Scott, Shelby, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washington, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Hardin, Jackson, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

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

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States:*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talledega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Kiowa, Mesa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Ada, Bannock, Bingham, Bonneville, Butte, Cassia, Clark, Elmore, Franklin, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Twin Falls.

Illinois. Brown, Effingham, Hardin, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Benton, Cedar, Cerro Gordo, Crawford, Decatur, Floyd, Guthrie, Harrison, Linn, Monroe, Poweshiek, Ringgold, Sac, Sioux, Story, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Attawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Gravson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison,

Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tipah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Pike, Polk, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

Oklahoma. Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnson, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Major, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, Woodward.

South Dakota. Beadle, Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lauderdale, Lawrence, Lewis, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cocran, Coke, Coleman, Collins, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

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

(a) *Entire States.*

(b) *Specific Counties Within States:*

Missouri. Phelps, Putnam.

Oklahoma. Choctaw.

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date: The foregoing amendments shall become effective November 30, 1976.

The amendments imposed certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of November 1976.

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

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

[FR Doc.76–34823 Filed 11–24–76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION

Notice is hereby given that the Energy Research and Development Administration hereby amends 10 CFR Part 710.5 by adding a definition of a new term, "ERDA Personnel Security Review Board Panel," and by amending the definition of "ERDA Personnel Security Review Board."

ERDA administrative review procedures set forth in 10 CFR Part 710 provide for a Personnel Security Review Board (PSRB) which is an advisory appeal board located in Washington, D.C., consisting of three members. The establishment of a Personnel Security Review Board Panel from which PSRB members for a particular case would be selected is to provide for a more expeditious processing of cases than is possible with the present single board.

Because this relates to agency organization, procedure and practice, it is effective on November 26, 1976.

All interested persons who desire to submit written comments or suggestions for consideration in connection with this rulemaking should send them on or before December 27, 1976, to the Director, Division of Safeguards and Security, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

In consideration of the foregoing, 10 CFR 710.5 is amended as follows:

(1) Paragraphs (e) and (f) are redesignated as paragraphs (g) and (h) respectively, a new paragraph (d) is added, former Paragraph (d) is redesignated as paragraph (e) and revised and a new paragraph (f) would read as follows:

§ 710.5 Definitions.

* * * * *

(d) "ERDA Personnel Security Review Board Panel" means a panel of individuals appointed by the Assistant Administrator for National Security from which the Chairman of the Personnel Security Review Board Panel selects three members to serve as a Personnel Security Review Board.

(e) "ERDA Personnel Security Review Board" means an advisory board, consisting of three members, one of whom shall be designated as Chairman, the members of which are selected by the Chairman of the Personnel Security Review Board Panel.

(f) The Chairman of the Personnel Security Review Board shall be an attorney.

Dated: October 14, 1976.

ALFRED D. STARBIRD,
Assistant Administrator for National Security.

[FR Doc.76-34955 Filed 11-24-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-70; Amdt. 39-2777]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 76-13-10 applicale to Grumman American G-164 type airplanes.

Subsequent to the promulgation of AD 76-13-10, additional reports indicated that the deficiency was not limited to the first 18 inches of the strut. Thus, the AD is being amended to include the total strut.

Since the safety hazard which justified the promulgation of the subject as an immediate rule still exists, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 76-13-10, as follows:

Amend AD 76-13-10 as follows:

(a) Delete the following wording in paragraph (a)(1); "for a length of 18 inches outboard from the innermost attachment point at the fuselage," and "in accordance with Grumman American Aviation Corporation Ag-Cat Service Note No. 13"

(b) Delete the following wording in paragraph (A)(3); "for a length of 12 inches outboard from the strut clamps."

(c) Add the following as a separate sentence under paragraph (e); Grumman American Aviation Corporation Service Note No. 13 covers this same subject.

This amendment is effective November 30, 1976.

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

Issued in Jamaica, N.Y., on November 16, 1976.

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

[FR Doc.76-34630 Filed 11-24-76;8:45 am]

[Docket No. 76-NE-37, Amdt. 39-2774]

PART 39—AIRWORTHINESS DIRECTIVES

Lake Model LA-4-200 Airplanes

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on October 15, 1976, and made effective immediately as to all known United States operators of Lake Model LA-4-200 airplanes. The directive requires the removal and replacement of the engine oil cooler if it is a Stewart Warner Model 8406J, serial numbers 101 through 1500. These oil coolers may develop cracks resulting in a rapid loss of engine oil and subsequent engine stoppage. This AD has the recommendation and concurrence of the aircraft manufacturer.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of LA-4-200 airplanes by individual airmail letter, dated October 15, 1976. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

LAKE AIRCRAFT, DIVISION OF CONSOLIDATED AERONAUTICS, INC. Applies to all Lake Model LA-4-200 airplanes certified in all categories equipped with Stewart Warner Model LA-4-200 airplanes certified in all categories equipped with Stewart Warner Model 8406J engine oil coolers.

Compliance required as indicated unless already accomplished.

To preclude possible oil cooler failures allowing rapid loss of engine oil which could result in engine stoppage, accomplish the following:

A. Before next flight of the affected airplanes, inspect the engine oil cooler (fluid fitting side) to determine whether it is a Model 8406J S/N 101 through 1500.

1. If the oil cooler is a Model 8406J S/N 101 through 1500, prior to further flight, replace this cooler with an FAA approved oil cooler not of the above model and serial number.

2. If the oil cooler is not of the model and serial number listed above, make an entry in the aircraft maintenance records indicating that this airworthiness directive has been accomplished and the airplane may be returned to service.

B. The inspection and maintenance record entry required by paragraph A2 may be accomplished by holder of a pilot's certificate issued under Part 61 of the Federal Aviation Regulations on any aircraft owned or operated by him.

C. Equivalent methods of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

NOTE.—A ferry permit to accomplish a needed oil cooler replacement may be issued under the provisions of FAR 21.197 by FAA District Offices, with appropriate limitations.

This amendment becomes effective immediately on November 26, 1976, for all persons except those to whom it was made effective immediately upon receipt of airmail letter dated October 15, 1976.

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

Issued in Burlington, Mass., on November 15, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-34633 Filed 11-24-76;8:45 am]

[Docket No. 76-NE-27, Amdt. 39-2776]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Model JT9D Turbofan Engine

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a repetitive inspection of certain Pratt & Whitney Aircraft JT9D fan blades for foreign object damage, and providing a blade blending procedure if excessive damage is found, was published in the FEDERAL REGISTER on August 2, 1976, (41 FR 32239).

Interested persons have been afforded an opportunity to participate in the making of the amendment. Several comments were received. Two commentators stated that the present wording of the AD did not give credit to operators who inspect their fan blades prior to its effective date. We agree, therefore, the compliance paragraph of the AD has been changed to add the words "unless already accomplished." Two commentators were concerned that the inspection requirement of paragraphs 1, 2, and 3, might apply to the entire blade. It is the intent of the AD that the inspections be performed only on the critical areas of the fan blade as defined by PWA Alert Service Bulletin 4573. Therefore, the AD has been changed to reflect this. One commentator stated that the present wording of paragraph 2 could have an interpretation other than intended. If either Service Bulletin 4124 or 4262 has been complied with, and a blade is subsequently damaged and blend repaired, the blade could be eddy current inspected per the requirements of paragraph 3 (3500 hours). It is the intent of the AD that only those blades

reworked per the referenced PWA service bulletins and not damaged and blended, can go to the inspection interval of paragraph 3. The wording of these paragraphs has been changed to clarify their intent.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney Aircraft JT9D turbofan engines containing fan blades, part numbers 658931, 718431, 726221, 734721, 735831, 735841, 740421, 740431, 740441, 740521, 741131, 741141, 748231, 748321, 748931, 750621, 750631, 758031, 758181, 758191, 758221, 760631, 760641, 760721, 760731, 760831, 760841, 760941, 761041, 761121, 761131, and 761141.

Compliance required as follows unless already accomplished.

To preclude failure of fan blades due to fatigue originating from undetected foreign object damage, inspect the critical areas of the blades in accordance with the procedures given in PWA ASB 4573, dated March 26, 1976, or later FAA approved revision, as follows:

1. Visually inspect all fan blades within the next 600 hours time in service after the effective date of this AD, and every 600 hours time in service thereafter.

2. Eddy current inspect all fan blades that have been previously damaged and blend repaired within the next 600 hours time in service after the effective date of this AD.

3. Eddy current inspect fan blades reworked per PWA Service Bulletins 4124 or 4262, without prior or subsequent damage or blend repairs, within the next 3500 hours time in service after the effective date of this AD.

If foreign object damage with a depth of .005 inch or more is found in the critical area, blend and inspect in accordance with Option 1 or Option 2 procedures given in PWA ASB No. 4573, dated March 26, 1976, or later FAA approved revision.

NOTE.—The AD does not change the present fan blade blend limits given in the JT9D engine manual.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA headquarters, 800 Independence Avenue, SW., Washington, D.C.

A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Region.

This amendment becomes effective December 30, 1976.

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

Issued in Burlington, Mass., on November 16, 1976.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-34631 Filed 11-24-76;8:45 am]

[Docket No. 76-NE-28, Amdt. 39-2775]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Model JT8D Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the removal of eighth stage compressor disk, P/N 496908, on Pratt & Whitney Aircraft Model JT8D engines prior to reaching 6000 cycles in service after the effective date of this AD, or by December 31, 1977, whichever comes later, was published in the FEDERAL REGISTER on August 2, 1976 (41 FR 32238), and for clarification, a supplemental notice was published in the FEDERAL REGISTER on October 14, 1976 (41 FR 45021).

Interested persons have been afforded an opportunity to participate in the making of this amendment. The only objection received concerned the compliance date. The commentator requested that the compliance date be extended one year, to December 31, 1978, to reduce the number of premature engine removals. As discussed in the notice, the December 31, 1977, date was selected only after careful consideration of all pertinent factors including safety considerations, parts availability, and the shop capability of the industry to effect the change. After additional review of this entire matter of compliance time, the agency still considers that the December 31, 1977, compliance date represents the most appropriate compliance period for this AD in terms of the needs of safety and the ability of industry to complete the requested change. Accordingly, the compliance time is being adopted as proposed.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

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

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney Aircraft JT8D -1, -1A, -1B, -7, -7A, -7B, -9, -9A, and -11 turbofan engines containing eighth stage compressor disk, P/N 496908.

Compliance required as indicated.

To prevent possible failure, remove from service the eighth stage compressor disk, P/N 496908, prior to reaching 6000 cycles in service since new, or by December 31, 1977, whichever comes later. The established life limit of 11,000 cycles is not to be exceeded.

This amendment becomes effective December 27, 1976.

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

Issued in Burlington, Mass., on November 15, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-34632 Filed 11-24-76;8:45 am]

[Airspace Docket No. 76-GL-34]

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

Alteration of Transition Area

On page 41712 of the FEDERAL REGISTER dated September 23, 1976, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Baraboo, Wisconsin.

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

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

This amendment shall be effective 0901 G.m.t, February 24, 1977.

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

Issued in Des Plaines, Ill., on November 3, 1976.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

In § 71.181 (41 FR 440), the following area is amended to read:

BARABOO, WISCONSIN

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Baraboo-Wisconsin Dells Airport (latitude 43°31'30" N.; longitude 89°46'15" W.); within an 11-mile radius of the Reedsburg Airport (latitude 43°31'44" N.; longi-

tude 89°59'06" W.) and within a 10-mile radius of the Portage Airport (latitude 43° 33'35" N.; longitude 89°23'58" W.).

[FR Doc.76-34638 Filed 11-24-76;8:45 am]

[Airspace Docket No. 76-GL-35]

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

Designation of Transition Area

On pages 42219 and 42220 of the FEDERAL REGISTER dated September 27, 1976, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Boscobel, Wisconsin.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

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

This amendment shall be effective 0901 G.m.t., February 24, 1977.

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

Issued in Des Plaines, Ill., on November 3, 1976.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

In § 71.181 (41 FR 440), the following transition area is added:

BOSCOBEL, WISCONSIN

That airspace extending upward from 700' above the surface within an 8½ mile radius of the Boscobel Airport (latitude 43°09'30" N; longitude 90°40'45" W).

[FR Doc.76-34637 Filed 11-24-76;8:45 am]

[Airspace Docket No. 76-GL-36]

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

Alteration of Transition Area

On page 42219 of the FEDERAL REGISTER dated September 27, 1976, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Lone Rock, Wisconsin.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

Line 2 of the Lone Rock, Wisconsin, transition area description recited as "above the surface within a 5.5 mile radius" is changed to read "above the surface within a 8.5 mile radius".

This amendment shall be effective 0901 G.m.t., February 24, 1977.

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

Issued in Des Plaines, Ill., on November 3, 1976.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

In § 71.181 (41 FR 4400, the following transition area is amended to read:

LONE ROCK, WISCONSIN

That airspace extending upward from 700' above the surface within a 8.5-mile radius of the Tri-County Airport (latitude 43°12'-36" N; longitude 90°11'06" W); within a 10-mile radius of the Richland Airport (latitude 43°16'55" N; longitude 90°16'52" W).

[FR Doc.76-34636 Filed 11-24-76;8:45 am]

[Airspace Docket No. 76-EA-76]

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

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Latrobe, Pa., control zone (41 FR 398).

The Latrobe, Pa., part-time control zone is currently designated from 0700 to 2200 hours, local time. The tower has expanded its operating hours to 0630–2200 hours, local time. It is necessary to alter the control zone hours designation to be coincident with the tower hours of operation. It would appear that the extension of the time of control zone operation by 30 minutes is minor in nature, and relatively does not impose any additional burden on any person. Thus, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. February 24, 1977, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the text of the Latrobe, Pennsylvania Control Zone by deleting, "0700 to 2200 hours," and by substituting therefor, "0630 to 2200 hours,".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), sec. 6(c), DOT Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on November 11, 1976.

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

[FR Doc.76-34635 Filed 11-24-76;8:45 am]

[Airspace Docket No. 75-GL-23]

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

Correction

In F.R. Doc. 75-17311, appearing on page 28076 in the FEDERAL REGISTER dated July 3, 1975, the sentences that permit the control zone times to be changed by a Notice to Airmen in the control zone designation was inadvertently omitted. The Rhinelander, Wisconsin, control zone has been a part-time zone since it was established and is listed in the Airman's Information Manual as a Part-Time Control Zone. The correction is supplied herein.

Since this correction is minor in nature only and imposes no additional burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately as hereinafter set forth:

In § 71.171 (41 FR 355), the following control zone is amended as follows:

RHINELANDER, WISCONSIN

Add: * * * This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in Des Plaines, Illinois on November 5, 1976.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

[FR Doc.76-34841 Filed 11-24-76;8:45 am]

[Airspace Docket No. 76-WA-6]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Extension and Designation of Jet Routes; Correction

In FR Doc. 76-29853 appearing at page 44688 in the FEDERAL REGISTER of October 12, 1976, the amendments concerning J-154 and J-200 of § 75.100 are corrected by deleting "048°" and substituting "046°" therefor.

Issued in Washington, D.C., on November 17, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-34634 Filed 11-24-76;8:45 am]

[Docket No. 16282; Amdt. No. 1048]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3,

8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS–230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

§ 97.23 [Amended]

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPS, *effective January 13, 1977.*

Crescent City, CA—Jack McNamara Field, VOR Rwy 11, Amdt. 6
Crescent City, CA—Jack McNamara Field, VOR/DME Rwy 11, Amdt. 8

* * * *effective January 6, 1977.*

Fairhope, AL—Fairhope Municipal Arpt., VOR/DME–A, Amdt. 2
Naples, FL—Naples Muni Arpt., VOR/DME–A, Amdt. 1
White Plains, NY—Westchester County, VORTAC Rwy 23, Orig.
Hyannis, MA—Barnstable Municipal Arpt., VOR Rwy 6, Amdt. 2.
Hyannis, MA—Barnstable Municipal Arpt., VOR Rwy 24, Amdt. 7
Easton, PA—Easton Arpt., VOR–A, Original

* * * *effective December 30, 1976.*

Kissimmee, FL—Kissimmee Municipal Arpt., VOR/DME–A, Amdt. 1
Moultrie, GA—Moultrie-Thomasville Arpt., VOR Rwy 4, Amdt. 7
Moultrie, GA—Moultrie-Thomasville Arpt., VOR Rwy 22, Amdt. 6

* * * *effective December 9, 1976.*

Muncie, IN—Delaware County-Johnson Field, VOR Rwy 20, Amdt. 6
Goodland, KS—Renner Field (Goodland Muni), VOR Rwy 30, Amdt. 1

§ 97.25 [Amended]

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, *effective January 13, 1977.*

Oxnard, CA—Ventura County, LOC Rwy 25, Original cancelled
Vancouver, WA—Pearson Airpark, LDA BC Rwy 8, Amdt. 1

* * * *effective December 30, 1976.*

Aniak, AK—Aniak Arpt., LOC/DME–A, Original, cancelled

* * * *effective December 9, 1976.*

Goodland, KS—Renner Field (Goodland Muni), LOC Rwy 30, Original

* * * effective *November 11, 1976.*

Homer, AK—Homer Arpt., LOC/DME Rwy 3, Amdt. 4

§ 97.27 [Amended]

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPS, *effective January 13, 1977.*

Ponape Island-Caroline Islands, Ponape Int'l Arpt., NDB–A, Amdt. 1, cancelled

* * * *effective January 6, 1977.*

Naples, FL—Naples Muni Arpt., NDB Rwy 4, Amdt. 1, cancelled
Naples, FL—Naples Muni Arpt., NDB Rwy 22, Amdt. 1, cancelled
Chicago, IL—Chicago O'Hare Int'l Arpt., NDB Rwy 14L, Amdt. 18
Chicago, IL—Chicago O'Hare Int'l Arpt., NDB Rwy 14R, Amdt. 16
Hyannis, MA—Barnstable Muni Arpt., NDB Rwy 24, Amdt. 6
Worcester, MA—Worcester Muni Arpt., NDB Rwy 11, Amdt. 7
Aiken, SC—Aiken Muni Arpt., NDB Rwy 24, Orig.
Aiken, SC—Aiken Muni Arpt., NDB–A, Amdt. 3, cancelled

* * * *effective December 30, 1976.*

Kissimmee, FL—Kissimmee Muni Arpt., NDB Rwy 15, Amdt. 3
Thomasville, GA—Thomasville Muni Arpt., NDB Rwy 22, Amdt. 2

* * * *effective December 9, 1976.*

Sylacauga, AL—Lee Merkle Field, NDB–A, Orig.
Muncie, IN—Delaware County-Johnson Field, NDB Rwy 32, Amdt. 1
Goodland, KS—Renner Field (Goodland Muni), NDB Rwy 30, Original
Columbus, OH—Bolton Field, NDB Rwy 3, Amdt. 2

* * * *effective December 2, 1976.*

Alpena, MI—Phelps-Collins Arpt., NDB Rwy 36, Original

* * * *November 18, 1976.*

Pittsburgh, PA—Allegheny County, NDB Rwy 27, Amdt. 18

* * * *effective November 11, 1976.*

Homer, AK—Homer Muni Arpt., NDB–A, Amdt. 1

§ 97.29 [Amended]

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPS, *effective January 13, 1977.*

Crescent City, CA—Jack McNamara Field, ILS/DME Rwy 11, Amdt. 2
Oxnard, CA—Ventura County, ILS Rwy 25, Amdt. 1
Hillsboro, OR—Portland-Hillsboro Arpt., ILS Rwy 12, Amdt. 1

* * * *effective January 6, 1977.*

Chicago, IL—Chicago O'Hare Int'l Arpt., ILS Rwy 14L, Amdt. 23
Chicago, IL—Chicago O'Hare Int'l Arpt., ILS Rwy 14R, Amdt. 22
Hyannis, MA—Barnstable Muni Arpt., ILS Rwy 24, Amdt. 11
Worcester, MA—Worcester Muni Arpt., ILS Rwy 11, Amdt. 7
Syracuse, NY—Syracuse Hancock Int'l Arpt., ILS Rwy 10, Amdt. 1

* * * *effective December 30, 1976.*

Aniak, AK—Aniak Arpt., ILS/DME Rwy 10, Original

* * * *effective December 9, 1976.*

Columbus, OH—Bolton Field, ILS Rwy 3, Original

* * * *effective December 2, 1976.*

Alpena, MI—Phelps-Collins Arpt., ILS Rwy 36, Original

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, *effective January 6, 1977.*

Chicago, IL—Chicago O'Hare Int'l Arpt., Radar–1, Amdt. 32

§ 97.33 [Amended]

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, *effective December 9, 1976.*

Goodland, KS—Renner Field (Goodland Muni), RNAV 12, Amdt. 1

CORRECTION: In Docket Number 16026, amendment Number 1034 to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated *Monday August 23, 1976* on page 35479 under section 97.33 * * * Change effective date of Petersburg, AK—Petersburg Arpt NDB–A Original and Petersburg, AK—Petersburg Arpt NDB–A Amdt 2 cancelled from November 4, 1976 to December 30, 1976.

CORRECTION: In Docket Number 16243, amendment Number 1046, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated *Thursday, November 11, 1976* on page 49806 under section 97.23 * * * Change effective date of St. Augustine, FL—St. Augustine Arpt VOR Rwy 13 Amdt 1, and St. Petersburg, FL—Albert Whitted Arpt VOR Rwy 18 Amdt 4 to December 30, 1976; Muncie, IN—Delaware County-Johnson Field VOR Rwy 14, Amdt. 9 and Muncie, IN—Delaware County-Johnson Field VOR Rwy 32 Amdt. 7 to December 9, 1976; and under section 97.27 * * * Change effective date of Tampa, FL—

Peter O. Knight Arpt NDB Rwy 3 Amdt 7 to December 30, 1976.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on November 18, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.76-34842 Filed 11-24-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg.-PR-160; Amdt. 3; Docket No. 29626]

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Amendment to Reissuance of Part

Correction

In FR. Doc. 76-32102, appearing at page 48116 in the issue for Tuesday, November 2, 1976, make the following changes:

1. The bracketed material should read as set forth above.

2. On page 48118, in the second column, in paragraph (b) of § 300.2, the 9th line which now reads "sition, or issuance of a relevant Board", should read "affiliated with the Board as a Board".

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Provider Reimbursement Determinations and Appeals

On June 24, 1975, there was published in the FEDERAL REGISTER (40 FR 26540) a Notice of Proposed Rule Making with proposed amendments to Subparts C, D, and R of Regulations No. 5 (20 CFR Part 405), (1) implementing section 3 of Pub. L. 93-484 which amended section 1878(f) of the Social Security Act, and granted providers the right to obtain judicial review of any final decision of the Provider Reimbursement Review Board, or of any reversal, affirmance, or modification by the Secretary; (2) modifying the language in § 405.1845(d) to more clearly show that Board hearings may be conducted by one or more Board members; (3) correcting cross-references in § 405.371(c); and (4) amending § 405.1875(e) to provide that any further review action by the Secretary after a remand to the Board shall be limited to the same 60 days applicable to an initial Board decision.

Interested persons were given 30 days within which to submit written comments or suggestions thereon. Only one party submitted comments, and those were considered in preparing the final regulations. The commenter suggested that we limit the time within which the Board must act on cases remanded by the Secretary. The Secretary has never exercised the remand authority and he has determined that remand to the Board is not administratively feasible within the time constraints imposed by section 1878(f) of the Social Security Act, as amended by Pub. L. 93-484. Therefore, the provision for remand (§ 405.1875(e)) has been deleted from the regulations, making the point of the public comment moot. Since the change merely deletes a superfluous provision without affecting the rights of providers, good cause exists to dispense with a further Notice of Proposed Rule Making.

Section 405.1875(c) of the existing regulations, dealing with the finality of an affirmance by the Secretary of a decision of the Board, is being deleted as inconsistent with the judicial review amendments made by Pub. L. 93-484. (An explicit reference to its revocation in the notice of June 24, 1975, was inadvertently omitted.) Since this change is of a minor and technical nature and does not adversely affect the rights of providers, good cause exists to dispense with a further Notice of Proposed Rule Making.

Paragraph (d) of § 405.1875 as proposed has been designated paragraph (c).

Therefore, having considered the comment received, the proposed regulations are hereby adopted with these deletions and minor editorial changes in the interest of greater clarity and are set forth below.

(Secs. 1102, 1871, 1878 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, as amended, and 86 Stat. 1421, as amended; 42 U.S.C. 1302, 1395hh, and 1395oo.)

Effective date: These amendments shall be effective December 27, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: August 30, 1976.

JAROLD A. KIEFFER,
Acting Commissioner of Social Security.

Approved: November 12, 1976.

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

Regulations No. 5 of the Social Security Administration (20 CFR Part 405), as amended, is further amended as follows:

1. Paragraph (c) of § 405.371 is revised to read as follows:

§ 405.371 Proceeding for suspension.

* * * * *

(c) *Notice of amount of program reimbursement.* The provisions of paragraph (a) of this section shall not apply where the intermediary, after furnishing a provider a written notice of the amount of program reimbursement pursuant to § 405.1803, suspends payment under paragraph (b) of such § 405.1803.

2. Paragraphs (a) and (b)(2)(iii) of § 405.419 are revised to read as follows:

§ 405.419 Interest expense.

(a) *Principle.* Necessary and proper interest on both current and capital indebtedness is an allowable cost. However, interest cost incurred as a result of judicial review by a Federal court (as described in § 405.454(l)) is not an allowable cost.

(b) *Definitions.* * * *

(2) *Necessary.* Necessary requires that the interest: * * *

(iii) Be reduced by investment income except where such income is from gifts and grants, whether restricted or unrestricted, and which are held separate and not commingled with other funds. Income from funded depreciation or provider's qualified pension fund is not used to reduce interest expense. Interest received as a result of judicial review by a Federal court (as described in § 405.454(l)) is not used to reduce interest expense.

* * * * *

3. Section 405.454(l) is added to read as follows:

§ 405.454 Payments to providers.

* * * * *

(l) *Interest payments resulting from judicial review.* (1) *Application.* Where a provider of services seeks judicial review by a Federal court (see § 405.1877) of a decision rendered by the Provider Reimbursement Review Board or subsequent reversal, affirmance, or modification by the Secretary, the amount of any award of such Federal court shall be increased by interest payable by the party against whom the judgment is made (see § 405.419 for treatment of interest). The interest is payable for the period beginning on the first day of the first month following the 180-day period which began on either the date the intermediary made a final determination or the date the intermediary would have made a final determination had it been done on a timely basis (see §§ 405.1835(b) and 405.1841(a)).

(2) *Amount due.* Section 1878(f) of the Act, 42 U.S.C. 1395oo(f), authorizes a court to award interest in favor of the prevailing party on any amount due as a result of the court's decision. If the intermediary withheld any portion of the amount in controversy prior to the date the provider seeks judicial review by a Federal court, and the health insurance program is the prevailing party, interest is payable by the provider only on the amount not withheld. Similarly, where the health insurance program seeks to recover amounts previously paid to a provider, and the provider is the prevailing party, interest on the amounts previously paid to a provider is not payable by the health insurance program

since that amount had been paid and is not due the provider.

(3) *Rate.* The amount of interest to be paid is equal to the rate of return on equity capital (see § 405.429) in effect for the month in which the civil action is commenced.

Example: An intermediary made a final determination on the amount of health insurance program reimbursement on June 15, 1974, and the provider appealed that determination to the Provider Reimbursement Review Board. The Board heard the appeal and rendered a decision adverse to the provider. On October 28, 1974, the provider commenced civil action to have such decision reviewed. The rate of return on equity capital for the month of October 1974 was 11.625 percent. The period for which interest is computed begins on January 1, 1975, and the interest beginning January 1, 1975, would be at the rate of 11.625 percent per annum.

4. Paragraph (d) of § 405.1845 is revised to read as follows:

§ 405.1845 Composition of Board.

* * * * *

(d) A quorum shall be required for the rendering of Board decisions. Three members, at least one of whom is representative of providers of services, shall be required to constitute a quorum. The Chairman of the Board, with approval of the provider, may designate one or more Board members to conduct any hearing and to prepare a recommended decision (where less than a quorum conducts the hearing). (See § 405.1869.)

5. Paragraph (b) of § 405.1871 is revised to read as follows:

§ 405.1871 Board hearing decision and notice.

* * * * *

(b) The decision of the Board provided for in paragraph (a) of this section shall be final and binding upon all parties to the hearing before the Board unless it is reviewed by the Secretary in accordance with § 405.1875, or revised in accordance with § 405.1885.

6. Section 405.1875 is revised to read as follows:

§ 405.1875 Secretary's review.

(a) The Secretary, on his own motion and at his discretion, may elect to review any decision of the Board. A right to such review does not vest in parties to the Board's hearing.

(b) The Secretary will promptly notify all parties to the Board's hearing of his election to review the Board's decision and of the result of such review.

(c) If the Secretary reverses, affirms, or modifies a decision of the Board, he must do so within 60 days after notification to the provider of the Board's decision.

7. Section 405.1877 is revised to read as follows:

§ 405.1877 Judicial review.

Section 1878(f) of the Act, 42 U.S.C. 1395oo(f), permits providers to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification of a Board decision by the Secretary, by a civil action commenced against the Secretary within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received. Such action shall be brought in the District Court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia. Process shall be served in accordance with 45 CFR Part 4.

[FR Doc.76-34806 Filed 11-24-76;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. 76N-0002]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Diethylstilbestrol

The Food and Drug Administration is amending the new animal drug regulations to reflect the decision announced elsewhere in this issue of the FEDERAL REGISTER to withdraw approval of certain new animal drug applications for use of diethylstilbestrol in animals used for human consumption.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 505, 507, 512, 52 Stat. 1052–1053 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 348, 355, 357, 360b)) and the Animal Drug Amendments of 1968 (sec. 108 (b)(2), 82 Stat. 353) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 522, § 522.640 is amended by revising paragraphs (b) and (d) to read as follows:

§ 522.640 Diethylstilbestrol.

* * * * *

(b) *Sponsors.* For the conditions of use set forth in paragraph (d)(1) of this section, see Nos. 011801 and 024264 in § 510.600(c) of this chapter. For the conditions of use set forth in paragraph (d)(2) of this section, see Nos. 000856 and 011801 in § 510.600(c) of this chapter; Vineland Laboratories, Inc., Subsidiary of Damon, 2285 E. Landis Ave., Vineland, N.J. 08360; and O. M. Franklin Serum Co., P.O. Box 22335, Denver, Colo. 80222. For the conditions of use set forth in paragraph (d)(3) of this section, see Vineland Laboratories, Inc., Subsidiary of Damon, 2285 E. Landis Ave., Vineland, N.J. 08360.

* * * * *

(d) *Conditions of use.* (1) It is used as a subcutaneous ear implantation for lambs as follows:

(i) *Amount per dose.* 3 milligrams.

(ii) *Indications for use.* Increased rate of gain and improved feed efficiency.

(iii) *Limitations.* Not for use in breeding animals; implantation should be made at the start of the feeding period or approximately 70 days before marketing; implant one 3-milligram pellet per animal.

(2) It is used as a subcutaneous ear implantation for cattle as follows:

(i) *Amount per dose.* 30 milligrams.

(ii) *Indications for use.* Increased rate of gain and improved feed efficiency.

(iii) *Limitations.* Not for use in breeding animals; implantations should be made at the start of the feeding period or approximately 120 days before marketing; insert two 15-milligram pellets per animal.

(3) It is used as a subcutaneous ear implantation for cattle as follows:

(i) *Amount per dose.* 36 milligrams.

(ii) *Indications for use.* Increased rate of gain and improved feed efficiency.

(iii) *Limitations.* Not for use in breeding animals; implantations should be made at the start of the feeding period or approximately 120 days before marketing; insert three 12-milligram pellets per animal.

§ 558.225 [Amended]

2. In Part 558, § 558.225 *Diethylstilbestrol* is amended by changing the sponsor No. "000986" in paragraph (a) to read "011801", and deleting sponsor No. "000-986" from the table in paragraph (e)(1)(ii).

Effective date. This regulation shall become effective December 27, 1976.

(Secs. 409, 505, 507, 512, 52 Stat. 1052–1053 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 348, 355, 357, 360b).)

Dated: November 23, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-34966 Filed 11-24-76; 8:45 am]

[Docket No. 76N-0431]

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Metibiotic Foam and Metibiotic Infusion; Revocation of Antibiotic Certification Provisions and Related Regulations

The Director of the Bureau of Veterinary Medicine is revoking the antibiotic certification provisions providing for the use of Metibiotic Foam (NADA 65-007V) and Metibiotic Infusion (NADA 65-074V) which are the subjects of a notice of withdrawal of approval published elsewhere in this issue of the FEDERAL REGISTER. Because approval of the new animal drug applications for the products is being withdrawn, the corresponding antibiotic certification provisions for use of the products, cited in the notice of opportunity for hear-

ing proposing to withdraw the approvals, are also being revoked.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and pursuant to the authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29), Part 540 is amended as follows:

§ 540.274e [Amended]

1. In § 540.274e Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil by deleting the last sentence in paragraph (a)(1)(ii), which reads, "If it is intended solely for udder instillations of cattle, it may be packaged in containers with one or more suitable inert gases."

§ 540.874d [Revoked]

2. By revoking § 540.874d Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil.

Effective date. This amendment shall be effective November 26, 1976.

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

Dated: November 18, 1976.

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

[FR Doc.76-34794 Filed 11-24-76;8:45 am]

[FRL 649-3; FAP6H5125/T20A]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate; Correction

In FR Doc. 76-24692 which appeared on September 17, 1976 (41 FR 40100), line 4 of § 561.253(b)(1) should include ellipses marks following the word "section" to read as follows: "section * * *", and also in paragraph (b)(1) the tolerance of 0.5 ppm for residues of glyphosate in dried citrus pulp should appear as 0.4 ppm.

Dated: November 18, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-34901 Filed 11-24-76;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 265—RELEASE OF INFORMATION

Additional Records Available to the Public

Executive Order 11920, "Establishing Executive Branch Procedures Solely for the Purpose of Facilitating Presidential Review of Decisions Submitted to the President by the Civil Aeronautics Board", was signed by the President on June 10, 1976. Section 5 provides that departments and agencies outside of the Executive Office of the President which regularly make recommendations to the President in connection with his review pursuant to section 801 of the Federal Aviation Act, as amended (49 U.S. Code 1461), shall (a) establish public dockets for all written communications (except those which require confidential treatment for reasons of defense or foreign policy) between their officers and employees and private parties in connection with the preparation of such recommendations, and (b) establish such other procedures governing oral and written communications as they deem appropriate.

The United States Postal Service has not regularly made recommendations to the President in section 801 cases in the past. However, it may make recommendations from time to time. Consistent with the policy of the Executive Order, the Postal Service will make available to the public the written communications described above and summaries of oral communications of a similar character.

This document amends 39 CFR 265.6(a)(4)(i) (40 FR 7332, February 19, 1975), which establishes the Freedom of Information Act public index of the Postal Service, to provide that the index shall include, in addition to specific categories of records already described in that provision, such additional materials as the Postal Service from time to time may choose to index and make available under § 265.6(a). Materials described above relating to public communications with respect to Postal Service recommendations to the President will be included in the index and will be available to the public in the manner set forth in § 265.6(a).

Accordingly, the following amendment is effective immediately:

Section 265.6(a)(4)(i) of Title 39, CFR, is revised to read as follows:

§ 265.6 Availability of records.

(a) * * *

(4) *Public index.* (i) A public index is maintained in the Headquarters Library of all final opinions and orders made by the Postal Service in the adjudication of cases, Postal Service policy statements which may be relied on as precedents in the disposition of cases, administrative staff manuals and instructions that affect the public, and other materials which the Postal Service elects to index and make available to the public upon request in the manner set forth in paragraph (a) of this section.

* * * *

(39 U.S.C. 401.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-34827 Filed 11-24-76;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 38—DISASTER ASSISTANCE FOR CRISIS COUNSELING AND TRAINING

On April 16, 1976, there was published in the FEDERAL REGISTER (41 FR 16169) a notice of proposed rulemaking setting forth procedures to implement section 413 of Pub. L. 93-288, the Disaster Relief Act of 1974 (42 U.S.C. 5183), which authorizes the President, through the National Institute of Mental Health, "to provide professional counseling services, including financial assistance to States or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to alleviate mental health problems caused or aggravated by major disasters or their aftermath."

On July 11, 1974, the President delegated his authority under Section 413 and other provisions of the Disaster Relief Act of 1974 to the Secretary of Housing and Urban Development (Executive Order No. 11795, 39 FR 25939, as amended by Executive Order No. 11910, 41 FR 15681). The authority to promulgate regulations for the implementation of Section 413 of Pub. L. 93-288 was delegated to the Secretary of Health, Education, and Welfare by the Secretary of Housing and Urban Development on March 7, 1975 (40 FR 10705). The citation of authority in the regulations has been amended to include these delegations.

In addition, § 38.3(d) has been amended to clarify that the recommendation of the Secretary of Health, Education, and Welfare is a prerequisite to an extension of the 180 day time limitation on grants and contracts by either the Regional Director or the Administrator.

As set forth in § 38.1(b), the activities to be carried out under the regulations are subject to all applicable provisions of the Disaster Relief Act of 1974 and the implementing regulations, 24 CFR Part 2205, promulgated by the Administrator of the Federal Disaster Assistance Administration and are subject to the general policy guidance and coordination of the Administrator. The regulations do not change the existing Federal Disaster Assistance Administration (FDAA) and Department of Health, Eduction, and Welfare (HEW) policies which provide for the involvement and assistance of FDAA and HEW regional health officers in the implementation of the crisis counseling and training program.

Ten responses were received within the thirty day period following publication of the notice of proposed rulemaking in the FEDERAL REGISTER. All comments with respect to the proposed revision were given due consideration. Six of the respondents suggested an extension of the program to encompass pre-disaster or pre-crisis training; one asked that public notices be provided by way of newspaper advertisements to alert communities to available services; one emphasized the need for program accountability, requesting the State agencies be designated to conduct ongoing monitoring of programs; one suggested that training take place through mental health programs in the community to meet local needs and provide continuity of care; and another stated complete support for the program. These comments have not required any changes in the proposed rules for the reasons set forth below.

1. With respect to pre-crisis training, it has been determined that priority must be given to the adequate operation of essential disaster and post-disaster programs. If experience indicates that available funds exceed the needs of these programs, this determination will be reconsidered.

2. Contained within some of the comments which stressed the need for pre-crisis training were statements regarding the engagement of experienced professionals and the use of universities to provide a continuing base of qualified counsellors. The regulations do encompass the utilization of such skills. Public agencies and private mental health organizations which receive assistance under the regulations for the provision of the professional mental health counseling services or mental health training of disaster workers needed as a result of a major disaster may enlist and employ experienced community and university professionals to supplement their staff as necessary to meet the needs resulting from the major disaster.

3. Similarly, the substance of the comment suggesting the use of local mental health programs for training and service delivery is already incorporated within the terms of § 38.4(b) and § 38.5 (c) of the regulations. It is a longstanding policy of the Federal Disaster Assistance Administration (FDAA) that preference be given to the extent feasible and practicable to the use of local agencies and organizations in providing disaster relief, including the provision of training and service delivery.

4. With regard to the comment about public notices, the Department of Health, Education, and Welfare will follow the policy of the Federal Disaster Assistance Administration by using paid advertising as needed for disaster situations, while reserving the right to determine its frequency. The need for paid advertising varies according to the type of disaster, geographic area, duration, and cultural population; thus, it has been determined not to promulgate a specific regulation on this point.

5. With respect to the suggestion for State supervision, adequate provision for program accountability is made by the regulations. See in particular §§ 38.4, 38.5, and 38.9.

Characteristically, this program involves the expenditure of relatively small amounts of money over short time periods. It does not involve the additional employment of large numbers of persons for its implementation.

Accordingly, with the addition of the foregoing minor technical and clarifying changes, the regulations proposing to amend Subchapter C, Chapter I of Title 42 Code of Federal Regulations by adding a new Part 38 are hereby adopted and are set forth below.

Effective date. This amendment becomes effective on November 26, 1976.

It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821, and does not require an inflation impact evaluation.

Dated: October 6, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: November 12, 1976.

MARJORIE LYNCH,
Acting Secretary.

Sec.
38.1 Purpose; coordination.
38.2 Definitions.
38.3 Assistance; procedures, limitations.
38.4 Contracts.
38.5 Grant assistance.
38.6 Nondiscrimination.
38.7 Nonliability.
38.8 Criminal and civil penalties.
38.9 Federal audits.

AUTHORITY: Sec. 413, Pub. L. 93-288. The Disaster Relief Act of 1974, 88 Stat. 157, 42 U.S.C. 5183, EO 11795, 39 FR 25939, as amended by EO 11910, 41 FR 15681.

38.1 Purpose; coordination.

(a) *Purpose.* This part establishes standards and procedures for the implementation of Section 413 of Pub. L. 93-288, the Disaster Relief Act of 1974 (42 U.S.C. 5183) which authorizes the provision, either directly or through financial assistance to State or local agencies or private mental health organizations, of:

(1) Professional counseling services to victims of a major disaster in order to relieve mental health problems caused or aggravated by such a major disaster or its aftermath; and

(2) Training of disaster workers to provide or assist in providing those professional counseling services.

(b) *Coordination.* The Secretary, acting through the National Institute of Mental Health, will, as provided in 24 CFR 2205.51, carry out Section 413 of the Act and this part in coordination with, and under the general policy guidance of, the Administrator of the Federal Disaster Assistance Administration. Contracts and grants awarded under this part are subject to all applicable provisions of the Act and the implementing regulations promulgated by the Administrator (24 CFR Part 2205).

§ 38.2 Definitions.

All terms not defined herein shall have the same meaning as given them in the Act. As used in this part:

(a) "Act" means the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) "Administrator" means the Administrator, Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development, and any other person to whom he delegates the authority.

(c) "Contractor" means any public agency or private mental health organization which, pursuant to this part, contracts with the Secretary to provide professional mental health crisis counseling services or to provide mental health training for disaster workers.

(d) "Crisis" means the existence of any life situation resulting from a major disaster or its aftermath which so effects the emotional and mental equilibrium of a disaster victim that professional mental health counseling services should be provided to help preclude possible damaging physical or psychological effects.

(e) "Disaster workers" means mental health specialists such as psychiatrists, psychologists, psychiatric nurses, social workers, or qualified agents thereof.

(f) "Federal Coordinating Officer" means the person appointed by the Administrator to coordinate Federal assistance in a major disaster.

(g) "Governor" means the chief executive of a State.

(h) "Grantee" means any public agency or private nonprofit mental health organization which, pursuant to this part, is awarded a grant for the purpose of providing professional mental health crisis counseling services or mental health training for disaster workers.

(i) "Major disaster" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Act above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of the States, local governments, and disaster relief organizations, in alleviating the damage, loss, hardship, or suffering caused thereby.

(j) "Regional Director" means a director of a regional office of the Federal Disaster Assistance Administration (FDAA).

(k) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(l) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(m) "State Coordinating Officer" means the person appointed by the Governor to act in cooperation with the appointed Federal Coordinating Officer.

(n) "Training" means the specific instruction which may be required to enable disaster workers to provide professional mental health crisis counseling to victims of a major disaster or its aftermath.

38.3 Assistance; procedures, limitations.

(a) *Application.* In order to obtain assistance under this part, the Governor or his State Coordinating Officer must,

not later than 60 days following a major disaster declaration by the President, file with the appropriate Regional Director a request which includes:

(1) An estimate of the number of disaster victims who may need professional mental health crisis counseling services and of the number of disaster workers who may need training in the provision of such services;

(2) Identification of the geographical areas in which the need exists;

(3) An estimate of the period during which assistance under this part will be required and of the total funds which will be required to provide such assistance;

(4) A description of the types of mental health problems caused or aggravated by the major disaster or its aftermath; and

(5) Identification of the State and local agencies and private mental health organizations capable of providing professional mental health crisis counseling to disaster victims or training of disaster workers.

(b) *Review, approval.* The Secretary, upon notification by the Administrator of a State request for assistance under this part, will conduct a review to determine the extent to which such assistance is needed to supplement assistance programs provided by State and local governments and private organizations and, on the basis of that review, prepare and submit a recommendation and report for consideration by the Administrator. Upon approval by the Administrator and his advancement of funds for carrying out the approved assistance, the Secretary may, within the limits of the funds advanced, provide the approved services either directly or through a grant or contract.

(c) *Eligibility for services.* (1) In order to be eligible for the professional mental health crisis counseling services available under this part an individual must:

(i) Have been located within the designated major disaster area or have been a resident of such area at the time of the major disaster or its aftermath; and

(ii) Have a mental health problem which was caused or aggravated by the major disaster or its aftermath.

(2) Disaster workers who are available on short notice to provide professional mental health crisis counseling services in a major disaster area are eligible for training under this part.

(d) *Time limitation.* Contracts and grants awarded under this part will not continue beyond 180 days after the first day services are provided pursuant to such contracts and grants, except that upon the recommendation of the Secretary (1) the Regional Director may extend the 180 day period for up to 30 days or (2) the Administrator may extend the 180 day period for more than 30 days.

38.4 Contracts.

(a) *Eligibility.* Public agencies and private mental health organizations which are determined by the Secretary to be capable of providing the professional mental health crisis counseling services or mental health training of disaster workers needed as a result of a major disaster are eligible for the award of a contract under this part.

(b) *Use of local agencies.* Preference will be given to the extent feasible and practicable, to those agencies and organizations which are located or do business primarily in the area affected by the major disaster.

(c) *General Requirements.* Contracts under this part shall be entered into and carried out in accordance with the provisions of Chapters 1 and 3 of Title 41 of the Code of Federal Regulations and all other applicable laws and regulations.

(d) *Payments.* The Secretary shall from time to time make payments to the contractor of all or a portion of the contract award, either by way of reimbursement for expenses incurred or in advance for expenses to be incurred, to the extent he determines such payments are necessary to promote prompt initiation and advancement of the services to be provided under the contract. All payments not expended by the contractor within the period of the contract shall be returned to the Secretary.

(e) *Reports.* Contractors shall submit the following reports to the Secretary:

(1) Progress reports, to be submitted at the end of the first 30 days of the contract period and every 30 days thereafter;

(2) A final report to be submitted within 60 days of the date upon which the contract terminates; and

(3) Such additional reports as the Secretary may prescribe including those which may be required to enable the Federal Coordinating Officer to carry out his functions.

38.5 Grant assistance

(a) *Eligibility.* Public agencies and private nonprofit mental health organizations which are determined by the Secretary to be capable of providing the professional mental health crisis counseling services or mental health training of disaster workers needed as a result of a major disaster are eligible for a grant award under this part.

(b) *Application.* (1) In order to receive a grant award under this part an eligible entity must submit an application in such form and at such time as the Secretary may prescribe.

(2) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the regulations of this part, and the terms and conditions of any grant award.

(3) The application shall contain:

(i) A proposed plan for the provision of the services for which grant assistance is requested;

(ii) A proposed budget for the expenditure of the requested grant funds; and

(iii) Such other pertinent information and assurances as the Secretary may require.

(c) *Grant awards.* (1) Within the limits of the funds advanced by the Administrator, the Secretary may award grants to cover all or part of the cost of the project to those applicants whose projects will in his judgment best promote the purposes of section 413 of the Act and the regulations of this part. Preference will be given, to the extent feasible and practicable, to those public and private nonprofit agencies and organizations which are located or do business primarily in the area affected by the major disaster.

(2) A grant award under this part shall be in writing and shall specify the amount of the award, the period of support, and the approved budget for that period.

(3) A grant award shall not commit or obligate the United States in any way to make any additional, supplemental, continuation, or other grant award.

(4) Within the limits of the funds advanced by the Administrator, the amount of any grant award shall be determined by the Secretary on the basis of his estimate of the sum necessary to carry out the grant purpose.

(d)(1) *Applicability of 45 CFR Part 74.* The provisions of 45 CFR Part 74, stablishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part;

45 CFR PART 74

SUBPART

A—General.
B—Cash Depositories.
C—Bonding and Insurance.
D—Retention and Custodial Requirements for Records.
F—Grant-Related Income.
G—Matching and Cost Sharing.
K—Grant Payment Requirements.
L—Budget Revision Procedures.
M—Grant Closeout, Suspension, and Termination.
O—Property.
Q—Cost Principles.

(2) *Additional conditions.* The Secretary may at the time of any grant award impose such conditions as in his judgment are necessary to assure or protect advancement of the supported activity, the interests of the public health, or the conservation of grant funds.

(e) *Payment.* The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred in accordance with the terms and conditions of the grant award.

(f) *Grantee accountability.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the

grantee shall account for the sum total of all amounts paid by presenting or otherwise making available to the Secretary, satisfactory evidence of expenditures for direct and indirect costs meeting the requirements of this part.

(g) *Expenditure of grant funds.* (1) Any funds awarded pursuant to this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved budget, the regulations of this part, the terms and conditions of the grant award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(2) At the end of the period of support any unobligated grant funds remaining in the grant account must be refunded to the United States.

(h) *Reports.* Grantees shall submit the following reports to the Secretary:

(1) Quarterly progress reports, to be submitted within 30 days of the end of each quarterly period within the grant period;

(2) A final report to be submitted within 90 days of the date upon which the grant period ends; and

(3) Such additional reports as the Secretary may prescribe including those which may be required to enable the Federal Coordinating Officer to carry out his functions.

§ 38.6 Nondiscrimination.

Attention is called to the requirements of 24 CFR 2205.13 relating to nondiscrimination on the grounds of race, religion, sex, color, age, economic status, or national origin in the provision of disaster assistance.

§ 38.7 Nonliability.

Attention is called to section 308 of the Act (42 U.S.C. 5148) which provides that the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

§ 38.8 Criminal and civil penalties.

Attention is called to section 317 of the Act (42 U.S.C. 5157) which provides:

(a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Whoever knowlingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one half times the original principal amount of the loan or cash benefit.

§ 38.9 Federal audits.

The Secretary, the Administrator, and the Comptroller General of the United States, or their duly authorized representatives shall have access to any books, documents, papers, and records that pertain to Federal funds, equipment, and supplies received under this part for the purpose of audit and examination.

[FR Doc.76-34805 Filed 11-24-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 1-5; Notice 22]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Brake Hose Amendments

This notice amends Standard No. 106-74, Brake Hoses, to permit the manufacturing of brake hose assemblies and motor vehicles with brake hose and brake hose end fittings which comply with all requirements of the standard except labeling requirements.

Standard No. 106-74 (49 CFR 571.106-74) was implemented with staggered effective dates for brake hose, assemblies, and motor vehicles. This scheme was designed to permit an orderly phase-in of parts meeting the new standard, by allowing six months at each production stage for the depletion of inventories of non-conforming parts.

Since implementation of the standard, there have been interruptions in the production of new trucks, causing several component manufacturers, distributors, and vehicle manufacturers to have on hand large inventories of hose and end fittings manufactured before September 1, 1974, and of assemblies manufactured from them before March 1, 1975. These components comply with all performance requirements of the standard, but not its labeling requirement.

A 1-year extension of the time during which these inventories could be exhausted by manufacture into assemblies and installation in motor vehicles was therefore granted (40 FR 38159, August 27, 1975). The NHTSA determined that, while granting the petitions could make enforcement by this agency more difficult until the inventories were depleted, the avoidance of waste in such a situation was appropriate and in the public interest.

The 1-year extension terminated August 31, 1976, and PACCAR Corporation has petitioned for a further extension of 90 days to permit exhausting inventories that it had planned to utilize earlier but has been unable to do. Freightliner Corporation petitioned for a similar 15-month extension, and Wagner Corporation suggested comparable delay for assemblies and vehicles. While the agency cannot make an extension "retroactive" to September 1, 1976, as PACCAR appeared to request, the NHTSA does conclude that the same balance of interests underlying the 1-year extension continue to be valid and justify use of the remaining unlabeled components. Because the agency has granted petitions to commence rulemaking to delete the assembly-labeling requirements that are mainly at issue here, it is concluded that the relaxation of the labeling requirements for assemblies and vehicles should be indefinite. As a practical matter, brake hose and fittings for use in motor vehicles are now only produced with the correct labeling.

Because of the agency's finding that substantial loss of safety benefit would not occur in this case and that substantial economic waste will occur if the brake hose components in question are not permitted to be used, the NHTSA for good cause finds that notice and public procedure on this amendment is contrary to the public interest.

In consideration of the foregoing, Standard No. 106-74 (49 CFR 571.106-74) is amended as follows:

§ 571.106-74 [Amended]

1. Section S12 is amended by deletion of the heading and of the phrase "manufactured during the period from March 1, 1975, to August 31, 1976,".

2. Section S13 is amended by deletion of the heading and of the phrase "which is manufactured during the period from September 1, 1975, to August 31, 1976,".

Effective date: November 26, 1976, because this amendment relieves a restriction, it is found, for good cause shown, that an immediate effective date is in the public interest.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50)

Issued on November 18, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-34665 Filed 11-19-76;10:36 am]

[Docket No. 75-16; Notice 10]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

This notice amends Standard No. 121, Air Brake Systems, to extend from January 1, 1977, to September 1, 1977, the existing suspension of service brake stopping distance requirements as they apply to buses. Editorial changes are also made.

Equipment used in transit and intercity buses to conform to the stopping distance requirements (S5.3.1) of Standard No. 121 (49 CFR 571.121) demonstrated a pattern of erratic behavior following implementation of the standard for buses on March 1, 1975. For this reason, the agency suspended these stopping distance requirements (including the "no lockup" requirement) to provide a period in which modified antilock hardware and newly introduced systems could be field-evaluated (41 FR 1598, January 6, 1976). Based on a petition for a longer suspension and on the agency's conclusion that the experience of a full year of antilock operation in all environmental conditions would be necessary to generate and analyze adequate data to make a sound decision in time to permit

orderly planning of bus production, a further suspension to September 1, 1977, was proposed (41 FR 20706, May 20, 1976).

Comments were received from vehicle manufacturers and users, and from the two antilock system manufacturers that provide components for transit and intercity bus antilock systems. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal. Interested persons are advised that Docket Nos. 74–10 and 75–5 are related to the subject of air brake system requirements.

The comments generally supported the proposed extension, and no commenter opposed the additional eight months for evaluation. AM General Corporation and Crown Coach requested that the suspension be extended to January 1, 1978, but did not provide data that would substantiate the need for additional time. Freightliner Corporation, Rockwell International, and the American Public Transit Association (APTA) recommended that the stopping distance requirements for buses be indefinitely suspended until justification for them is articulated, analysis of their "costs and other consequences" is set forth under Department of Transportation (DOT) policies (41 FR 16200, April 16, 1976), and extensive antilock system tests and evaluation have been completed.

The requests by Freightliner, Rockwell, and APTA demonstrate a possible misunderstanding of the regulatory action under consideration, and the agency therefore takes the opportunity to put it in perspective. The stopping distance requirements of Standard No. 121 are in place for buses, and the only modification in the standard being considered is an extension of the temporary suspension of those requirements. Thus, if the agency takes no further action, the stopping distance requirements resume on January 1, 1977. The agency's favorable action on the September 1, 1977, date only means that the stopping distance requirements resume September 1, 1977. No regulatory action to modify the requirements themselves is contemplated, and therefore no "impact evaluation" of these requirements would be appropriate under the DOT policies cited by APTA.

Concern has been voiced that the agency set forth its rationale for specifying stopping distance requirements (including "no lockup" performance) in the case of buses. Several commenters appear to be under the impression that Standard No. 121 is directed solely to the elimination of jackknifing by truck-trailer combination vehicles. In fact the standard applies to air-braked straight trucks and buses because of the evidence that these vehicles are also involved in accidents due to vehicle instability and inadequate braking capabilities.

Jackknifing is only one severe result of the lateral instability caused by loss of traction due to locked wheels during braking. The same instability can also lead to sliding, "spin-out", and loss of steering capability in straight trucks and buses. The need for protection against such problems has been specifically addressed several times in earlier notices on the standard (e.g., 35 FR 10368, June 25, 1970; 39 FR 44480, December 24, 1974; 40 FR 24915, June 11, 1975; 41 FR 8783, March 1, 1976). Rockwell asked that further analysis be provided that would be directed specifically at the accident experience of buses. The company suggested NHTSA analysis of the recent Bureau of Motor Carrier Safety Report on "1973/74 Accidents of Motor Carriers of Passengers" and the data supporting the report. That report has been reviewed by the NHTSA, along with the individual bus accidents reports for 1975.

The report itself (available in the NHTSA docket and from BMCS) emphasizes highway, driver, and time and place aspects of the accidents without detailing information that would indicate accident causation. The individual accident reports, however, contain more complete information. Review and tabulation of information contained in the written descriptions of accidents provides the following facts:

> In the year 1975, 750 bus accidents resulting in fatality, injury or a minimum of $2,000 in property damage were reported to BMCS.
>
> Of the total, 322 (43 percent) were described in a way that indicates that braking occurred prior to the accident. Sixty-eight (9.1 percent) of the accidents were explicitly described as involving skidding due to locked wheels during braking. The 68 skidding accidents resulted in 6 fatalities, 296 injuries, and an average of $5,213 property damage per accident.
>
> No antilock-equipped bus was involved in any of these skidding accidents.

The NHTSA does not claim that all of these accidents would have been prevented if the buses had been equipped with antilock systems. The accident descriptions are not detailed enough to estimate the effect of "no lockup" capability. But the evidence demonstrates that skidding accidents are common for buses, and it is reasonable to assume that a significant portion of those accidents could have been prevented or lessened in severity by no-lockup breaking capability.

Claims by transit bus operators that transit buses should be excluded from the "no lockup" requirement because of their low-speed urban operation are not substantiated by the BMCS data. Although most of the buses subject to BMCS regulation are of the intercity type, the accidents involving skidding are seldom high-speed accidents. For those cases in which vehicle speed prior to the accident was reported, it averaged only 36 mph. Furthermore, approximately half of the skidding accidents occurred in residential or business areas. These conditions are typical of transit bus operation, and the NHTSA concludes that transit buses should be subject to minimum requirements for lateral stability and service brake stopping capabilities.

The issue at hand is whether the existing suspension of certain of the standard's requirements should be extended to September 1, 1977, to permit the accumulation of more test data on the suitability of modified and new antilock systems designed for buses. As noted earlier, erratic behavior of previous bus antilock designs formed the basis for the existing suspension. Recently, a manufacturer of cab-chassis for school buses has also reported a safety-related defect installation in some school buses.

On May 12, 1976, Rockwell submitted to the agency a proposed test program for its bus antilock system. The program called for 39 intercity and 85 transit buses to be equipped with the modified Rockwell system. Rockwell estimated an accumulation of more than 9.6 million axle miles of service by August 1, 1976. By August 20, 1976, Rockwell had equipped 27 intercity and 37 transit buses with revised components for testing. The number of test vehicles is less than originally planned, partly because of lack of cooperation by operators and State inspection officials, and partly because of Rockwell's decision to withhold further installation of test units until the agency makes final the 8-month extension. By August 20, 27 inoperative occurrences had been reported in 1.4 million axle miles of transit bus operation. Rockwell did not report results of intercity bus operations, but Motor Coach Industries (a manufacturer of intercity buses) reported 16 inoperative occurrences in approximately 1.8 million axle miles of intercity service with the Rockwell system.

In its May 12 letter, Rockwell also announced a parallel experimental testing program for a new antilock system design. To date, only one of these units has been placed in transit system service, and it has accumulated over 20,000 miles without difficulty.

The AC Division of General Motors has also been testing an antilock system for buses. As of October 26, AC had installed its antilock system in 10 transit buses and 11 intercity buses. An additional 13 transit bus installations are planned in the near future. The transit buses range from zero to three months of service, with no problems encountered. Motor Coach Industries reported one inoperative occurrence in the six AC installations they have made, with an accumulated mileage of approximately 0.8 million axle miles. The other five AC-equipped intercity buses have experienced no problems after about one month of service.

AC Division indicated in its comments on the proposal that, barring any unforeseen difficulties, production AC antilock systems will be available for buses manufactured on and after January 1, 1977. As of the date of this notice, AC Division has not notified the NHTSA of the development of any "unforeseen difficulties." Based on this information

and analysis of the reliability data furnished to date, the agency has decided to amend Standard No. 121 as proposed to extend the suspension of bus stopping distance requirements to September 1, 1977. The preliminary data indicate that a reliable antilock system will be available in time for reinstatement of the requirements, and a further delay is not contemplated.

An issue related to this decision on bus stopping distance requirements was raised in the comments to the proposal. Rohr Industries and International Harvester requested that the suspension of stopping distance (and "no lockup") requirements be made "retroactive" to buses manufactured since the effective date of Standard No. 121 but prior to the January 6, 1976, commencement of the suspension.

The statutory and regulatory scheme under which the standard was promulgated do not provide for such "retroactive" action. Section 108(a)(1)(A) specifies that a vehicle shall comply with standards in effect on the date of its manufacture. Part 571 of NHTSA regulations also state: "* * * each standard set forth in (Part 571) applies according to its terms to all motor vehicle or items of motor vehicle equipment the manufacture of which is completed on or after the effective date of the standard" (49 CFR 571.7). In this case, antilock systems have been disconnected because of safety-related defects in their operation. Under section 154 of the Act, the vehicle manufacturer must provide an adequate repair of safety-related defects, unless replacement of the vehicle, or refund of the purchase price, is undertaken. "Adequate repair" is defined in section 159(4) not to include "any repair which results in substantially impaired operation of a motor vehicle or item or replacement." The permanent disconnection of an antilock system would be considered by the NHTSA to constitute substantial impairment of the motor vehicle. Of course, the vehicle owner is entitled to decline an offer of repair by the manufacturer.

In a matter unrelated to the proposal, the agency takes the opportunity to make several editorial changes to the text of Standard No. 121. A correction in S5.1.7 ("statically" in place of "statistically"), conformance of the autotransporter effective date in S5.3 to the correct date in S3 (September 1, 1977), and deletion of an obsolete reference to S5.3.1.3 in S5.3.1, are all effectuated. Additionally, options that terminated in June and September 1976 are deleted to simplify the standard's text.

In accordance with Department of Transportation policy encouraging adequate analysis of the cost and other consequences of regulatory actions (41 FR 16200, April 16, 1976), the NHTSA has evaluated the economic and other consequences of this amendment on the public and private sectors, including possible loss of safety benefits. The agency estimates that there will be a cost to society due to the delay, because of the decreased stability of buses produced without "no lockup" capability. However, the potential for accidents due to possible malfunction of the new antilock components exists in the absence of the longer suspension. Also, there are costs associated with the increased maintenance that could result from reintroduction of antilock systems earlier than September 1, 1977.

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended as follows:

§ 571.121 [Amended]

1. The phrase "a fire fighting vehicle manufactured before June 1, 1976, or" is deleted from the text of S3.

2. The word "statistically" in S5.1.7 is replaced by the word "statically".

3. The date "September 1, 1976," in S5.3 is changed to "September 1, 1977."

4. The date "January 1, 1977" in S5.3.1 is changed to "September 1, 1977", and the words "and S5.3.1.3" are deleted.

5. The clause "and a truck manufactured before September 1, 1975, that has a front steerable drive axle of any GAWR," is deleted from S5.3.1.2.

6. In S6.1.8, the first sentence of the text is deleted, and the phrase "on a vehicle manufactured on or after September 1, 1976," is deleted from the second sentence.

7. Section S6.1.8.2 is deleted.

8. The text of paragraph S6.1.10 is amended to read:

S6.1.10 In a test other than a static parking brake test, a truck-tractor is tested at its gross vehicle weight rating by coupling it to a flatbed semitrailer (hereafter, control trailer) as specified in S6.1.10.1 to S6.1.10.7.

9. In S6.1.13, the phrase "After September 1, 1975," is deleted.

Effective date: November 26, 1976.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on November 19, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-34664 Filed 11-19-76;10:32 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

[Amdt. 26]

PART 220—SCHOOL BREAKFAST PROGRAM

Requirements

The regulations governing the School Breakfast Program are amended to provide greater flexibility in the breakfast meal pattern.

The Department is amending breakfast patterns for children of preschool and school age to allow a serving of vegetables or fruit or any combination of vegetables and fruit or full-strength fruit or vegetable juice. Present regulations for children of preschool and school age require a serving of fruit or full-strength fruit or vegetable juice. The Department believes that allowing the choice of vegetables will maintain the nutritional standards of the pattern while adding flexibility in menu planning for the States and local schools.

The Department believes the proposed rulemaking and public participation procedures unnecessary inasmuch as greater flexibility in the breakfast meal pattern will be provided. Accordingly, the regulations are hereby amended as follows:

In § 220.8 paragraphs (a) (1) (ii), (b) (3) (i) and (ii) are revised to read as follows:

§ 220.8 Requirements for breakfast.

(a)(1) * * * (ii) A one-half cup serving of fruit or vegetable or both or full-strength fruit or vegetable juice.

* * * * *

(b) * * *

(3)(i) 1 to 3 years—one-half cup of fluid milk served as a beverage or on cereal or used in part for each purpose; and a one-fourth cup serving of fruit or vegetable or both or full-strength fruit or vegetable juice; and one-half slice of whole-grain or enriched bread, or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour, or one-quarter cup (volume) or one-third ounce (weight), whichever is less, of whole-grain cereal or enriched or fortified cereal or an equivalent quantity of any combination of any of these foods.

(ii) 3 to 6 years—three-fourths cup of fluid milk served as a beverage or on cereal or used in part for each purpose; and a one-half cup serving of fruit or vegetable or both or full-strength fruit or vegetable juice; and one-half slice of whole-grain or enriched bread, or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour, or one-third cup (volume) or one-half ounce (weight), whichever is less, of whole-grain cerial or enriched or fortified cereal or an equivalent quantity of any combination of any of these foods.

* * * * *

Effective date: This amendment shall become effective November 22, 1976.

Dated: November 22, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-34880 Filed 11-24-76;8:45 am]

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

[Navel Orange Reg. 388]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during

the weekly regulation period Nov. 26–Dec. 2, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.688 Navel Orange Regulation 388.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges as hereinafter provided, will tend to effectuate the declared policy of the act

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges continues good on a limited available supply.
Prices f.o.b. averaged $4.95 a carton on a reported sales volume of 360 carlots last week, compared with $5.59 per carton on sales of 121 carlots a week earlier. Track and rolling supplies amounted to 101 carlots on November 19, 1976.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 23, 1976.

(b) *Order* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 25, 1976, through December 2, 1976, are hereby fixed as follows:

(i) District 1: 990,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 110,000 cartons."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: November 24, 1976.

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

[FR Doc.76-35112 Filed 11-24-76;8:45 am]

[Amdt. 1]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Handling Regulation

This amendment modifies the requirements for inspection for certain handlers whose facilities are located far enough from major production areas to cause a substantial financial burden.

Findings. (a) Pursuant to Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in the production area defined therein, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of recommendations and information submitted by the Oregon-California Potato Committee, established pursuant to said marketing agreement and order, and other available information, it is hereby found that the amendment to the handling regulation hereinafter set forth will tend to effectuate the declared policy of the act.

The amendment will modify the inspection requirements of this section for certain handlers. Because their facilities are located out of the major production areas, some handlers find the cost of maintaining a full-time Federal-State inspector prohibitive during times when potato shipments decline. This amendment will permit the exemption from on-site inspection of shipments by those handlers whose inspection costs would otherwise exceed one and one-half times the current per-hundredweight inspection fee. Such handlers must make application to the committee for inspection exemption and must sign an agreement with the committee to report each shipment to the committee on a daily basis and pay the committee the current inspection fee.

(b) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) to maximize benefits to producers this regulation should apply to as many shipments as possible during the effective period, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area potatoes shipped to the fresh market.

Section 947.335 *Handling regulation* (41 FR 32695) is amended as follows: Paragraph (f)(1) is revised; paragraph (f)(2) is renumbered (f)(3) and a new (f)(2) is added; and old paragraph (f)(3) is renumbered as (f)(4).

The amendment is as follows:

§ 947.335 Handling regulation.

* * * * *

(f) *Inspection.* (1) Except when relieved by paragraphs (g), (h) or (i) of this section and subparagraph (2) of this paragraph, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Handlers making shipments from facilities located in an area where inspection costs would otherwise exceed one and one-half times the current per-hundredweight inspection fee, are exempt from on site inspection provided such handler has made application to the committee for inspection exemption on forms supplied by the committee; *And provided further,* That such handler signs an agreement with the committee to report each shipment on a daily basis and pay the committee the current inspection fee.

* * * * *

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

Dated: November 19, 1976, to become effective November 24, 1976.

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

[FR Doc.76–34861 Filed 11–24–76;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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 907]

HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Minimum Size Requirement

This notice proposes the extension of the minimum size requirement of 2.32 inches in diameter currently in effect for navel oranges grown in Districts 1 and 3 of the production area, to be effective December 31, 1976, through July 15, 1977. The proposed requirement is designed to promote orderly marketing in the interest of producers and consumers.

The proposed amendment would continue in effect regulations, pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than December 17, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment was recommended by the Navel Orange Administrative Committee, and it reflects the committee's appraisal of the need for regulation and of the crop and current and prospective market conditions. Shipments of navel oranges from Districts 1 and 3 of the production area are now in progress, and such shipments are regulated by size through December 30, 1976, under § 907.385 Navel Orange Regulation 385 (41 FR 49824). Navel oranges in such shipments are required to be at least 2.32 inches in diameter. The proposed amendment, which would become effective December 31, 1976, would continue in effect this size requirement. The volume and size composition of the crop of navel oranges grown in Districts 1 and 3 are such that ample supplies of the more desirable sizes are available to satisfy the demand in regulated channels. The proposed amendment is designed to permit shipment of ample supplies of navel oranges of acceptable sizes in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions, provide consumer satisfaction, and guard against shipment of fruit of undesirable sizes. Navel oranges failing to meet the minimum size requirement may be shipped to fresh export markets where smaller fruit is in demand, left on the trees to attain further growth, or utilized in processing. The proposed amendment is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The proposal is that Navel Orange Regulation 385 (41 FR 49824) be amended to read as follows:

§ 907.685 Navel Orange Regulation 385.

Order. (a) During the period December 31, 1976, through July 15, 1977, no handler shall handle any navel oranges grown in District 1 or District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the navel oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) The terms "handler" and "handle" as used herein shall have the same meaning as is given to the respective terms in said marketing agreement and order.

Dated: November 22, 1976.

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

[FR Doc.76-34860 Filed 11-24-76;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 730]

1977 RICE SET-ASIDE PROGRAM

Proposed Determinations

Notice is hereby given that the Secretary of Agriculture proposes to make determinations and issue regulations relative to (a) whether there should be a set-aside requirement for rice for the 1977 crop; and, if so, the extent of such requirement; (b) whether there should be a provision for additional diversion for the 1977 crop and, if so, the extent of such diversion and payment rate therefor; and (c) other related provisions necessary to carry out the set-aside program.

The determinations are to be based on the following considerations:

(a) *Whether there should be a set-aside requirement for rice for the 1977 crop.* Section 101(g)(5)(A) of the Agricultural Act of 1949, as amended, requires that the Secretary may provide for a set-aside of cropland for a crop of rice if he estimates (without taking into consideration the effect of a set-aside), that the carryover of rice for the marketing year beginning in the calendar year immediately following the calendar year in which such crop will be grown will exceed 15 per centum of the total supply of rice for the marketing year beginning in the calendar year in which such crop will be grown. The Secretary shall make a preliminary determination prior to the beginning of the calendar year in which such crop will be grown and a final determination not later than April 1 of the calendar year in which such crop is grown of whether a set-aside shall be in effect and, if so, the acreage of cropland required to be set-aside. If a set-aside of cropland is in effect, then, as a condition of eligibility for payments, loans and purchases under this subsection, the cooperators must set-aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary.

(b) *Whether there should be a provision for additional diversion and, if so, the extent of such diversion and the payment rate therefor.* Section 101(g)(5)(B) of the Agricultural Act of 1949, as amended, provides that, to assist in adjusting the acreage of rice to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection 101(g)(3) of the Agricultural Act of 1949, to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be devoted under the regular program. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the cooperator and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(c) *Other related provisions.* The Agricultural Act of 1949, as amended, also requires a number of other determinations in order to carry out the set-

aside program for 1977 including, but not limited to, determinations such as the following: (1) Whether substitution should be permitted, and, if so, the extent of such substitution, (2) Whether to permit haying and grazing and/or alternate crops on set-aside acreage if it is determined that set-aside is needed, (3) The terms and conditions under which haying and grazing and/or alternate crops will be allowed and (4) Such other provisions as may be necessary to carry out the program.

Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations relative to these determinations which are submitted in writing to the Director, Grains, Oilseeds and Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than December 27, 1976. All written submissions pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C. on November 22, 1976.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.76-34933 Filed 11-24-76;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 204, 212, and 214]

IMPLEMENTATION OF AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT CONTAINED IN THE HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1976

[Pub. L. 94-484]

Notice of Proposed Rule Making

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendments of Parts 204, 212, and 214 of Chapter I of Title 8 of the Code of Federal Regulations. These proposed amendments are made necessary by the amendments to the Immigration and Nationality Act which were made in the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484), enacted October 12, 1976. The Health Professions Educational Assistance Act of 1976 which becomes effective January 10, 1977, makes several amendments to the Immigration and Nationality Act. In Pub. L. 94-484 the Congress found and declared that there is no longer an insufficient number of physicians and surgeons in the United States such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States under the Immigration and Nationality Act (8 U.S.C. 1101, et seq.).

The amendments to the existing provisions of the Immigration and Nationality Act made in Pub. L. 94-484 are briefly summarized below.

Section 212(a) is amended by adding a new paragraph (32) which provides that aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession shall be ineligible to receive visas and shall be excluded from admission into the United States except for those who have passed Parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), and who are competent in oral and written English. Section 101(a) is amended by adding new paragraph (41) which defines the term "graduates of medical school" to be aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.

Section 101(a)(15)(H)(i) has been amended to provide that in order for an alien who is a graduate of a medical school coming to the United States to perform services as a member of the medical profession to be admitted temporarily to the United States as an alien of distinguished merit and ability to perform services of an exceptional nature requiring such merit and ability, he must be coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency.

Section 101(a)(15)(H)(ii) has been amended to provide that graduates of medical schools coming to the United States to perform services as members of the medical profession cannot be admitted to the United States temporarily to perform temporary services or labor under section 101(a)(15)(H)(ii) of the Act.

Section 101(a)(15)(H)(iii) has been amended to provide that an alien coming to the United States in order to receive graduate medical education or training cannot be admitted into the United States temporarily as a trainee under the provisions of this section of the Act.

Section 101(a)(15)(J) is amended by placing aliens coming to the United States to receive graduate medical education or training into that nonimmigrant classification.

Section 212 is amended by adding a new paragraph (j) which sets forth the requirements for aliens coming to the United States to receive graduate medical education or training under section 101(a)(15)(J). New section 212(j)(1) provides generally that: (A) an accredited school of medicine (and its affiliated hospitals) or one of the other health professions has agreed in writing to provide or arrange for the provision of the graduate medical education or training under the program for which the alien is coming to the United States; (B) before making such agreement the school is satisfied that the alien has passed Parts I and II of the National Board of Medical Examiners Examination (or equivalent), the alien is competent in oral and written English and able to adapt to and participate satisfactorily in the program for which he is coming to the United States; (C) the alien has made a commitment to return to the country of his nationality or his last residence upon completion of the program and has provided the written assurance of his government which is satisfactory to the Secretary of Health, Education and Welfare that his training will be put to use in his country; and (D) that the duration of the alien's participation in the program for which he is coming to the United States is limited to a period of two years but may be extended for one additional year provided certain conditions as set forth in the statute, are complied with.

Section 212(j)(2)(A) provides that between the effective date of this Act and December 31, 1980 the provisions of section 212(j)(1)(A) through (D) shall not apply to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided by such program if the alien were not permitted to enter the United States to participate in such program because he did not meet the requirements of section 212(j)(1).

Section 212(j)(2)(B) provides that the number of aliens who may be permitted to enter the United States pursuant to the exemption provisions of section 212(j)(2)(A) may not exceed the total number of aliens participating in such programs on the effective date of this section.

Section 212(e) is amended by including aliens who came to the United States or acquired such status in order to receive graduate medical education or training in the listing of aliens who are subject to the two-year foreign residence requirement.

In the light of these statutory amendments, it is proposed to amend Parts 204, 212, and 214 of Chapter I of Title 8 of the Code of Federal Regulations as described and set forth below.

Existing 8 CFR 204.2(e)(2) provides that an alien physician shall be considered eligible for classification as a member of the professions if he establishes that he was graduated from a medical school in the United States or Canada; or was graduated from a foreign medical school and has successfully passed the examination given by the Educational Commission for Foreign Medical Graduates; or that he was graduated from a foreign medical school and has obtained a full and unrestricted license to practice medicine in the country where he obtained his medical education. It is proposed to revise this paragraph entirely and require that in order for an alien who is coming to the United States principally to perform services as a member of the medical profession to be considered eligible for classification as a member of the professions, he shall es-

tablish that he is a graduate of a medical school or has qualified to practice medicine in a foreign state; he has passed Parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), and is competent in oral and written English. This amendment is being made to comply with the amendment to section 212(a) of the Immigration and Nationality Act, in new paragraph (32), made by Pub. L. 94-484, which provides that aliens who are graduates of a medical school coming to the United States principally to perform services as members of the medical profession are ineligible to receive visas, and shall be excluded from admission into the United States except for those who have passed Parts I and II of the National Board of Medical Examiners Examination (or equivalent), and are competent in oral and written English.

It is proposed to amend existing 8 CFR 212.7(c) to add a provision that an alien who was admitted to the United States as an exchange visitor on or after January 10, 1977, to receive graduate medical education or training, or one who acquires exchange visitor status following his admission in order to pursue such training on or after January 10, 1977, shall be subject to the foreign residence requirement of section 212(e) of the Act. However, it is proposed that an exchange visitor who is not subject to the foreign residence requirement and who is returning from a temporary absence abroad to participate in the same program will continue to be exempt. It is also proposed to amend 8 CFR 212.7(c) to provide that the "no objection" provision of this section shall not apply to a medical graduate who arrived in the United States on or after January 10, 1977. These amendments are being made to the regulations in compliance with Pub. L. 94-484 which amended section 212(e) of the Act to make aliens who came to the United States or acquired such status in order to receive graduate medical education or training subject to the foreign residence requirement of section 212(e).

It is proposed to amend 8 CFR 214.2 (h)(2)(iii) by changing the heading thereof to read "Physicians". It is proposed to revise the text to provide that a petition to accord a physician classification under section 101(a)(15)(H)(i) of the Act shall be accompanied by satisfactory evidence that the physician has graduated from a medical school or has a full and unrestricted license to practice medicine in a foreign state and is coming to the United States solely to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency at the invitation of such institution or agency. This amendment is made in accordance with the amendment to section 101(a)(15)(H)(i) of the Act made in Pub. L. 94-484 which provides that an alien graduate of a medical school coming to the United States to perform services as a member of the medical profession pursuant to the provisions of that section must be coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency.

It is also proposed to place the material now contained in subparagraph (iii) respecting nurses in a new subparagraph (iv) headed "Nurses", and to redesignate present subparagraph (iv) to be subparagraph (v), and republish it without change.

It is proposed to amend 8 CFR 214.2 (h)(4)(i) by adding a sentence to the end thereof to provide that that subparagraph will not apply to trainees coming to receive graduate medical education or training. This amendment is proposed in conformity with the amendment to section 101(a)(15)(H)(iii) made in Pub. L. 94-484. It is also proposed to amend subparagraph (iv) of 8 CFR 214.2(h)(4) by removing all references to petitions for physicians filed under section 101(a)(15)(H)(i) of the Act because under the amendments made in Pub. L. 94-484, the existing provisions are no longer applicable to physicians seeking admission under section 101(a)(15)(H)(i).

It is proposed to amend 8 CFR 214.2 (j) by revising the first sentence of paragraph (1) to further define the term "exchange alien" to include a nonimmigrant alien foreign medical graduate who has passed the National Board of Medical Examiners Examination Parts I and II (or an equivalent as determined by the Secretary of Health, Education, and Welfare) and who is also competent in oral and written English. It is proposed to further amend § 214.2(j) by redesignating the existing paragraph (2) as paragraph (3), and republishing the paragraph without change. It is also proposed to add as new paragraph (2) to set forth the eligibility requirements for exchange visitor classification for aliens seeking to participate in graduate medical education programs, including the conditions under which exemptions may be granted from those requirements, and the number of such exemptions which may be allowed. These proposed amendments are made in compliance with the amendments to section 212 of the Immigration and Nationality Act made in Pub. L. 94-484.

In accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received on or before December 27, 1976, will be considered.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

In § 204.2(e), it is proposed to revise the heading and text of subparagraph (2) thereof to read as follows:

§ 204.2 Documents.

* * * * *

(e) *Evidence of eligibility for third- or sixth-preference classification*—* * *

(2) *Physicians or Surgeons.* An alien who is coming to the United States principally to perform services as a member of the medical profession shall not be considered eligible for classification as a member of the professions unless he establishes that he is a graduate of a medical school or has qualified to practice medicine in a foreign state; has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare); and is competent in oral and written English.

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In § 212.7, it is proposed to amend paragraph (c) by adding two new sentences between the existing second and third sentences, and by adding an additional new sentence to the end thereof, to read, in pertinent part, as follows:

§ 212.7 Waiver of certain grounds of excludability.

* * * * *

(c) *Section 212(e).* * * * An alien is also subject to the foreign residence requirement of section 212(e) of the Act if he was admitted to the United States as an exchange visitor on or after January 10, 1977 to receive graduate medical education or training, or following admission, acquired such status on or after that date. However, the exchange visitor already participating in an exchange program as of January 9, 1977, who is not subject to the foreign residence requirement of section 212(e) who proceeds or has proceeded abroad temporarily and is returning to the United States to participate in the same program continues to be exempt from the foreign residence requirement. * * * However, the "no objection" provision set forth immediately above shall not apply to a medical graduate who arrives in the United States on or after January 10, 1977.

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

In § 214.2(h)(2), in subparagraph (iii), it is proposed to amend the heading thereof to read "Physicians," and to amend the text of subparagraph (iii) as

set forth below. Existing subparagraph (iv) is redesignated as (v), and a new subparagraph (iv) headed "Nurses" is being added and revised. The above-described proposed amendments are to read as follows:

* * * * *

(h) *Temporary employees.* * * *

(2) *Petition for alien of distinguished merit and ability.* * * *

(iii) *Physicians.* A petitioner seeking to accord a physician a classification under section 101(a)(15)(H)(i) of the Act shall attach to the petition satisfactory evidence that the physician has graduated from a medical school or has a full and unrestricted license to practice medicine in a foreign state. Additionally, the petitioner shall establish that the beneficiary is coming to the United States solely to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency at the invitation of such institution or agency.

(iv) *Nurses.* A petitioner seeking to accord a nurse a classification under section 101(a)(15)(H)(i) of the Act shall attach to the petition evidence that the beneficiary has obtained a full and unrestricted license to practice professional nursing in the country where she/he has obtained her/his nursing education, or that such education was obtained in the United States or Canada; also, a statement from the petitioner certifying whether to the best of petitioner's information and belief the beneficiary is fully qualified under the laws governing the place of intended employment to perform the desired services, whether under those laws the petitioner is authorized to employ the beneficiary to perform such services, and whether under those laws the beneficiary is permitted to substantially perform the services. If the laws governing the place where the services will be performed place any limitations on the services to be rendered by the beneficiary the statement should contain details as to the limitations. The district director shall consider any such limitations in determining whether the services which the beneficiary would perform are of an exceptional nature requiring a person of distinguished merit and ability.

(v) *Accompanying aliens.* Managers, trainers, musical accompanists, and other persons determined by the district director to be necesary for successful performance by the beneficiary of a petition approved for classification under section 101(a)(15)(H)(i) of the Act may also be accorded such classification if included in the same or a separate petition.

* * * * *

Also, in § 214.2(h)(4), it is proposed to amend subparagraph (i) by adding an additional new sentence at the end thereof, following the word "professions"; and it is also proposed to amend subparagraph (iv), by changing the hearing thereof to read "Nurses", and by revising the text of the subparagraph. The above-described proposed amendments are to read as follows:

(4) *Petition for alien trainee*—(i) *General.* In addition to purely industrial establishments, an individual, organization, firm, or other trainer may petition for nonimmigrant trainees on Form I-129B for the purpose of giving instruction or training in agriculture, commerce, finance, government, transportation, and the professions. However, this does not apply to trainees coming to receive graduate medical education or training.

* * * * *

(iv) *Nurses.* A petitioner may seek a classification under section 101(a)(15)(H)(iii) of the Act for a nurse who is not qualified for classification under section 101(a)(15)(H)(i) of the Act, who is coming to the United States for training in furtherance of her/his career abroad in nursing. The petitioner shall attach to the petition evidence that the beneficiary has obtained a full and unrestricted license to practice professional nursing in the country where the nursing education was obtained, or that such education was obtained in the United States or Canada; also, a statement from the petitioner certifying that to the best of the petitioner's information and belief the beneficiary is fully qualified under the laws governing the place where the training will be received to engage in such training, and that under those laws the petitioner is authorized to give the beneficiary the desired training.

* * * * *

In § 214.2(j), it is proposed to amend paragraph (1) by revising the first sentence thereof. It is proposed to further amend the section by redesignating existing paragraph (2) as paragraph (3), and republishing it without change. Also it is proposed to add a new paragraph (2), consisting of subparagraphs (a) and (b) pertaining to eligibility requirements for aliens desiring to participate in graduate medical education programs as exchange visitors.

The proposed amendments to § 214.2(j) read as follows:

(j) *Exchange aliens*—(1) *General.* As used in this chapter the term "exchange alien" means a nonimmigrant alien who was admitted to the United States under section 101(a)(15)(J) of the Act or acquired such status after admission, or who acquired exchange visitor status under the United States Information and Educational Exchange Act of 1948, as amended, and in the case of a foreign medical graduate one who has passed the National Board of Medical Examiners Examination, Parts I and II (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who is also competent in oral and written English. * * *

(2) *Eligibility requirements for section 101(a)(15)(J) classification for aliens desiring to participate in programs under which they will receive graduate medical education.*—(a) *General.* An alien coming to the United States as an exchange visitor to participate in a program under which he will receive graduate medical education or training, or an alien seeking to change his nonimmigrant status to that of an exchange visitor on Form I-506 in order to participate in such a program, shall submit a valid Form DSP-66 completely executed on or after January 10, 1977.

(b) *Exemptions.* From January 10, 1977 until December 31, 1980, an alien who seeks to come to the United States as an exchange visitor to participate in an accredited program of graduate medical education or training, or an alien who seeks to change his nonimmigrant status for such purpose, may be admitted to participate in such program without regard to the requirements stated in subparagraphs (A) through (D) of section 212(j)(1) of the Act if there would be substantial disruption in the health services provided in such program because the alien was not permitted to enter the United States or change ihs nonimmigrant status to participate in the program on account of his inability to comply with such requirements: *Provided,* That an exemption from the requirements set forth in subparagraphs (A) through (D) of section 212(j)(1) of the Act shall not be granted where the granting of such exemption would increase the number of aliens then participating in the program to a level greater than that participating on January 10, 1977.

(3) *Aliens in cancelled programs.* When an exchange visitor program is cancelled by the Department of State a notification of the cancellation shall be sent by the district director to each participant in the program. The participant shall be informed that he may remain in the United States in his present status to continue his acivities in the cancelled program until the date of expiration of his currently authorized stay and that he must terminate his participation in that program by that date. A copy of the notification to the alien shall be sent to the sponsor of the cancelled program. Where extension of the alien's stay will not exceed the time limitation on the type of program in which he is engaged, he shall also be informed that he may apply for an extension if he is accepted as a participant in another approved exchange program and submits Form DSP-66 executed by his new program sponsor. In such case, a release by the sponsor of the cancelled program shall not be required.

* * * * *

(Title VI of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484; 90 Stat. 2300-2303), and section 103 of the Immigration and Nationality Act (8 U.S.C. 1103). Interpret or apply sections 204, 212 and 214 (8 U.S.C. 1154, 1182 and 1184).)

Dated: November 23, 1976.

JAMES F. GREENE,
Acting Commissioner of Immigration and Naturalization.

[FR Doc.76-35026 Filed 11-24-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-NW-25]

FEDERAL AIRWAYS

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate two airways in the state of Wash.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before December 27, 1976, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591.

The proposed amendment would designate V-4N from Seattle, Wash., via Ellensburg, Wash.; Pasco, Wash., to Pendleton, Oreg., and V-281 from Moses Lake, Wash., to Pasco, Wash.

The designation of V-4N would shorten the distance between Seattle and Pasco and would provide route continuity for flight planning purposes. The route between Ellensburg and Pasco would be available when R-6714A is not being used by the military in accordance with restricted area joint use provisions. The designation of V-281 between Moses Lake and Pasco would serve traffic between those locations and would provide a shorter route for traffic proceeding south of Pasco.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 17, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-34629 Filed 11-24-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-GL-31]

TRANSITION AREA

Proposed Designation; Withdrawal

On page 38778 of the FEDERAL REGISTER dated September 13, 1976, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Belvidere, Illinois.

The Janesville VORTAC will not support the approach procedure to Belvidere, Illinois. Consequently, the proposed designation of a transition area at Belvidere, Illinois is withdrawn.

Issued in Des Plaines, Ill., on November 3, 1976.

LEON C. DAUGHERTY,
Acting Director, Great Lakes Region.

[FR Doc.76-34639 Filed 11-24-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-94]

VOR AIRWAYS

Proposed Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the VOR airway structure between St. Petersburg, Fla., and Cross City, Fla.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before December 27, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention of International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Anex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the secretary of Defense in accordance with the provisions of Executive Order 10854.

The proposed amendment would revoke:

1. That segment of V-35W presently established between St. Petersburg, Fla., and Cross City, Fla.

2. That segment of V-97W presently established between St. Peterburg, Fla., and Salop INT, Fla.

A review of aircraft operations along these airway segments indicates they are no longer justifiable or required for IFR operations based upon improvements in the NAS system.

(Sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), E.O. 10854 (24 FR 9565) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

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

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-34844 Filed 11-24-76;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 76-WA-13]

ALTERATION OF RESTRICTED AREA AND FEDERAL AIRWAYS

Extension of Comment Period

This notice extends the period for comments to the notice, published October 7, 1976 (41 FR 44193), proposing the realignment of a portion of V-2/21 Hawaii and a redefinition of Restricted Area R-3104 A/B/C, Island of Kahoolawe. Hawaii.

A request for an extension of time was submitted by the Mayor, County of Maui, Hawaii. The FAA has decided that a reasonable extension of the comment closing date would not be inappropriate. Therefore, the comment period is hereby extended to December 15, 1976.

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

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

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-34843 Filed 11-24-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 217, 241, 249, 373a, 389]

[EDR-314A/ODR-14A/SPDR-52A; Docket No. 29359, dated November 19, 1976]

ESTABLISHMENT OF RULES GOVERNING BUSINESS ORIENTED CHARTERS

Supplemental Notice of Proposed Rulemaking

By notice of proposed rulemaking EDR-314/ODR-14/SPDR-52, dated October 29, 1976, the Civil Aeronautics Board gave notice that it had under consideration the adoption of a new Part 373a of its Special Regulations, and the amendment of Parts 207, 208, 212, 214, 217, 241, and 249 of its Economic Regulations as well as Part 389 of its Organization Regulations, to establish rules governing the operation of Business Oriented Charters. The Board requested that interested parties file initial comments on or before December 3, 1976, and reply comments on or before December 20, 1976.

By letter dated November 17, 1976, counsel for the petitioning Incentive Companies requested that the due date for filing initial and reply comments be extended to December 17, 1976, and January 7, 1977, respectively. As grounds therefor counsel stated, inter alia, that the extra time was required in order to make a careful analysis of the proposal, and to coordinate views among the seven petitioners involved.

No previous extension of time has been granted in this proceeding, and it does not appear that the granting of the requested extension would prejudice any party to this proceeding. In the interest of receiving the views of all interested persons, the undersigned finds that good cause has been shown for an extension of time for filing comments.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR Part 385), the undersigned hereby extends the time for filing initial comments to December 17, 1976, and the time for filing reply comments to January 7, 1977.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc.76-34853 Filed 11-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

METHODS OF REIMBURSEMENT FOR SERVICES FURNISHED BY FEDERALLY-FUNDED HEALTH CENTERS UNDER TITLE XVIII

Notice of Proposed Rule Making

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 establish two methods of Medicare reimbursement (reasonable cost and reasonable charge) for covered services furnished by public or private health care centers (other than Federal providers of services) which receive United States Government funds for operations under a federally-administered program of health services delivery. This program is designed to develop and support new programs of health services or to provide services to meet health needs having a specialized regional or national significance, such as health scarcity areas. Various community health centers and the Public Health Service were extensively consulted during the preparation of these proposed amendments. These proposed amendments are not of major program significance and the involvement of the health care community in their preparation has been actively obtained, so that preparation of a Notice of Intent (as described in the Secretary's policies for developing regulations announced on July 25, 1976) would appear counterproductive at this point. In keeping with the spirit and intent of the Secretary's policies regarding the development of regulations, publication of this notice provides ample time for public comment, 45 days, and adequate notice to all interested individuals and organizations. Interested parties are given 45 days from the date of publication of this notice in which to submit any data, views, or arguments to the Social Security Administration, Department of Health, Education, and Welfare.

The proposed amendments apply to health centers which receive funds under federally-administered programs; that is, programs under which the Federal Government, by grant to or by contract with a health center, determines the amount of Federal funds the health center shall receive for health services delivery purposes authorized by Federal law. For purposes of these amendments, federally-funded health centers include those health centers which receive Federal funds under grants and contracts made through an intermediate organization, such as the health department of a State or local government, provided the amount of Federal funds received by the health center and the purposes for which the funds are used continue to be under the control of the Federal grant authority. Health centers which receive Federal funds under a program in which the Federal Government does not exercise control over the amount of funds to be given a particular health center or the uses to which the funds are put, such as those which receive block grants or revenue sharing funds, will not be considered as operating under a federally-administered program. Payment for services furnished by health centers which receive funds from a State or local government entity may be made under the conditions specified elsewhere in § 405.312 of Regulation No. 5.

Section 1862(a)(3) of the Social Security Act (42 U.S.C. 1395y(a)(3)) excludes from Medicare reimbursement those services which are paid for, directly or indirectly, by a governmental entity, except in such cases as may be specified by the Secretary of Health, Education, and Welfare. Under this authority, the Secretary has authorized the Medicare program to provide reimbursement for covered services furnished by federally-funded health centers such as the following types of facilities: Community Health Centers (funded under section 330(d) of the Public Health Service Act, as amended), Migrant Health Centers (funded under section 319(d) of the Public Health Service Act, as amended), Community Mental Health Centers (funded under section 203 of the Community Mental Health Center Act of 1975, and health centers funded by the Appalachian Regional Commission.

Section 405.312(f) of Regulations No. 5 currently authorizes the Medicare program to provide reimbursement on the basis of charges related to reasonable cost for covered services furnished by federally-supported health centers. Under this method of payment, an all-inclusive charge is established prospectively for a period up to 6 months. This prospectively determined charge is based on the estimated total allowable cost (direct and indirect costs) of furnishing covered Part B services to Medicare beneficiaries during the period. Although this all-inclusive rate is paid to the health center (on a per-bill basis subject to Part B deductible and coinsurance) each time the Medicare beneficiary has a face-to-face contact with a physician rendering a covered Part B service, the rate includes reimbursement for the estimated cost of all covered services furnished to the beneficiary, including services furnished by nonphysicians. There is no retroactive corrective adjustment for any difference between the estimated cost used to establish the charge and the actual cost incurred in furnishing covered Part B services for the period.

The proposed amendments to §§ 405.-242 and 405.312(f) would provide two methods of reimbursement for covered services furnished by free-standing, federally-funded health centers. Such a health center receiving funds under a federally-administered program could elect to receive payment for covered services furnished to Medicare beneficiaries on a reasonable cost basis where the health center has a sufficient level of Medicare utilization to justify the additional administrative costs of this method of payment. Other free-standing, federally-funded health centers would receive Medicare reimbursement on the basis of reasonable charges (as defined in Subpart E of this part), the method of Medicare reimbursement generally applicable to other nonhospital clinics, physicians, and suppliers of Part B items and services. Those federally-funded health centers which are part of a provider of services, as defined in section 1861(u) of the Act, would continue to be paid on the basis of reasonable cost, as provided by section 1814 of the Act.

Under the reasonable cost method of reimbursement, interim payments are made to a health center during the reporting period on the basis of estimated costs. A retroactive adjustment is made at the end of the reporting period (usually 1 year) to bring interim payments made to the health center during the period into agreement with the reimbursable amount payable for covered Part B services furnished Medicare program beneficiaries during the period. Actual costs reimbursable to a health center are determined when the health center files a cost report and costs are verified.

Under the reasonable charge method of reimbursement, Medicare carriers which have contracts with the Secretary to assist in the administration of the supplementary medical insurance program (Medicare "Part B") determine the amount of reimbursement for particular items or services based on, in general, the pattern of charges for similar services in the locality (the prevailing charge) and the physician's or health center's customary charge for the service. The reasonable charge payable by Medicare may not generally exceed the lower of the customary charge, the prevailing charge, or the actual charge for the covered Part B service.

The proposed amendments are supportive of the Department of Health, Education, and Welfare's health service funding regulations, published January 9, 1974 (39 FR 1441), which require federally-funded health centers to recover, to the maximum extent feasible, revenues from all third-party payment sources, including the Medicare program. The amendments should enable all such health centers to qualify for Medicare reimbursement for covered Part B services they furnish. Many health centers have not been able to qualify for payment under the charge-related-to-reasonable cost method of payment provided for in the current regulation because it is based on cost reports that they have had difficulty producing. Moreover, the charge-related-to-reasonable cost method of payment was designed to accommodate situations where there is no fixed or established customary charge for services. This method of payment was provided for at the time the existing regulation was adopted because these health centers had not generally established procedures for billing and collecting fees from their patients. Nevertheless, Public Law 94–63, enacted July 29, 1975, and the health services funding regulations require federally-funded health centers to charge patients according to their ability to pay. As a result, many health centers have developed schedules of charges and routinely charge patients and third parties. Consequently, the charges-related-to-reasonable cost method of payment currently used for reimbursement of these federally-funded health centers is no longer entirely appropriate.

The proposed amendments provide four criteria, in addition to those presently required for reimbursement under the charges-related-to-reasonable cost method of payment, which must be met by a free-standing health center to qualify for payment on a reasonable cost basis. These criteria are as follows: (1) the capability to maintain adequate statistical and financial records that contain the data required for reasonable cost reimbursement; (2) a minimum number of Medicare beneficiaries who are active registrants of the health center; (3) a minimum volume of billing for Medicare covered Part B services; and (4) a minimum amount of annual Medicare reimbursement. The purpose of these criteria is to assure that the health center has a sufficient utilization of services by Medicare beneficiaries to justify the additional costs and reporting requirements of the reasonable cost method of payment.

The term "reasonable cost" is defined in section 1861(v) of the act and in Subpart D of Regulations No. 5. Thus, the reasonable cost of covered Part B services furnished to Medicare beneficiaries is the actual cost incurred by a health center in providing the services excluding, however, those costs found to be unnecessary in the efficient delivery of health services. Furthermore, only those types and items of expense generally allowable under the Medicare program, as set forth in Subpart D, will be recognized in determining the reasonable cost of covered services furnished to Medicare beneficiaries by federally-funded health centers. The proposed amendments also provide that the share to be borne by the Medicare program for the cost of covered Part B services furnished to Medicare beneficiaries by a free-standing, federally-funded health center shall be determined on the basis of the ratio of the health center's charges to Medicare beneficiaries for covered Part B services to the center's charges to all patients during an accounting period, applied to the total allowable direct and indirect costs of the health center. This method of apportionment of costs shall be used by all free-standing, federally-funded health centers reimbursed on a reasonable cost basis.

Many federally-funded health centers have several schedules of charges and, as a result, the health center's charge for a particular service may vary according to the income or family size of the patients. Nevertheless, for purposes of Medicare billing and apportionment of costs, under the methodology provided for in the proposed amendments, the federally-funded health center must utilize that schedule of charges which would be applicable to patients able to pay the full cost of services furnished by the health center. If a federally-funded health center were to include in the apportionment ratio charges from several different schedules, the result might be that the Medicare program would not pay that portion of health center costs attributable to covered Part B services furnished to Medicare beneficiaries. Because of the relatively small size and the unique nature of federally-funded health centers that are not part of a provider of services, the procedures specified for hospitals and other providers of services in Subpart D of Regulations No. 5 regarding interim payments, cost finding and apportionment, and retroactive adjustments and cost reports are not appropriate for use in reimbursement of these health centers. Therefore, the proposed amendments do not provide for use of these procedures in reimbursement for covered Part B services furnished to Medicare beneficiaries by federally-funded health centers that are not part of a provider of services. However, other provisions for payments, apportionment, and retroactive adjustment, are provided in § 405.242.

We intend to amend Subpart R of Regulations No. 5 to provide for the appeal rights and procedures to be followed by a health center that disagrees with the determination by the Social Security Administration of the amount of reimbursement due the health center.

If there are any questions concerning this regulation, you may contact Mr. Marty Svolos, Branch Chief, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone—(301) 594–9315. Mr. Svolos will respond to questions but will not accept comments on this regulation. All comments must be submitted in writing.

Prior to the final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before January 10, 1977. 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 are issued under the authority in sections 1102, 1862(a)(3), and 1871 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 325, as amended, and 79 Stat. 331; 42 U.S.C. 1302, 1395y(a)(3), and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800 Health Insurance for the Aged—Hospital Insurance; No. 13.801—Health Insurance for the Aged—Supplementary Medical Insurance.)

(It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821, and does not require an Inflation Impact Evaluation.)

Dated: August 26, 1976.

THOMAS C. PARROTT,
Acting Commissioner of Social Security.

Approved: November 19, 1976.

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

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. A new § 405.242 is added to read as follows:

§ 405.242 Payment of supplementary medical insurance benefits; methods of payment for services furnished by federally-funded health centers.

(a) In lieu of payments that would otherwise be made on a reasonable charge basis, as defined in Subpart E of this part, for items and services covered under the supplementary medical insurance program (Part B), a federally-funded health center (as described in § 405.312(f)) that is not part of a provider of services may elect to receive reimbursement for covered Part B items and services on a reasonable cost basis, provided that it meets the following requirements:

(1) The health center demonstrates to the satisfaction of the Social Security Administration (SSA) (i) that it has the continuing capability of maintaining statistical and financial records which contain cost and charge data and such other statistical and financial data as may be required by the SSA to determine the reasonable cost of covered Part B services furnished to Medicare beneficiaries, and (ii) that these statistical and financial records and such other reports as the SSA may require can be verified by SSA audit;

(2) The health center provides covered Part B services to at least 250 Medicare beneficiaries per year;

(3) The health center submits at least 1000 bills per year for covered Part B services furnished to Medicare beneficiaries;

(4) The health center can reasonably anticipate at least $15,000 in annual Medicare reimbursement;

(5) The health center demonstrates to the satisfaction of the SSA that a physician (or physicians) is present to perform medical (rather than administrative) services at all times the health center is open, each patient is under the care of a health center physician, and services rendered by nonphysician personnel are under the direct supervision of a physician;

(6) The health center agrees not to charge any Medicare beneficiary or any other person on his behalf for items and services for which the individual is entitled to have payment made under the provisions described in the regulations in this Part 405; and

(7) The health center agrees to return or make proper disposition of any amounts incorrectly collected from a Medicare beneficiary or from any other person on his behalf.

(b) In determining the reasonable cost of covered Part B services furnished to Medicare beneficiaries by federally-funded health centers that qualify for and elect to be paid under paragraph (a) of this section, the types and items of costs incurred which are allowable under the principles of reimbursement for provider costs, as set forth in Subpart D of this part, will be allowable. The share to be borne by the Medicare program for the cost of covered Part B services furnished to Medicare beneficiaries shall be determined on the basis of the ratio of the health center charges to Medicare beneficiaries for covered Part B items and services to the health center charges to all patients during an accounting period, applied to the total allowable direct and indirect costs of the health center on a departmental basis.

(c) Payments made to a federally-funded health center which is reimbursed on a reasonable cost basis during an accounting period shall be subject to retroactive corrective adjustment at the end of the accounting period, so as to assure that the health center is paid for the reasonable cost actually incurred for the period (excluding therefrom any part of the incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses reimbursable under Subpart D of this part. This adjustment shall be made based on a determination by the SSA of the total reimbursement due the health center by the Medicare program for the period and following the submission by the health center and review by the SSA of an adequate cost report that sets out the health center's costs and such other information as the SSA may require. The cost report shall be submitted in such form and detail as may be required by the SSA. A written notice of the amount of program reimbursement shall be provided to the health center setting forth the SSA's determination of the total reimbursement due the health center for the period and shall constitute the basis for retroactive adjustment.

(d) Payments which are made to federally-funded health centers reimbursed on the basis of reasonable cost for covered Part B items and services are subject to the Part B deductibles for Medicare beneficiaries and shall not exceed 80 percent of the reasonable cost that the health center incurs in providing the covered Part B items and services. The health center's charges to the Medicare beneficiary shall not exceed 20 percent of the health center's customary charge for the covered Part B items and services furnished, plus any unsatisfied deductible amounts and charges for noncovered services.

(e) If the health center is part of a provider of services, it shall be paid under the requirements of Subpart D of this part.

2. Paragraph (f) of § 405.312 is revised to read as follows:

§ 405.312 Nonreimbursable expenses; items or services paid for by governmental entity.

* * * * *

(f) Payment may be made as provided in § 405.242, for items and services furnished by a public or private health care center (other than a Federal provider of services) which receives United States Government funds for operations under a federally-administered program for health services delivery, provided the health center receiving the funds customarily seeks reimbursement for items and services not covered under title XVIII of the Social Security Act (Medicare) from all resources available for the health care of its patients, e.g., private insurance, patients' cash resources, etc. A federally-administered program of health services delivery is designed to develop and support new programs of health services or to provide services to meet health needs having a specialized regional or national significance. Under these programs, the Federal Government, by grant to or by contract with a health center, determines the amount of Federal funds the health center is to receive and the purposes for which these funds are to be used under the provisions of Federal law.

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[FR Doc.76-34807 Filed 11-24-76;8:45 am]

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED; PRINCIPLES OF REIMBURSEMENT FOR PROVIDER COSTS

Elimination of the Combination Method of Apportionment and Modified Cost Finding for Providers Using the Combination Method

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 approval of the Secretary of Health, Education, and Welfare. The proposed amendments, which have been in process since April 1975 and do not have major program significance, provide for the elimination of the Combination Method of apportionment and modified cost finding for cost reporting periods starting after December 31, 1977. For cost reporting periods starting after

December 31, 1977, all providers are required to use the more precise Departmental Method of apportionment and step-down cost finding or a more sophisticated method of cost finding which will result in uniformity with respect to cost reporting and cost finding and apportionment methods. Moreover, providers now using the Combination Method of apportionment and modified cost finding may elect to use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding for cost reporting periods ending on or after the effective date of these amendments. In keeping with the spirit and intent of the Secretary's policies regarding the development of regulations, announced July 25, 1976, publication of this notice will provide adequate notice and ample time for all interested individuals and organizations to comment. Interested parties will have until January 10, 1977 to submit their views and comments.

For cost reporting periods starting before January 1, 1972, all hospitals, hospital-skilled nursing facility complexes, and skilled nursing facilities, regardless of bed size, were permitted to use either the Combination Method of apportionment or the more detailed Departmental Method of apportionment for determining the health insurance program's share of providers' allowable costs. With either method of apportionment, providers were required to use step-down or a more sophisticated method of cost finding for determining their allowable costs incurred in each revenue-producing department and nonallowable activity.

For cost reporting periods starting after December 31, 1971, hospitals and hospital-skilled nursing facility complexes having less than 100 beds and all skilled nursing facilities have been required to use the Combination Method of apportionment and modified cost finding, and hospitals and hospital-skilled nursing facility complexes having 100 beds or more have been required to use the Departmental Method of apportionment and step-down cost finding or a more sophisticated method of cost finding. The requirements for certain providers to use the simpler Combination Method of apportionment and modified cost finding and other providers to use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding were established in accordance with the report of the Senate Finance Committee (S. Rep. No. 91–1431, 91st Cong., 2d sess. 178 (1970)) which accompanied H.R. 17550. The objective in imposing these requirements was to eliminate the choice of reimbursement methods which are available to providers for cost reporting periods starting before January 1, 1972. Moreover, the Committee sought to relieve the smaller and less complex providers of the necessity for developing the more sophisticated accounting procedures as now required by step-down cost finding and the Departmental Method of apportionment.

After mandating the use of the two apportionment methods for cost reporting periods starting after December 31, 1971, we received a significant amount of correspondence from providers directly and from Congressmen on behalf of providers required to use modified cost finding and the Combination Method of apportionment that expressed a desire to use the more precise step-down cost finding and the Departmental Method of apportionment and that indicated an ability to do so. Situations have also come to light, as evidenced by information received from the General Accounting Office and by results of our own reviews, which indicated that the more precise Departmental Method of apportionment and step-down or a more sophisticated method of cost finding may be more appropriate for providers now required to use the Combination Method of apportionment and modified cost finding. For these reasons, we conducted a survey to determine whether providers presently using the Combination Method of apportionment and modified cost finding are able and also willing to convert to the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding. The survey was based on a statistically valid sample of 842 providers which was representative of all providers now required to use the Combination Method of apportionment and modified cost finding. The questions asked in the survey were formulated to determine whether (1) total costs and charges and health insurance program charges could be accumulated for each ancillary department; (2) total costs and inpatient days and health insurance inpatient days could be accumulated for each special care inpatient hospital unit; and (3) providers were willing to convert to the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding. This survey revealed that all but a few of the providers surveyed are able to develop the necessary statistics which would enable them to use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding. Moreover, a majority of the providers surveyed stated their preference to use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding.

The Departmental Method, using step-down or a more sophisticated method of cost finding, which requires more detailed computations than the Combination Method using modified cost finding in determining the health insurance program's share of providers' allowable costs would not impose excessive detail on providers now using the Combination Method of apportionment and modified cost finding. In order to make the conversion to the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding, providers would be required to maintain statistics so that costs and charges can be identified for each ancillary department and costs and patient care days can be identified for each special care unit, rather than making these determinations for ancillary departments as a group and special care units as a group now required under the Combination Method of apportionment and modified cost finding. Identifying these statistics for reimbursement purposes would require little additional effort for providers presently using the Combination Method of apportionment and modified cost finding since these providers now maintain these statistics for routine care, renal dialysis, delivery room and labor room, and nonallowable activities. In making the conversion to the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding, there would be the advantage of providers performing cost finding in a more precise manner in that costs of each nonrevenue-producing department would be allocated separately to each revenue-producing department and thereby more precisely, rather than allocated in groups to revenue-producing departments.

Although the Combination Method of apportionment and modified cost finding originally offered some simplicity in the manner in which the health insurance program determines its share of the smaller and less complex providers' allowable costs, legislative amendments affecting the health insurance program since 1972, no longer permit this simplicity. For cost reporting periods ending after June 30, 1973, allowable costs must be identified separately for renal dialysis services and delivery room and labor room services. Moreover, additional information and computations are now required on the cost reports as a result of Section 223, Limitations on Coverage of Costs; Section 233, Payments of Lower of Costs or Charges; and Section 221, Limitation on Federal Participation for Capital Expenditures; of P.L. 92–603. Because of these Social Security Amendments of 1972, which have added detail to the cost reports for providers, retention of the Combination Method of apportionment and modified cost finding on the basis of simplicity can no longer be achieved. The amendments mandate greater precision in cost reporting which can best be achieved by using the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding.

The cost reports required by the health insurance program from providers using the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding would not unduly burden providers presently using the Combination Method of apportionment and modified cost finding. Many providers using the Combination Method of apportionment and modified cost finding do not have the variety of activities which would require them to complete every page of the cost report for the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding. These providers would be required to complete only those forms which are applicable to their operations. For example, providers that do

not have provider-based physicians may ignore the forms for reporting provider-based physician compensation. In addition, providers may, as permitted in the past, file less than a full cost report where they have a low utilization of covered services by health insurance program beneficiaries and have received correspondingly low interim reimbursement payments. In these cases, intermediaries may permit providers to submit only a minimum amount of cost report information in order to determine the health insurance program's share of providers' allowable costs.

The proposed amendments to the regulations provide for the elimination of the Combination Method of apportionment and modified cost finding for cost reporting periods starting after December 31, 1977. Providers now using the Combination Method of apportionment and modified cost finding may use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding for cost reporting periods ending on or after the effective date of these amendments. However, all providers must use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding for cost reporting periods starting after December 31, 1977. Providers which begin to participate in the health insurance program on or after the date on which final regulations on this matter are effective, must use the Departmental Method of apportionment, starting with their first cost-reporting period. These proposed amendments will result in greater uniformity with respect to cost reporting, cost finding and apportionment methodology.

If there are any questions concerning these amendments, you may contact Hugh McConville, Branch Chief, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone: (301) 594-9430. Mr. CcConville will respond to questions, but will not accept comments on these amendments.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, on or before January 10, 1977.

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. In addition, a copy of the survey report entitled "Questionnaire on Conversion from the Combination method to the Departmental Method of Cost Apportionment," will also be available for inspection in that office.

The proposed amendments are to be issued under the authority contained in sections 1102, 1814(b), 1815, 1833(a), 1861(v) and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, 79 Stat. 297, 79 Stat. 302, 79 Stat. 322, as amended, 79 Stat. 331, 42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged — Supplementary Medical Insurance.)

(It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821, and does not require an Inflation Impact Evaluation.)

Dated: October 15, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: November 19, 1976.

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

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. In § 405.404, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

* * * * *

(b) For cost reporting periods starting after December 31, 1971, and before January 1, 1978, the principles of reimbursement under title XVIII of the Act require certain providers as described in §405.452(c) to use the Departmental Method of apportionment as described in § 405.452(b)(1). However, for cost reporting periods starting after December 31, 1977, all providers described in § 405.452 (c) are required to use the Departmental Method of apportionment. Use of the Departmental Method requires cost finding as described in § 405.453(d)(1) and (2) to determine the division of the provider's costs among general routine care, routine care in each special care unit, each ancillary department that is revenue producing, i.e., departments furnishing services to patients for which charges are made, and nonallowable activities.

(c) For cost reporting periods starting after December 31, 1971, and ending before (insert date 30 days following date of final publication), the principles of reimbursement under title XVIII of the Act require certain providers as described in § 405.452(c) to use the Combination Method of apportionment as described in § 405.542(b)(2). For cost reporting periods ending on or after (insert date 30 days following date of final publication), these providers are permited to use the Department Method of apportionment, However, providers that do not make this change may continue to use the Combination Method of apportionment for cost reporting periods ending on or after (insert date 30 days following date of final publication), and starting before January 1, 1978, after which the Department Method of apportionment must be used.

(1) For cost reporting periods ending before July 1, 1973; use of the Combination Method of apportionment necessitates cost finding as described in § 405.453(d)(3) to determine the division of the provider's total allowable costs among general routine care, routine care in special care units, aggregate ancillary services and nonallowable activities.

(2) For cost reporting periods ending after June 30, 1973, and stating before January 1, 1978, use of the Combination Method necessitates cost finding as described in § 405.453(d)(3) to determine the division of the provider's total costs among general routine care, routine care in special care units, renal dialysis, delivery room and labor room, the aggregate of all other ancillary services, and nonallowable activities.

2. Paragraph (c) of § 405.452 is revised to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.* For cost reporting periods starting after December 31, 1971, providers shall use the applicable apportionment method indicated as follows:

(1) *Cost reporting periods starting after December 31, 1971, and ending before (insert date 30 days following date of final publication).*—(i) *Hospitals having less than 100 beds.* Any hospital or hospital complex (a hospital that also contains inpatient areas in which patients receive a lower than hospital level of care) having less than 100 beds, certified and noncertified (including all beds, exclusive of newborn beds in the nursey, in any inpatient area of the facility regardless of the level of care rendered), on the first day of its cost reporting period must use the Combination Method of apportionment (see paragraph (b)(2) of this section). Where the combined bed capacity of a hospital-skilled nursing facility complex is less than 100 beds, the Combination Method of apportionment shall be used by both components.

(ii) *Other hospitals.* Any hospital or hospital complex (a hospital that also contains inpatient areas in which patients receive a lower than hospital level of care) having 100 or more beds, certified and noncertified (including all beds, exclusive of newborn beds in the nursery, in any inpatient area of the facility regardless of the level of care rendered), on the first day of its cost reporting period must use the Departmental Method of apportionment (see paragraph (b)(1) of this section).

(iii) *Skilled nursing facilities.* Skilled nursing facilities, regardless of bed size, must use the Combination Method of apportionment (see paragraph (b)(2) of this section), except as specified in paragraph (c)(1)(ii) of this section.

(2) *Cost reporting periods ending on or after (insert date 30 days following date of final publication).*—(i) Providers required to use the Combination

Method of apportionment as specified in paragraphs (c)(1)(i) and (c)(1)(iii) of this section may use the Departmental Method of apportionment beginning with their first cost reporting period ending on or after (insert date 30 days following date of final publication). However, providers not electing to use the Departmental Method of apportionment for cost reporting periods ending on or after (insert date 30 days following date of final publication), must use the Departmental Method of apportionment for cost reporting periods starting after December 31, 1977. After providers convert to the Departmental Method of apportionment, the Combination Method of apportionment can no longer be used.

(ii) Providers identified in paragraph (c)(1)(ii) of this section must continue using the Departmental Method of apportionment for cost reporting periods ending on or after (insert date 30 days following date of final publication).

(iii) Providers, regardless of bed size, entering the program on or after (insert date 30 days following date of final publication), must use the Departmental Method of apportionment starting with their first cost reporting period.

* * * * *

3. In § 405.453, paragraph (f)(3) is added to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(f) * * *

(3) *Conditions under which less than a full cost report may be filed.*—(i) *No health insurance program utilization.* A provider that has not furnished any covered services to health insurance program beneficiaries during the entire cost reporting period need not file a full cost report to comply with health insurance program cost reporting requirements. The provider must submit to its intermediary a statement, signed by an authorized provider official, which identifies the cost reporting period to which the statement applies and states that no covered services were furnished during the cost reporting period and no claims for health insurance program reimbursement will be filed for this cost reporting period. This statement must be accompanied by the cost reporting forms designated by the Social Security Administration for such cases. The proper forms and signed statement must be submitted within 30 days following the close of the applicable cost reporting period.

(ii) *Low health insurance program utilization.* The intermediary may authorize less than a full cost report where a provider has had low utilization of covered services by health insurance program beneficiaries in a cost reporting period and received correspondingly low interim reimbursement payments which, in the aggregate, appear to justify making a final settlement for that period based on less than a normally required full cost report. Based on the intermediary's knowledge of the provider's health insurance program utilization and interim payments and the intermediary's conclusion that it can determine the reasonable cost of covered services furnished health insurance program beneficiaries, the intermediary shall advise the provider that less than a full cost report may be filed. In this situation, the intermediary shall require that the provider furnish the cost reporting forms designated by the Social Security Administration for such cases, and any other financial and statistical data the intermediary may deem appropriate depending upon the circumstances in the individual case. However, regardless of low health insurance program utilization or the amount of aggregate interim reimbursement, the intermediary may require full cost reporting if that is necessary to serve the best interest of the program. The dates for submitting less than full cost report where there is low health insurance program utilization are the same as those in paragraph (f)(2) of this section.

[FR Doc.76-34808 Filed 11-24-76;8:45 am]

Food and Drug Administration

[21 CFR Parts 1, 369, 500, 701, 740, 801]

[Docket No. 76N-0460]

FLUOROCARBONS AND OTHER HALOCARBONS IN FOODS, DRUGS, ANIMAL DRUGS, BIOLOGICAL PRODUCTS, COSMETICS, AND MEDICAL DEVICES

Notice of Intent To Propose Rules; Request For Information

The Food and Drug Administration (FDA) announces its intention to purpose rules to phase out, within a reasonable time period, all nonessential uses of at least the fully halogenated chlorofluoroalkanes (referred to as "chlorofluorocarbons" in this document), such as chlorofluorocarbons 11, 12, 13, 113, 114, and 115, in foods, human drugs, animal drugs, biological products, cosmetics, and medical devices. Chlorofluorocarbons may deplete stratospheric ozone, leading to an increase in skin cancer, climatic changes, and other adverse effects. The Commissioner of Food and Drugs is inviting the submission of comments and information concerning the contemplated proposal and related matters, including risks of stratospheric ozone depletion and other adverse effects on the atmosphere posed by other halocarbons used in FDA-regulated products. In this document, the term "halocarbons" means carbon compounds fully or partially substituted with halogews; i.e., the compound consists of carbon and halogen or carbon, halogen, and hydrogen atoms. Interested persons have until January 25, 1977 to submit comments and information.

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner has proposed to require warning statements on foods, over-the-counter (OTC) human drugs, animal drugs, cosmetics, and nonrestricted medical devices in self-pressurized containers that contain volatile chlorofluorocarbons. The proposal states the Commissioner's reasons for believing that long-term continued use of these chlorofluorocarbons would pose a significant risk to the public health and environment by reducing stratospheric ozone. Chlorofluorocarbons may also affect the climate by absorbing infrared radiation. Because of these considerations, the Commissioner has proposed warning statements as an interim measure while further regulatory action is undertaken.

The Commissioner intends in the near future to propose rules to phase out nonessential uses of at least chlorofluorocarbons in products regulated by FDA. He also plans to examine whether any other halocarbons pose sufficient risks of injury to health and the environment through ozone depletion or other effects on the atmosphere to warrant regulatory action. Information is sought with respect to all halocarbons including those which: (a) are not fully halogenated, i.e., contain hydrogen atoms in addition to carbon and halogen atoms; (b) are unsaturated, i.e., contain one or more carbon-carbon double bonds; (c) contain fluorine as the sole halogen; and (d) contain halogens other than, or in addition to, chlorine and fluorine.

There are indications that halocarbons containing hydrogen atoms (hydrohalocarbons), such as hydrochlorofluorocarbon 22 ($CHClF_2$) and methyl chloroform (CH_3CCl_3), and halocarbons containing carbon-carbon double bonds may be less stable in the troposphere (i.e., more likely to be oxidized by hydroxyl radicals) and thus less likely to reach the strateosphere to destroy ozone. The Commissioner has placed in the public record relating to this notice a letter from E. I. duPont de Nemours and Co. providing information purporting to show that the hydrochlorofluorocarbons do not pose a serious risk of depletion of strateospheric ozone (Ref. 1). DuPont cited studies (Ref. 2) indicating that hydrochlorofluorocarbons may have 15- to 50-fold less of an adverse impact on ozone relative to chlorofluorocarbons. However, it has thus far been difficult to determine precisely the actual tropospheric residence times for specific hydrochlorofluorocarbons or other hydrohalocarbons. A major uncertainty concerning their tropospheric residence times results from the lack of information about the concentrations of available hydroxyl radicals in the troposphere.

Those fluorocarbons that contain flourine as the sole halogen may either be fully fluorinated (e.g., the perfluorocarbons such as fluorocarbon F-14 (CF_4)) or partially fluorinated, such as the hydrofluorocarbons, an example of which would be fluorocarbon 152a (CH_3CHF_2). Because of the high stability of the carbon-fluorine bond (Ref. 3), perfluorocarbons and hydrofluorocarbons are not as readily broken down in the troposphere as other halocarbons. The carbon-fluorine bond may be broken by ultraviolet radiation in the strateosphere, but the fluorine atom quickly abstracts a hydrogen atom from resident hydrogen donors (e.g., methane) to form hydrogen fluoride. The hydrogen-

fluorine bond is not subject to attack by hydroxyl radicals, and photodissociation, i.e., attack by available ultraviolet radiation, is less probable, (relative to the photodissociation of hydrogen chloride). Thus, fluorine radicals are not as available (relative to chlorine radicals) for attack on ozone (Ref. 4). Accordingly, perfluorocarbons and hydrofluorocarbons are not expected to have a significant adverse impact on stratosperic ozone. However, perfluorocarbons and hydrofluorocarbons may prevent natural heat losses by the earth into space because, like all other fluorocarbons tested, they absorb infrared radiation of certain wavelengths. The magnitude and significance of this effect are not yet fully understood.

The Commissioner is not aware of any bromocarbons or iodocarbons that are, or are planned to be, used in products subject to FDA regulation. Bromine is at least as efficient as chlorine in its ability to act as a catalyst in the destruction of ozone (Ref. 5). There are many unanswered questions concerning the atmospheric stability and behavior of bromocarbons and iodocarbons.

Clearly, there are many unresolved questions regarding the risks associated with the release into the atmosphere of halocarbons other than chlorofluorocarbons. Comments and information on matters identified below will facilitate the Commissioner's effort to prepare a proposed rule of appropriate scope to deal with the possible risks of ozone depletion and other adverse atmospheric effects from various halocarbons and to prepare the necessary environmental and inflation impact statements. The Commissioner invites comments from industry, the scientific community, and other interested persons. These submissions will be considered before a rule is proposed on the specific matter.

The Commissioner requests information on halocarbons used or having a potential for use in any FDA-regulated products. Specifically, the information submitted should address the following:

1. Uses and amounts (reported by millions of pounds per specific product category, e.g., hair sprays. liquid food freezants) for the year 1975 in FDA-regulated products of all specific halocarbons (except those uses of chlorofluorocarbons in self-pressurized containers that are the subject of the warning label requirement published elsewhere in this issue of the FEDERAL REGISTER).

2. The reasons for believing that the use of any specific halocarbon listed under item 1 above in an FDA-regulated product is essential, in the format listed below under 2a and 2b. Information is sought both on essential use in self-pressurized containers and other uses, such as in liquid food freezants and polystyrene foam sheet for packaging. Information is sought on whether there are any esesntial uses of chlorofluorocarbons in FDA-regulated products. Even though the Commissioner has not proposed at this time to require a warning for certain uses of chlorofluorocarbons, e.g., in prescription drugs, OTC drugs used for direct inhalation, and certain pressurized gas cylinders used for sterilizing, he intends to review further whether these uses are essential and requests the submission of relevant information.

The information requested should include the following:

a. Essential uses, in specific product categories, of chlorofluorocarbons for which there are no available substitutes. Specify why the uses are essential and why there are no substitutes.

b. Essential uses, in specific product categories, of other halocarbons for which there are no available substitutes. Specify why the uses are essential and why there are no substitutes.

3. Projected uses and amounts (millions of pounds per specific product category in the United States per year) of available substitutes should there be a ban on chlorofluorocarbons used in all FDA-regulated products. This would include specific substitutes for chlorofluorocarbons used in a given product (e.g., replacing chlorofluorocarbon 12 propellant in a self-pressurized container with hydrofluorocarbon 142b, carbon dioxide, or propane) and substitute products (e.g., replacing a self-pressurized container with a pump spray, lotion, or stick). Additional information on the substitutes should include:

a. Economic impacts associated with making the substitutions.

b. Time necessary to make the substitutions.

c. Differences between the energy requirements of the substitutes and the energy consumption associated with the existing uses of the chlorofluorocarbons.

d. Significant environmental impacts associated with making the substitutions.

4. Indicators of tropospheric and stratospheric stability of any of the halocarbons with current or projected uses in FDA-regulated products. Information is particularly requested with respect to the hydrochlorofluorocarbons.

5. Indicators of effects on ozone reduction of anv of the halocarbons with current or projected uses in FDA-regulated products. Information is particularly requested on the hydrochlorofluorocarbons.

6. Indicators of effects on infrared radiation absorption of any of the halocarbons with current or projected uses in FDA-regulated products.

7. Intermediate products that may be formed in the troposphere resulting from the breakdown of halocarbons with current or projected use in FDA-regulated products. Any information relating to the potential for such intermediates to be formed, their tropospheric residence times, concentrations in respirable air that might result. form current or projected uses, and their toxicity should be included.

REFERENCES

1. Letter dated October 26, 1976, to Dr. Robert Schaffner from J. J. Daly of E. I. duPont de Nemours and Company.

2. Molina, M. J., F. S. Rowland, C. C. Chou, et al., International Symposium on Free Radicals, Laguna Beach, CA (January 1976); C. Seigneur, H. Caram, and R. W. Carr, Atmospheric Environment 10:1, 1976.

3. "Handbook of Chemistry and Physics," 56th Ed., CRC Press, Inc., pp. F-215 to F-219, 1975.

4. Rowland, F. S. and M. J. Molina, "Chlorofluoromethanes in the Environment," Reviews of Geophysics and Space Physics, 13(1):840-874, 1975.

5. Wofsy, S. C., M. B. McElroy, and Y. L. Yung, "The Chemistry of Atmospheric Bromine," Geophysical Research Letters, 2(6): 215-218, 1975.

Any interested persons who have information relating to any of the specific requests listed above, regardless of whether they can supply data relating to all of the requests, are encouraged to respond. Interested persons may, on or before January 25, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this notice. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 22, 1976.

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

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[21 CFR Parts 1, 369, 500, 740, and 801]

[Docket No. 76N-0459]

CERTAIN FLUOROCARBONS (CHLOROFLUOROCARBONS) IN FOODS, DRUGS, ANIMAL DRUGS, COSMETICS, AND MEDICAL DEVICES IN SELF-PRESSURIZED CONTAINERS; WARNING STATEMENTS

Notice of Proposed Rule Making

The Food and Drug Administration (FDA) is proposing rules requiring a package label warning statement on foods, over-the-counter (OTC) human drugs, animal drugs, cosmetics, and nonrestricted medical devices in self-pressurized containers that contain certain fluorocarbons—specifically, fully halogenated chlorofluorocarbons. The warning is being proposed to alert the consumer that chlorofluorocarbons may harm the public health and environment by reducing stratospheric ozone. In a notice of intent to propose rules published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs has announced his intent to propose rules to phase out nonessential uses of at least the chlorofluorocarbons in products regulated by FDA, and has invited the submission of comments and information on the need to regulate the use of other halocarbons and related matters. Interested persons have until January 25, 1977 to submit comments.

Chlorofluorocarbons are widely used as propellants in self-pressurized containers of a variety of products subject to the Federal Food, Drug, and Cosmetic Act. Scientific research in recent years has indicated that chlorofluorocarbons may pose a risk of depletion of the stratospheric ozone. The stratospheric ozone

shield is of great importance in protecting life on earth from shortwave ultraviolet rays of the sun. The consequences of ozone reduction include a possibility of a significant increase in skin cancer and other effects of unknown magnitude on man, animals, and plants. Chlorofluorocarbon release may also cause climatic change both by reducing stratospheric ozone and by increasing infrared absorption in the atmosphere.

In this proposal, "chlorofluorocarbons" means fully halogenated chlorofluoroalkanes. These chemical compounds contain no hydrogen and have only carbon-carbon single bonds. They contain only chlorine, fluorine, and carbon. The term "self-pressurized container" as used herein refers specifically to aerosol products, i.e., those products that depend on the power of a liquefied or compressed gas to expel the contents, liquid or solid, from the container. For the purpose of this proposal, "self-pressurized container" does not include those pressurized gas cylinders that expel only a gas.

The term "fluorocarbons" specifically refers to compounds containing only fluorine and carbon, but it has also been widely used as a shorthand expression to refer to chemicals that contain hydrogen, chlorine, bromine, and/or iodine in addition to fluorine and carbon, such as chlorofluorocarbons. The different types of "fluorocarbons," in the broad sense of that term, appear to vary in the risk they pose in depleting stratospheric ozone (Ref. 1). The Commissioner believes it useful, in analyzing the need to regulate these different compounds, to refer to the compounds by more descriptive chemical terms such as "chlorofluorocarbons," rather than by the general term "fluorocarbons."

Chlorofluorocarbons are the principal propellants presently used in products subject to the act, e.g., chlorofluorocarbon 11 (CCl_3F, or trichlorofluoromethane), chlorofluorocarbon 12 (CCl_2F_2, or dichlorodifluoromethane), and chlorofluorocarbon 114 ($CClF_2CClF_2$, or dichlorotetrafluoroethane).

Of all compounds containing some fluorine and carbon, the chlorofluorocarbons are believed to pose the greatest risk of ozone depletion. According to recent research, described more fully below, chlorofluorocarbons are exceptionally stable in the troposphere, i.e., the lower atmosphere. Because of this stability, significant amounts of these compounds may eventually reach the stratosphere, i.e., the upper atmosphere. Once in the stratosphere, they can be broken down by ultraviolet radiation from the sun. When a chlorofluorocarbon breaks down, the chlorine in it is released. At that point, the chlorine can react catalytically with ozone in the stratosphere, destroying many ozone molecules in a chain reaction.

The possible interaction of chlorofluorocarbons and stratospheric ozone was initially suggested in 1974 by Rowland and Molina (Ref. 2). On the basis of laboratory chemical studies, it was hypothesized that ultraviolet radiation of a wave length naturally occurring only above the troposphere could break down chlorofluorocarbons to yield reactive chlorine radicals capable of ozone-destroying catalytic reactions. Predictions based on computer models in subsequent research indicated a need to halt the production and release of chlorofluorocarbons to prevent a significant reduction of stratospheric ozone (Ref. 3).

To assure a unified response by the Federal Government to this hazard, in January 1975 the Council on Environmental Quality and the Federal Council on Science and Technology formed an interagency task force on the Inadvertent Modification of the Stratosphere (IMOS). The task force included a representative from FDA. The initial report of the task force (Ref. 4), issued in June 1975, stated:

> The task force has concluded that fluorocarbon releases to the environment are a legitimate cause for concern. Moreover, unless new scientific evidence is found to remove the cause for concern, it would seem necessary to restrict uses of fluorocarbons-11 and -12 to replacement of fluids in existing refrigeration or air-conditioning equipment and to closed recycled systems or other uses not involving release to the atmosphere.
>
> The National Academy of Sciences is currently conducting an in-depth scientific study of man-made impacts on the stratosphere and will report in less than one year. If the National Academy of Sciences confirms the current task force assessment, it is recommended that the Federal regulatory agencies initiate rulemaking procedures for implementing regulations to restrict fluorocarbon uses. Such restrictions could reasonably be effective by January 1978—a date that, given the concern expressed now, should allow time for consideration of further research results and for the industry and consumers to initiate adjustments.

Following receipt of the task force report, FDA issued a notice, published in the FEDERAL REGISTER of July 16, 1975 (40 FR 29914), advising that it would monitor all attempts to determine the significance of the widespread use in regulated products of "fluorocarbon-11 fluorocarbon-12, and other fluorocarbon propellants." The notice stated that if the research recommended by the IMOS task force "establishes that a significant reduction of stratospheric ozone will be the likely result of continued use of fluorocarbon propellants in aerosol products, the Commissioner has determined that the FDA must consider regulatory action concerning such products that are subject to the Federal Food, Drug, and Cosmetic Act." The notice called for the submission of data to provide a basis for any regulatory action that might be required. A summary of the submissions has been prepared and is available in the public record relating to this proposal in the office of the Hearing Clerk, Food and Drug Administration (Ref. 5).

In July 1975, the Natural Resources Defense Council petitioned the Commissioner to restrict the use of chlorofluorocarbons in self-pressurized contains (Ref. 6). The Commissioner denied the petition at that time, stating that it did "not provide a basis for taking immediate action prior to the completion of the Academy's current study" (Ref. 7).

NAS REPORT

The study referred to by the IMOS Task Force and the Commissioner was undertaken by the National Academy of Science (NAS) in April 1975 at the request of several Federal agencies to investigate the potential threat to stratospheric ozone posed by certain chlorofluorocarbons. On September 13, 1976, the NAS issued its study, in the form of a report by its Committee on Impacts of Stratospheric Change (NAS Committee), on "Halocarbons: Environmental Effects of Chlorofluoromethane Release" (Ref. 8). An accompanying report on "Halocarbons: Effects on Stratospheric Ozone" (Ref. 9) was issued by the NAS Panel on Atmospheric Chemistry. The NAS Committee made the following findings in its report with respect to the chlorofluorocarbons 11 and 12, both of which are chlorofluoromethanes, referred to in the report as "CFMs";

(A) The accumulation of CFMs in the atmosphere, at all levels, increases the absorption and emission of infrared radiation. This retards heat losses from the earth and thus affects the earth's temperature and climate. The amount of change in infrared absorption and emission is well known, but both the amount and detals of the further effects on the earth's climate are uncertain. This CFM effect is inevitably combined with the effect due to increased CO_2 and acts in the same direction * * *.

(B) CFMs, after release at the surface of the earth, mix with the atmosphere and rise slowly into the stratosphere, where they are decomposed by the sun's ultraviolet radiation. Chlorine atoms (Cl) and chloride oxide (ClO), produced directly or indirectly by this decomposition, then react to remove ozone (catalytically), reducing the tota amount of ozone and somewhat shifting the distribution of ozone toward lower altitudes. As a consequence * * *

More biologically active ultraviolet (DUV) reaches the earth's surface.

The temperature distribution in the stratosphere is somewhat altered.

The reductions in ozone take place over a long time, individual release of CFMs having effects spread over decades.

(C) The extent of ozone reduction attributable to CFMs has not been measured. Because of the natural variations in the amount of ozone above us, much larger than any ozone reduction so far caused by CFMs, direct verification of CFM effects will not be feasible for at least several years * * *.

(D) At the moment, the ozone reduction and consequent DUV increase corresponding to a given CFM release is uncertain by a large factor. Continued release at the 1973 level, the usual example, is calculated to give an ultimate reduction in ozone of about 7 percent, where "about 7 percent" is relatively certain to be between 2 percent and 20 percent. This range does not allow for possible inadequacies of the bases of the calculation. Three of the possible kinds of inadequacies may be cited as examples: (1) essential chemical reactions not so far recognized as such, (2) the possibility of unexpected effects of tropospheric sinks (many possible sinks have been studied carefully), (3) possible important inadequacies in the one-dimensional transport models * * *.

(E) Continued CFM release at 1973 levels could by the year 2000 produce about half

of the direct climate effect caused by CO_2 increase over the same period, although the magnitude of both effects on climate is less certain. Thus, the CFM affect may well deserve serious concern * * *.

(F) In our present state of knowledge, it would be imprudent to accept increasing CFM use and release, either in the United States or worldwide. (Recent reductions in CFM releases are ascribed by some to economic conditions and by others to consumer pressure, real or anticipated.) * * *.

However, we also find that.—(G) Advances in our knowledge of climate mechanisms over the next two years will improve our assessment of both climatic effects due to CFMs (through ozone reduction and displacement and through infrared absorption), but these advances cannot be expected to make our assessment of the climatic effects as precise as our assessments of ozone reduction and DUV increase * * *.

(H) The range of uncertainty about the amounts of ozone reduction and DUV increase consequent on a given CFM release pattern can be considerably reduced during the next two years; new stratospheric measurements (particularly those from the substantial program supported by the National Aeronautics and Space Administration), measurements of atmospheric CFMs, and improved laboratory measurements will contribute to this. More importantly, the possibility of unexpected inadequacies in the basis of our calculations will be greatly reduced by more extensive and better measurements.

(I) Many other improvements in our knowledge can be attained over the next five to ten years, if we push hard to do this * * *, but others will take still longer to attain * * *.

How Slowly Do Things Happen?

We find that.—(J) If CFM uses and releases were to continue at a constant rate, the ozone reduction and consequent DUV increase would gradually flatten out, approaching a steady state. To reach half of this value would take roughly 50 years. In particular, if constant CFM releases at the 1973 rate are to give 7 percent ultimate reduction of ozone, this reduction will initially increase at about 0.1 percent a year, reaching 3.5 percent after roughly 50 years * * *.

(K) If the rate of CFM release, after continuing at a constant rate, were drastically reduced at any time in the next decade, say halved or, eliminated, and then continued at the drastically reduced rate, ozone reduction and consequent DUV increase would continue to increase for at least a decade after the drastic reduction. It would then decrease, if releases had been nearly eliminated, by roughly 1/70 of its current value each year, taking roughly 50 years to fall back to half its peak value * * *.

(L) If CFM use and release were to continue at a constant rate, the amount of direct climatic effect would also flatten out, approaching a steady state, again reaching half of this value in about 50 years. The increase of infrared absorption and emission would similarly reach half of its ultimate value in about 50 years. Resulting climatic effects might be further delayed because of slowness in response in the climatic mechanism * * *.

(M) If the rate of CFM use and release were nearly eliminated at some date, the increase in infrared absorption and emission would, by contrast, begin to decrease immediately, with any delays arising only from the climatic mechanism itself. It would then decrease by roughly 1/70 of itself each year taking roughly 50 years to reach half of the value in cutoff * * *.

What Are the Impacts?

We find that.—(N) The major effects of DUV increase due to ozone reduction could involve:

Increased incidence of malignant melanoma, a serious form of skin cancer frequently causing death, and thus an increase in mortality from this cause * * *;

Increased incidence of basal- and squamous-cell carcinomas, less serious but much more prevalent forms of skin cancer, rarely causing death but causing much expense and, occasionally, more or less serious disfigurement * * *;

Effects on plants and animals of unknown magnitude * * *.

Whether the first of these effects, melanoma increase, will occur is not firmly proven, but the evidence of its plausibility is now strong enough for it to be treated as a serious health hazard. The second effect, nonmelanoma increase, is relatively well established, and its amount reasonably assessable * * *. The third group of effects, action of DUV increases on plants and animals, is only beginning to be explored. For the present there is good reason for a strong concern to know more about this third group of effects, but, as yet, there is no clear indication of their seriousness.

(We are unlikely to make major strides in our knowledge of the connections, actual or potential, between DUV increase and any of these major effects during the next two years, although it is important to continue active work in each of these directions.)

(O) If the increased infrared absorption and emission due to the presence of CFMs in the atmosphere were to alter our climate by small amounts, the most important effects would be on agriculture, particularly through the boundaries of the regions in which particular crops can be grown effectively. (Other agricultural effects are possible.) * * *.

(The influences of small climate changes on agricultural production are not easy to assess * * *, but the uncertainties here are less than those in the amount of climate change consequent on a given release of CFMs.)

* * * * * *

What are the Penalties of Delay?

(R) When the time history of past releases is considered, and based upon an ultimate ozone reduction of 7 percent (central value of 2 percent to 20 percent range), whether a halving in CFM use and release were to take place in 1977 or in 1979 would alter the ozone reduction at any later date by no more than ⅛ percent (central value of a 1/18 percent to ½ percent range). The difference in ultimate ozone reduction, if uses and releases continued at the halved level in each case, would be less than 1/10 of a percent (central value of a 1/50 percent to ¼ percent range) * * *.

(S) Whether a halving of CFM use and release were to take place in 1977 or in 1979 would alter the total amount of CFMs in the atmosphere by no more than 10 percent of the amount now present—by no more than 10 percent of an amount whose climatic effects are probably undetectably small * * *.

The NAS Committee also found (Ref. 8) that a "7 percent ultimate reduction in ozone with a consequent 14 percent ultimate increase in (the ultraviolet) accumulation rate, might be expected, if most melanoma deaths are solar UV radiation related, to produce a somewhat smaller percentage increase (less than 15 percent) in melanoma deaths. Thus a few hundred deaths per year would be expected after all delays have taken place."

The NAS Committee referred to the findings (Ref. 10) made in 1975 in another NAS report with respect to the increase in nonmelanoma skin cancer that may occur if stratospheric ozone is reduced. These findings indicate that "there is strong evidence that increases in (ultraviolet radiation) will produce an increase in skin cancer * * *." A "10 percent decrease in stratospheric ozone appears to give more than a 20 percent increase in the incidence of skin cancer—possibly a 30 percent increase."

The NAS Committee concluded that "[s]elective regulation * * * is almost certain to be necessary at some time and to some degree." It recommended that "informative labeling" be required on aerosols propelled by chlorofluorocarbons 11 and 12 to encourage consumer self-restraint and to prepare consumers for possible further regulation. No delay was specifically recommended in the promulgation of the labeling. The enactment of legislation to authorize informative labeling and to take other action was urged in case existing legislative authority was not adequate. The Committee, however, recommended "against decision" to restrict the use of chlorofluorocarbons "at this time" because of the "present inadequacies in the bases of our calculations, * * * the reduction in these inadequacies promised by ongoing measurement programs, and * * * the small changes in ozone reductions following from a year or two delay." The committee recognized that the decision is ultimately "a political one in the highest sense of that word."

IMOS Task Force Recommendations

The IMOS Task Force (Ref. 11) reviewed the NAS Committee report and commended the academy for its "thorough scientific review" of this complex subject. However, rather than suggest any delay in the initiation of regulatory action, the IMOS Task Force instead unanimously recommended "that Federal regulatory agencies now commence proposed rulemaking procedures so that any necessary future restrictions are developed on the basis of thorough and thoughtful consideration." The task force viewed its recommendation as "not inconsistent" with the conclusion of the NAS Committee.

Recent Developments

According to a report in Science, recent measurements of the amount of stratospheric chlorine oxide and chlorine nitrate, made respectively by Anderson and Rowland and Molina, have tended to confirm that chlorofluorocarbons deplete stratospheric ozone, and the measurements may indicate that the rate of depletion is even greater than the 7 percent reduction level estimated by the NAS Committee (Ref. 12).

The Natural Resources Defense Council and 10 State governments, on October 26, 1976, petitioned the Commissioner to ban the use after November 1, 1977 of chlorofluorocarbons as propellants in foods, drugs, and cosmetics because of the risk they pose of ozone depletion

(Ref. 13). The petition estimated that ozone depletion from chlorofluorocarbon use was roughly in the range of 13 to 16 percent, rather than the 7 percent depletion figure used by the NAS Committee. In a recent letter to a cochairman of the IMOS Task Force, F. S. Rowland described scientific developments relating to ozone depletion (Ref. 14). On the basis of these scientific developments, he increased his estimate of the ultimate rate of ozone depletion, if chlorofluorocarbon use continued at 1973 levels, to "roughly 13–16%."

The Environmental Protection Agency (EPA) issued a notice on October 18, 1976 urging persons responsible for pesticide registration to include on the label of pesticides containing chlorofluorocarbons 11 or 12 as propellants the following statement: "THIS PRODUCT CONTAINS CHLOROFLUOROCARBONS-11 (or -12, as appropriate)" (Ref. 15).

Evaluation

The Commissioner recognizes that there are remaining uncertainties about the amount of ozone reduction caused by chlorofluorocarbon use and the full consequences of such reduction. Further research to reduce these uncertainties would be beneficial. The Commissioner believes, however, that it would not be consistent with the public interest to delay a decision to initiate regulatory action until these uncertainties are removed. The short-term research recommended by the NAS Committee would serve to reduce "the possibility of unexpected inadequacies in the basis of our calculations" (Ref. 8). If further research indicates that there are unexpected inadequacies, the Commissioner will promptly take whatever regulatory action is appropriate, including, if warranted, a revocation of any regulations previously promulgated.

The NAS Committee also expects research over the next 2 years to provide additional information about the climatic consequences, the amount of ozone reduction, and the ultraviolet radiation increase resulting from the release of chlorofluorocarbons 11 and 12. This research may show that the ultimate ozone reduction may be as low as 2 percent. However, even a 2 percent reduction in the ozone is likely to increase the incidence of skin cancer, possibly change the climate, and cause other effects on man and animals.

A sustained 2 percent reduction in ozone may lead eventually to a median increase of about 4 percent—or 12,000—new cases per year of nonmelanoma skin cancer among light-skinned individuals in the United States (Ref. 4). Moreover, future measurements may show that the ultimate ozone reduction may be as high as 20 percent, thus posing a graver risk of cancer and possibly catastrophic alterations in the climate if use of chlorofluorocarbons should continue at 1973 levels.

The NAS Committee regarded the penalties of delay for 2 years to permit completion of further research as small. A delay, however, in the initiation of regulatory action is likely to lead to an increase in the incidence of skin cancer at a later time. To understand the effect of a delay in the initiation of regulatory action by FDA, it is necessary to summarize the extent to which chlorofluorocarbons are used in self-pressurized containers subject to FDA regulation.

In 1973 approximately 50 percent of chlorofluorocarbons in the United States were used as propellants. However, 62 percent of these chlorofluorocarbons released during that year came from self-pressurized containers (Ref. 16). Since 55 percent of worldwide chlorofluorocarbon propellants were used as propellants in self-pressurized containers (Ref. 16), it can be assumed that about 70 percent of the chlorofluorocarbons released worldwide in 1973 came from self-pressurized containers. Thus, a worldwide ban on all chlorofluorocarbons used as propellants would result in an approximate two-thirds reduction in worldwide chlorofluorocarbon emissions.

Nearly 50 percent of the worldwide releases of chlorofluorocarbons from self-pressurized containers came from products of the United States in 1973 (Ref. 16). This accounted for approximately 35 percent of all worldwide releases of chlorofluorocarbons. Because FDA has jurisdiction over nearly 80 percent of all chlorofluorocarbons packaged in self-pressurized containers in the United States, an FDA-initiated phaseout of all chlorofluorocarbons used in self-pressurized containers would reduce worldwide chlorofluorocarbon releases, at 1973 levels, by approximately 25 percent.

Assuming chlorofluorocarbon emissions at 1973 levels would reduce ultimate ozone levels by 7 percent, then, according to the NAS Committee, a 2-year delay in halving releases would alter ozone reduction at any later time by no more than one-sixth of a percent, with the ultimate ozone reduction being less than one-tenth of a percent (Ref. 8). Following the peak difference in ozone reduction (no more than one-sixth of a percent), the actual difference in ozone reduction would decrease with time, halving about every 50 years (Ref. 8). Thus, approximately 50 years after the peak difference in ozone reduction of no more than one-sixth of a percent there would be no more than one-twelfth of a percent noncumulative increase in ozone reduction as a result of a 2-year delay in halving worldwide releases of chlorofluorocarbons. One hundred years later there would be no more than one-twenty fourth of a percent noncumulative increase in ozone reduction. With time, the difference would get increasingly closer to, but theoretically would never actually reach, zero.

A 2-year delay would pose a risk of increased incidences of skin cancer. Based on estimates from the National Cancer Institute, the IMOS Task Force reported that there are approximately 300,000 new cases of nonmelanoma skin cancer in the United States annually under conditions of zero population growth (Ref. 4). If there were a 2-year delay in halving worldwide chlorofluorocarbon emissions, there would be an increase in the incidence of new cases of nonmelanoma skin cancer starting about the year 2000 (assuming 5 to 10 years for chlorofluorocarbon molecules to reach the stratosphere and begin to reduce ozone and a 15 to 20 year latency period for cancer induction). This yearly increase would reach no more than a maximum of an additional 1,000 new cases in the United States (one-third of a percent increase in cancer rate x 300,000 cancer cases) in some year after the year 2000. After this peak in new cases of nonmelanoma skin cancer has occurred, the annual increase in the incidence of this kind of cancer above the expected rate (300,000 per year) resulting from this 2-year delay would start to drop below 1,000 cases, roughly halving each 50 years. Thus, approximately 50 years after the peak difference in additional cases of nonmelanoma skin cancer (no more than 1,000) there would be no more than 500 additional noncumulative cases per year; 100 years later, there would be no more than 250 additional cases per year.

Thus, a 2-year delay in the initiation of FDA action to phase out nonessential uses of chlorofluorocarbon in self-pressurized containers could result in an increase of new cases of nonmelanoma skin cancer that would similarly start about the year 2000 and peak at no more than 500 new cases in some year after 2000. Likewise, approximately 50 years later there would be no more than 250 additional noncumulative cases per year; 100 years later there would be no more than 125 additional cases per year.

It is recognized by the NAS Committee that some scientists, "emphasizing the possible critical importance of even small effects on climate and the relative unimportance of many spray-can uses" might urge immediate regulatory action (Ref. 8). The present proposal would simply require package label warnings on self-pressurized products containing chlorofluorocarbons, and the NAS Committee urged that informative labeling be required without suggesting that there be any delay in mandating the labeling.

Contemplated Actions

The Commissioner concludes that the information already available provides a sufficient basis for believing that continuing chlorofluorocarbon use poses an unreasonable risk of harm to the public health and the environment. The long-term risk is significant enough, in the Commissioner's judgment, to outweigh the neligible benefit from the nonessential uses of chlorofluorocarbons. Accordingly, he is initiating the regulatory process designed ultimately to phase out nonessential uses of chlorofluorocarbons.

As a first step, the Commissioner is proposing in this document that a warning statement be required in the labeling of nonessential products containing chlorofluorocarbons in self-pressurized containers that are subject to the Federal Food, Drug, and Cosmetic Act. Published elsewhere in this issue of the Federal Register is a notice that the Commissioner intends to propose rules to phase out, within a reasonable time, all nonessential uses of at least the

chlorofluorocarbons in products subject to the act. The notice invites the submission of comments and information on several issues. The submission of this information will help determine the scope and content of the proposed rule to phase out certain chlorofluorocarbon uses and will facilitate preparation of necessary environmental and inflation impact statements. The Commissioner has also requested the Council on Environmental Quality to coordinate Federal regulatory activity and to designate a lead agency to prepare the necessary environmental impact statements for a phaseout of chlorofluorocarbons (Ref. 17). The Food and Drug Administration is cooperating with the Council on Environmental Quality and the other Federal agencies having authority to regulate the use of chlorofluorocarbons, i.e., the Environmental Protection Agency and the Consumer Product Safety Commission, to ensure coordination as each acts to implement its separate regulatory responsibilities. The Commissioner encourages manufacturers voluntarily to cease nonessential uses of chlorofluorocarbons in regulated products even in advance of the promulgation of regulations requiring a phaseout.

The Commissioner notes that there will be a passage of time while regulatory action is being considered under the usual procedures for rule making. Sixty days is being provided for comment on this proposal; time will be needed to evaluate the comments; and, any warning requirements adopted will have a delayed effective date. Thus, at a minimum, it will be more than 3 months before warnings are mandatory. Commencement of any phaseout of chlorofluorocarbon uses will be even further off. During this period further research can continue. The Commissioner will take pertinent research results into account as they become available, but he does not intend to delay the initiation of regulatory action to await these results.

Label Warning

The Commissioner is proposing a label warning as a short-term measure that can be implemented promptly pending a phaseout of chlorofluorocarbons used in self-pressurized containers. An appropriate warning statement will encourage self-restraint by consumers and encourage them to find alternative products. This may reduce use of chlorofluorocarbons during the interim period. It will also discourage stockpiling in anticipation of a phaseout. In addition, by singling out those propellants posing the risk, the warning will avert the possibility that consumers will avoid other self-pressurized containers not presenting this hazard because of consumer concern about ozone depletion.

The proposed warning states:

Warning. **Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.**

The description of the way in which the product poses a risk—through ozone depletion in the upper atmosphere—informs the public of the basis of the current concern, and minimizes any possibility that the consumer will believe that the warning refers to risks of harm from direct inhalation of the products.

All self-pressurized containers containing fully halogenated chlorofluorocarbons would be required to bear the proposed warning. The presence of hydrogen or a double bond in a chlorofluorecarbon is believed to make the compound less stable and more likely to decompose in the troposphere (Refs. 1 and 16). Such compounds would thus be less likely to reach the stratosphere, and therefore would pose less of a risk of stratospheric ozone depletion. Thus, self-pressurized containers containing hydrochlorofluorocarbons but no chlorofluorocarbons would not be required to bear the proposed warning. Elsewhere in this issue of the Federal Register, the Commissioner has requested the submission of information about the degree of risk posed by hydrochlorofluorocarbons and other halocarbons.

The proposed warning applies to chlorofluorocarbons 11, 12, and 114, as well as others. Chlorofluorocarbon 114 is used in virtually all fragrances in self-pressurized containers (Ref. 5). The research to date primarily has dealt with chlorofluorocarbons 11 and 12. Chlorofluorocarbon 114 is chemically similar and it possesses none of the factors thus far identified that might make the compound less likely to deplete stratospheric ozone. Because of the similarities of all the fully halogenated chlorofluorocarbons, the Commissioner proposes to treat them the same, unless it is shown that there is a good reason for differentiating among them.

The warning is being proposed for virtually all uses of chlorofluorocarbons in self-pressurized containers because most of such uses are, in the Commissioner's opinion, nonessential. Other means of product delivery exist and/or the products themselves serve only as a convenience, providing no special public benefit that would outweigh the risk posed. The significant uses of chlorofluorocarbon propellants are for hair sprays, deodorants, antiperspirants, fragrances, and pan coatings (Ref. 5). An exemption provided for OTC drugs for human use from the warning requirements has been provided for OTC drugs for human use and medical devices intended for direct inhalation for treatment of bronchial asthma attacks. The presence of the warning statements on the label might confuse consumers and dissuade them from purchasing a product that provides a health benefit. Therefore, further consideration must be given to the availability of suitable alternatives before a warning or a phaseout of these products is initiated.

No warning is being proposed at this time for any prescription drugs or devices in self-pressurized containers using chlorofluorocarbons. An assessment would have to be made with respect to each product as to whether alternative delivery systems exist and whether the health benefit of the product outweighs the added risk from chlorofluorocarbon use. Furthermore, the amount of chlorofluorocarbons used in these products is relatively small (Ref. 5). The Commissioner has requested in the notice of intent to propose rules published elsewhere in this issue of the Federal Register the submission of information relating to whether these uses are essential.

The proposed warning would have to appear on self-pressurized containers that use volatile chlorofluorocarbons. Thus, the warning is applicable to the use of a chlorofluorocarbon in a self-pressurized container as a propellant or any other use that results in its emission as a gas.

The proposal does not exempt products in a container with a physical barrier that prevents escape of the propellant at the time of use. Such an exemption was provided in the case of warning statements about intentional misuse of self-pressurized containers containing hydrocarbons or halocarbons because the barrier prevented the harm to which the warning was directed. The physical barrier would prevent release of chlorofluorocarbon propellants at the time of use, but it would not be effective to prevent ultimate release of the propellant after disposal of the product. Release of the propellant after disposal would ultimately be equally as harmful to stratospheric ozone as a release at the time of use.

The proposed warning statement will be required to appear on the package label in a manner that makes the warning conspicuous at the time of purchase. The warnings need not be present on the label in a way that makes them visible at the time of use. Consumer self-restraint is much more likely to be exercised at the time of purchase rather than at the time of use. Furthermore, if the warning were required at the time of use, implementaiton would require more time and expense and thus cause more disruption.

The warning may appear on any panel visible at the time of purchase and need not necessarily appear on the principal display panel or a specific information panel. The warning could, for example, appear on the top of the cap of the container. If the product is alway sold in an outer package, without being removed, the warning may appear solely on the outer package. The warning may appear on a tag or sticker affixed to the package, or it may appear in overlabeling. The warning must appear in the same $\frac{1}{10}$-inch type size applicable to warning statements for products in pressurized containers.

The Commissioner intends to make the proposed warning statement effective 30 days after issuance of any final regulation resulting from this notice for all products either labeled after or initially introduced into interstate commerce after that date. Because the effective date is applicable both to labeling and initial introduction into interstate commerce after a specific date, the regulation is easier to enforce. It avoids difficult determinations about the initial interstate shipments of particular self-pressurized containers. Finished products in retail

stores or shipped in interstate commerce before the effective date will not have to be recalled or labeled with a warning. Prompt implementation is needed to encourage a reduction in chlorofluorocarbon use as soon as possible. The Commissioner believes it feasible to require speedy implementation because of the wide flexibility permitted in the manner in which the warnings may be incorporated into the package labels.

LEGAL AUTHORITY

The warning statements are being proposed under the Federal Food, Drug, and Cosmetic Act in order to prevent adulteration and avoid misbranding. As propellants, chlorofluorocarbons are ingredients of the products in which they are contained and are components of the products, making them foods, food additives, drugs, cosmetics, and devices, as the case may be, within the definitions found in section 201 of the act. The Commissioner is authorized to take regulatory action with respect to adulteration and misbranding of such products under the applicable provisions of the act.

Substances are adulterated under the act not only if they cause actual injury, but also if the substance "may possibly injure the health" of members of the public. *United States* v. *Lexington Mills Co.*, 232 U.S. 399 (1914). The warning statement is needed to reduce the possibility of harm to the public health and to delineate the conditions of use under which the products may be used with less risk to the public health.

The proposed warning statement would also serve to prevent deception. Section 201(n) of the act requires affirmative disclosures of facts that are material to the consequences of using the product. The representation of the product for use constitutes an inherent implied representation of its safety. Warnings to alert consumers to an important hazard resulting from use of a product are therefore within the scope of section 201(n) of the act. The availability of section 201 (n) to require an explicit warning to prevent injury was upheld in *United States* v. *12 Bottles of Exterex*, (E.D. Mo. 1946), reported in Kleinfeld, V. & C. Dunn, "Federal Food, Drug, and Cosmetic Act, 1938–1949" at 523, 525. The Court there held "there is nothing on the label to indicate that monochloracetic acid is poisonous, and the label does not sufficiently caution the careless, the unthinking or the ignorant of the fact that the said article contains a poisonous, toxic and caustic substance." Furthermore, the chlorofluorocarbon warning statement will enable consumers to distinguish between those products posing a risk and other self-pressurized containers that do not, thus avoiding consumer confusion and unwarranted injury to the manufacturers of the other products.

The authority of FDA under the adulteration and misbranding provisions of the act to require warning labels to prevent injury from possible misuse of the product has recently been sustained. *Cosmetic Toiletry and Fragrance Assn.* v. *Schmidt*, 400 F. Supp. 57 (D.D.C. 1976), appeal pending. Moreover, it has long been recognized that the statute should be interpreted broadly to fulfill its purpose of protecting the public health. As stated by Justice Frankfurter, "The purposes of this legislation thus touch phases of the lives and health of people which, in the circumstances of modern industrialism, are largely beyond self-protection. Regard for those purposes should infuse construction of the legislation if it is to be treated as a working instrument of government and not merely as a collection of English words." *United States* v. *Dotterweich*, 320 U.S. 277 (1943).

The U.S. Department of Justice has taken the position, in an opinion by an Assistant Attorney General, that FDA has the authority under the act to regulate propellants in foods, drugs, and cosmetics with respect to the threat of ozone depletion (Ref. 4 at pages 103 through 109).

This proposal is based also on the authority conferred by the National Environmental Policy Act of 1969 (NEPA). The Commissioner initially was of the view, stated in the FEDERAL REGISTER of April 14, 1975 (40 FR 16662), that NEPA did not provide the agency with independent authority to take regulatory action solely to prevent adverse environmental impacts in the absence of direct or indirect adverse health consequences. This interpretation by the Commissioner was successfully challenged in *Environmental Defense Fund* v. *Mathews*, 410 F. Supp. 336 (D.D.C. 1976). The court there held that NEPA does not supersede the other statutory duties of the agency nor require substantive agency decisions to favor environmental protection over other relevant factors, but does provide supplementary authority to base substantive decisions on all environmental considerations, including those not expressly identified in the agency's basic statutory authority. In the FEDERAL REGISTER of May 28, 1976 (41 FR 21768), the Commissioner revoked his earlier interpretation and stated that the court's decision is consistent with the agency's statutory obligation and should not be appealed.

Accordingly, the Commissioner concludes he has ample legal authority under the act and NEPA to take the proposed action.

In a document published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner has also proposed revised nomenclature to designate chlorofluorocarbon propellants for purposes of cosmetic ingredient labeling. The proposed nomenclature is more descriptive and informative than the existing functional names. The warnings proposed in this document are in addition to the proposed nomenclature change.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed warning by itself will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The warnings will facilitate consumer self-restraint, leading to some decrease in use of chlorofluorocarbon-containing self-pressurized containers. The decline in usage will reduce the risk of adverse health and environmental consequences resulting from stratospheric ozone depletion. Thus, the warnings would have some effect on the human environment. However, the effect is not expected to be substantial enough, or of long enough duration, to affect significantly the quality of the human environment.

It is not known to what degree consumers will voluntarily reduce use because of the warnings, but it is not expected that purchases will cease. Furthermore, the effect of the warnings in reducing use is likely to be temporary, both because consumer self-restraint may not prove to be enduring and because the regulations proposing a phaseout are expected to come into effect within a reasonable time period. The effect of the warnings will be limited, temporary, and subsumed in the overall regulatory action being taken. Thus, by themselves, the proposed warnings will not have a significant environment impact.

Moreover, the interim warning requirement proposed in this document is only the initial step in the agency action to reduce chlorofluorocarbon use in nonessential products. A phaseout of nonessential chlorofluorocarbon uses will be proposed in the near future, and a draft environmental impact statement will be issued when the phaseout is proposed. That statement will consider the overall effect of all the actions to reduce chlorofluorocarbon use. The Commissioner has asked the Council on Environmental Quality to designate a lead agency to prepare the environmental evaluations encompassing the action taken by various agencies to reduce chlorofluorocarbon uses (Ref. 17). A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

REFERENCES

1. Letter dated October 26, 1976 to Dr. Robert Schaffner from J. J. Daly, of E. I. duPont de Nemours & Co.

2. Molina, M. J. and F. S. Rowland, "Stratospheric Sink for Chlorofluoromethanes—Chlorine Atom—Catalyzed Destruction of Ozone," Nature, 249:810–812, June 28, 1974.

3. Wofsey, S. C., et al., "Freon Consumption Implication for Atmospheric Ozone," *Science*, 187:535–537, February 14, 1975.

4. Federal Task Force on Inadvertent Modification of the Stratosphere, "Fluorocarbons and the Environment," Chapter V, June 1975.

5. Klauder, D. S., "Fluorocarbons in Aerosol Products Subject to the Jurisdiction of the Food and Drug Administration," 1976, unpublished staff memorandum.

6. Petition dated July 31, 1975 from Natural Resources Defense Council (NRDC) et al. to the Commissioner of Food and Drugs, Docket No. 75P–0192.

7. Letter dated September 8, 1975 from Alexander M. Schmidt, Commissioner of Food and Drugs, to Thomas B. Stoel, Jr., of NRDC, Docket No. 75P–0192.

8. National Academy of Sciences, Committee on Impacts of Stratospheric Change, "Halocarbons: Environmental Effects of

Chlorofluoromethane Release," 1-1 to 1-10, 8-15, 1976.

9. National Academy of Sciences, Committee on Impacts of Stratospheric Change, Panel on Atmospheric Chemistry, "Halocarbons: Effects on Stratospheric Ozone," 1976.

10. National Academy of Sciences, Climatic Impact Committee, "Environmental Impact Committee, "Environmental Impact of Stratospheric Flight," 41-45, 1975.

11. Memorandum dated September 24, 1976 to Russell W. Peterson, Chairman, Council on Environmental Quality from the Co-chairmen of the Interagency Task Force on Inadvertent Modification of the Atmosphere.

12. Maugh, "The Ozone Layer: The Threat from Aerosol Cans is Real," Science, 194:170-172, October 8, 1976.

13. Petition dated October 26, 1976 from NRDC et al. to the Commissioner of Food and Drugs, Docket No. 76P-0456.

14. Letter dated October 15, 1976 to Ms. Carroll Bastian from F. S. Rowland.

15. PR Notice 76-3 dated October 18, 1976 from United States Environmental Protection Agency, Registration Division, to Producers, Formulators, and Registrants of Pesticides.

16. Arthur D. Little, Inc., "Preliminary Economic Impact Assessment of Possible Regulatory Action to Control Atmospheric Emissions of Selected Halocarbons," prepared for U.S. Environmental Protection Agency, EPA Contract No. 68-02-1349, Task 8, ADL 76072-80, Tables II-3, II-5, III-13, III-15 and pages III-6 to III-11, IV-4, IV-14, 1975.

17. Letter dated October 12, 1976 to Russell W. Peterson, chairman, Council on Environmental Quality, from Alexander M. Schmidt, Commissioner of Food and Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 402, 403, 501, 502, 601, 602, 701(a), 52 Stat. 1041, 1046-1048 as amended, 1049, 1051 as amended, 1054-1055 (21 U.S.C. 321(n), 342, 343, 351, 352, 361, 362, and 371(a))) and the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)), and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes that Chapter I of Title 21 be amended as follows:

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. By adding new paragraph (c) to § 1.13 as follows:

§ 1.13 Food; labeling; warning statements.

* * * * *

(c) *Self-pressurized containers with chlorofluorocarbons.* (1) In addition to the warning required by paragraphs (a) and (b) of this section, the label on each package of a food in a self-pressurized container that contains a volatile fully halogenated chlorofluorocarbon shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(2) The warning required by paragraph (c)(1) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall comply in all other respects with § 1.8d, e.g., type-size requirements.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

Subpart B—Warning and Caution Statements for Drugs

2. By adding to § 369.21 the following new paragraphs at the end of the listing for DRUGS IN DISPENSERS PRESSURIZED BY GASEOUS PROPELLANTS, as follows:

§ 369.21 Drugs; warning and caution statements required by regulations.

* * * * *

DRUGS IN DISPENSERS PRESSURIZED BY GASEOUS PROPELLANTS

* * * * *

In addition to the above warnings, the label on each package of a drug in a self-pressurized container that contains a volatile fully halogenated chlorofluorocarbon shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

This required warning for self-pressurized containers that contain a volatile fully halogenated chlorofluorocarbon shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

The warning for self-pressurized containers that contain a volatile fully halogenated chlorofluorocarbon is not required and should not be used for products intended for direct inhalation for treatment of bronchial asthma attacks.

* * * * *

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 500—GENERAL

Subpart C—Animal Drug Labeling Requirements

3. In Part 500, by adding new § 500.57 to read as follows:

§ 500.57 Warning statements for drugs in self-pressurized containers with chlorofluorocarbon.

(a) The label on each package of a drug in a self-pressurized container that contains a volatile fully halogenated chlorofluorocarbon shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(b) The warning shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

SUBCHAPTER G—COSMETICS

PART 740—COSMETIC PRODUCT WARNING STATEMENTS

Subpart B—Warning Statements

4. By adding a new paragraph (c) to § 740.11 as follows:

§ 740.11 Cosmetics in self-pressurized containers.

* * * * *

(c)(1) In addition to the warnings required by paragraphs (a)(1) and (b)(1) of this section, the label on each package of a cosmetic in a self-pressurized container that contains a volatile fully halogenated chlorofluorocarbon shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(2) The warning required by paragraph (c)(1) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall comply in all other respects with § 740.2, e.g., type-size requirements.

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

Subpart H—Special Requirements for Specific Devices

5. By adding new § 801.425 to Part 801 as follows:

§ 801.425 Nonrestricted devices in self-pressurized containers with chlorofluorocarbon.

(a) The label on each package of a nonrestricted device in a self-pressurized container that contains a volatile fully halogenated chlorofluorocarbon shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(b) The warning required by paragraph (a) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

(c) The warning in paragraph (a) of this section is not required and should not be used for products intended for direct inhalation for treatment of bronchial asthma attacks.

Interested persons may, on or before January 25, 1977, submit to the Hearing Clerk, Food and Drug Administration,

Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 22, 1976.

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

[FR Doc.76–34836 Filed 11–23–76;10:00 am]

[21 CFR Part 701]

[Docket No. 76P–0405]

COSMETIC INGREDIENT LABELING

Establishment of Names of Fluorocarbon (Halocarbon) Propellant Ingredients

The Food and Drug Administration (FDA) proposes to amend the cosmetic ingredient labeling regulations by establishing names for seven fluorocarbon (halocarbon) propellants; the new names are to be used in labeling cosmetics containing one or more of such propellants. These names are more descriptive of the chemical composition and are more informative to consumers than the currently used functional names. A new section is proposed to be added to Part 701 listing the names of ingredients established for cosmetic ingredient labeling. Interested persons have until January 25, 1977 to submit comments on the proposal.

On May 26, 1976, representatives of the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA) met with the FDA Associate Commissioner for Compliance to inquire about the agency's view on changing the nomenclature for seven halocarbon propellants from the functional name "propellant" and the respective number designation, to "chlorofluorocarbon" or, where appropriate, "fluorocarbon" and the number designation (Ref. 1). The CTFA representatives also inquired about a procedure that would make the changes legally mandatory. The change in nomenclature was sought for the cosmetic aerosol products (cosmetics in self-pressurized containers) in order to qualify for an exception from certain labeling requirements for chlorofluorocarbon propellants established by the New York State Department of Environmental Conservation (Refs. 2, 3, and 4). In his letter of May 28, 1976, the Associate Commissioner for Compliance informed the CTFA that the agency would not object to the proposed change of names for the seven halocarbon propellants and that the appropriate way to effect changes in nomenclature for ingredients would be to petition FDA for the name changes in accordance with 21 CFR 2.65 (Ref. 5). Furthermore, it was stated that the agency would not take regulatory action against the use of the proposed nomenclature for these propellants pending action of the Commissioner of Food and Drugs in establishing the new names by regulation.

Because the CTFA had been planning to petition FDA for adoption of the second edition of the CTFA Cosmetic Ingredient Dictionary (CTFA Dictionary), it was suggested that the new names of the seven halocarbon propellants be included in, and adopted with, the new edition of the dictionary.

On June 24, 1976, the CTFA petitioned the Commissioner to amend 21 CFR 701.3(c)(2)(i) to recognize the second edition (1976) of the CTFA Dictionary for the purpose of cosmetic ingredient labeling (Ref. 6). Because of a delay in the timely adoption of the dictionary for reasons unrelated to the nomenclature of the halocarbon propellants, the CTFA requested on September 20, 1976, that the petition to change the nomenclature of the seven halocarbon propellants be handled expeditiously as a separate action. The reason given was that the New York State Environmental Conservation Agency was "awaiting adoption of this nomenclature by the FDA before deeming cosmetic ingredient labeling sufficient to meet the standards of their regulation" (Ref. 7).

In a letter of October 6, 1976, the CTFA amended the petition of September 20 and requested that the three partially halogenated halocarbon propellants, i.e., chlorodifluoromethane, chlorodifluoroethane, and difluoroethane, which were formerly requested to be named "chlorofluorocarbon 22," "chlorofluorocarbon 142 B," and "fluorocarbon 152 A," be identified as "hydrochlorofluorocarbon 22," "hydrochlorocarbon 152A."

Wholly apart from any other reasons to establish new names for halocarbon propellants for the purpose of cosmetic ingredient labeling, the Commissioner agrees that the proposed new names are chemically more descriptive and more informative to consumers of cosmetic aerosol products than the currently used functional names. Accordingly, the Commissioner proposes that the new nomenclature for the seven halocarbon propellants be adopted as petitioned by the CTFA and proposes to amend § 701.3(c)(1) and add a new § 701.30 to accommodate this change in nomenclature. The new § 701.30 would list the names of ingredients established by the Commissioner for the purpose of cosmetic ingredient labeling. The Commissioner advises that the chemical names listed by the petitioner, i.e., dichlorotetrafluoroethane, chlorodifluoroethane, and difluoroethane, which refer to the requested label names chlorofluorocarbon 114, hydrochlorofluorocarbon 142 B, and hydrofluorocarbon 152 A, respectively, are not chemically specific. He therefore has revised these names in proposed new § 701.30 to read 1,2-dichloro-1,1,2,2-tetrafluoroethane 1-chloro-1,1-difluoroethane; and 1,1-difluoroethane, respectively.

Elsewhere in this issue of the FEDERAL REGISTER is a notice of proposed rule making to prescribe a label warning for all food, over-the-counter drug, and cosmetic aerosol products containing fluorocarbon propellants. The proposed label statement would alert consumers that the aerosol product contains a propellant that may harm the public health and environment by reducing ozone in the atmosphere. This warning statement would be required to appear on such products in addition to any required statement of ingredients.

The CTFA petitioned that the notice concerning the proposed change in nomenclature of the seven halocarbon propellants be published in the FEDERAL REGISTER with 30 days for comment. In addition, it requested that effective dates 12 and 18 months from the date of publication in the FEDERAL REGISTER of the final regulation be established after which, respectively, all labels ordered must bear the new ingredient designations, and all products labeled must be in compliance with the regulation.

The Commissioner concludes that a 30-day comment period on the proposed change in nomenclature of halocarbon propellants is insufficient for offering all those interested in this matter the opportunity to respond in a timely manner. The Commissioner, therefore, is specifying a 60-day period for comment.

No factual grounds were provided in support of the request for effective dates of 12 months after publication of the final regulation for ordering of labels in accordance with the new halocarbon propellant nomenclature and 18 months for products labeled to comply with the regulation. A reference made to similar effective dates for the regulation of cosmetic ingredient labeling does not demonstrate that the same amount of time is required to implement this labeling change.

Commissioner concludes that the changes in labeling are minor and may be made immediately. Accordingly, he proposes that the effective date for this proposed regulation be as follows: All labels ordered after 30 days after the date of publication of the final order in the FEDERAL REGISTER and all packages labeled after 6 months after the date of publication of the final order in the FEDERAL REGISTER shall comply with this regulation.

In his letter of May 28, 1976 the Associate Commissioner for Compliance informed the CTFA that, anticipating a timely adoption of the new nomenclature for seven halocarbon propellants proposed by the CTFA at the May 26, 1976 meeting, the agency was not planning to take regulatory action against the use of new names for these propellants pending promulgation of a regulation establishing the new names by the Commissioner. Some cosmetic firms therefore may have proceeded to change the ingredient declartions of their halocarbon-

containing aerosol cosmetics accordingly.

The Commissioner is reaffirming his position on this matter and further adds that he does not plan to take regulatory action aginst using the names first proposed on May 26 for the three partially halogenated halocarbon propellants until the new names are established by regulation. Also, any labeled packages and finished products in inventory on the date of promulgation of the final order establishing teh new names for the three halocarbon propellants in question may be used and introduced into interstate commerce until the existing inventory is depleted.

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

REFERENCES

The following references, cited above in the preamble of this proposal, are available for public examination at the office of the Hearing Clerk, Food and Drug Administration.

1. Memorandum of Meeting of May 26, 1976, between representatives of FDA and CTFA.

2. Official Compilation of Codes, Rules and Regulations, Title 6, Part 249 (Chlorofluorocarbon Compounds) of the State of New York.

3. Decision of April 28, 1976, by Ogden Reid, Commissioner, New York State Department of Environmental Conservation "In the Matter of the Application of the Cosmetic, Toiletry and Fragrance Association, Inc. for a Ruling with Respect to the Applicability of Part 249 (Chlorofluorocarbon Compounds) of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York."

4. Letter of May 11, 1976, from New York State Deputy Commissioner and General Counsel, Department of Environmental Conservation to S.S. Rosdeitcher, Esq., New York, NY.

5. Letter of May 28, 1976, from the Associate Commissioner for Compliance to the President of CTFA.

6. Petition of June 24, 1976 (Docket No. 76P-0284) from CTFA requesting amendment of 21 CFR 701.3(c)(2)(i) to recognize the Second Edition (1976) of the CTFA Cosmetic Ingredient Dictionary.

7. Petition of September 20, 1976 (Docket No. 76P-0405), from CFTA re: "Ingredient Labeling—Chlorofluorocarbon Propellants."

8. Letter of October 6, 1976 from CFTA requesting amendment of petition of September 20, 1976 re: "Ingredient Labeling—Chlorofluorocarbon Propellants."

9. Environmental Impact Analysis Report.

10. Inflation Impact Assessment Report.

Therefore, under the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e)) 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 proposes that Part 701 be amended as follows:

1. By revising § 701.3(c)(1) to read as follows:

* * * * *

§ 701.3 Designation of ingredients.

* * * * *

(c) * * *

(1) The name specified in § 701.30 as established by the Commissioner for that ingredient for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of this section;

* * * * *

2. By adding to Subpart C a new § 701.30 to read as follows:

§ 701.30 Ingredient names established for cosmetic ingredient labeling.

The Commissioner establishes the following names for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of § 701.3:

Chemical name or description	Chemical formula	Established label name
Trichlorofluoromethane	CCl_3F	Chlorofluorocarbon 11.
Trichlorofluoromethane and 0.3 pct nitromethane	$CCl_3F+CH_3NO_2$	Chlorofluorocarbon 11 S.
Dichlorodifluoromethane	CCl_2F_2	Chlorofluorocarbon 12.
Chlorodifluoromethane	$CHClF_2$	Hydrochlorofluorocarbon 22.
1, 2-dichloro-1, 2, 2, 2-tetrafluoroethane	$CClF_2CClF_2$	Chlorofluorocarbon 114.
1-chloro-1, 1-difluoroethane	CH_3CClF_2	Hydrochlorofluorocarbon 142 B.
1, 1-difluoroethane	CH_3CHF_2	Hydrofluorocarbon 152 A.

Interested persons may, on or before January 25, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 22, 1976.

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

[FR Doc.76-34834 Filed 11-23-76;10:00 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 631-4]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Emission Guidelines for the Control of Sulfuric Acid Mist From Existing Sulfuric Acid Production Units

Correction

In FR Doc. 76-32302, appearing at page 48706 in the issue for Thursday, November 4, 1976, the comment period in the second paragraph of the first column on page 48707 should be "January 3, 1977."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

[42 CFR Parts 122 and 124]

PROJECT GRANTS FOR PUBLIC MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

Proposed Rulemaking

On November 16, 1976 (41 FR 50514), the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice stating his intention to propose with several weeks regulations governing grants under section 1625 of the Public Health Service Act (42 U.S.C. 300r), which authorizes the Secretary to make grants to States and political subdivisions of States for medical facility construction and modernization projects designed to (1) eliminate or prevent imminent safety hazards and (2) avoid noncompliance with State or voluntary licensure or accreditation standards. Accordingly, notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary, proposes to revise Title 42 of the Code of Federal Regulations by adding a new Part 124 thereto, as set forth below.

The November 16 notice solicited public comment on several issues involved in implementing the statutory authority. Any comments received in reference to that notice will be considered in conjunction with comments received on the regulations proposed below.

Attention is called to the following features of the proposed regulations:

1. Under § 124.2(r), the term "urban or rural poverty area" has been defined as a census tract, census county division, or minor civil division, as applicable, in which a certain percentage of the residents have incomes below the poverty level (the "area percentage"). Under section 1633(15) of the Act, the area percentage must be one that, when the populations of all areas with poverty pop-

ulations at or above that percentage are aggregated, will yield a total population which is the same percentage of the total population of the United States as the percentage of the United States population with incomes below the poverty level, plus or minus five percent. The statute thus sets up absolute outer limits within which the Secretary may set the area percentage, but gives the Secretary discretion within those limits. Rather than setting a specific area percentage, which would have to be revised as the percentage of the nation's population below the poverty level changed, the Secretary has decided to establish the rule that the area percentage will be as low as the law allows, so that the benefits of being located in an urban or rural poverty area (e.g., eligibility for a grant for over 75 percent of project costs) will be open to as many facilities as possible within the statutory constraints. With regard to the choice of area, census tracts, census county divisions, or minor civil divisions, as applicable were used because they are the most equitable way to target assistance to poverty pockets. A list of the areas so designated will be published in the FEDERAL REGISTER.

2. Section 124.3(b) of the proposed regulations limits eligible projects to ones where the physical problems of the facility for which assistance is sought will result in loss of licensure, loss of eligibility for Medicaid or Medicare reimbursement, or (in the case of projects to eliminate or prevent imminent safety hazards) closing of the facility. This policy reflects the Congressional concern implicit in the statute and explicit in the legislative history that grant funds under section 1625 be targeted to the facilities which most acutely need them.

3. Section 1604(b)(1) of the Act requires that each application under Title XVI contain a finding by the State health planning and development agency designated under section 1521 of the Act that the project is needed. Section 124.4 (c) of the proposed regulations implements this provision by requiring a finding under a certificate of need program under section 1523(a)(4)(B) of the Act; if such program does not exist or is not applicable to the application, a finding under section 1122 of the Social Security Act or a State certificate of need law; if such programs do not exist in the State or are not applicable to the application, the State Agency must make a separate finding of need using the criteria established under section 1122. The regulation thus attempts to utilize the existing or projected planning mechanisms of the States and is consistent with the general Congressional concern expressed throughout the legislative history of Title XVI that Federal funds not be used to support medical facility construction which is not needed.

4. Under section 1604(b)(1)(J) of the Act, applicants are required to give an assurance that they will provide a reasonable volume of services to persons unable to pay and a community service. The present requirements applicable under similar statutory provisions under Title VI of the Act are being made applicable until such requirements are revised pursuant to section 1602(6) of the Act.

5. Under § 124.5 of the proposed regulations, the Secretary will make grants to applicants with approvable applications on the basis of their relative standing with respect to certain factors (e.g., financial need, need of the population for the services, the extent to which the projects will serve persons below the poverty level). Where two applicants are ranked the same and cannot both be funded, priority for funding shall be based on the extent to which services will be made available relative to the cost of the project.

6. As the November 16 notice pointed out, grants under section 1625 may not be made unless applications therefore have been reviewed by health systems agencies in accordance with section 1513(e) of the Act. Since 42 CFR 122.106(c) prohibits those agencies from conducting such reviews during their first year of conditional designation or until they have health systems plans and annual implementation plans, section 1625 cannot be implemented unless § 122.106(c) is appropriately revised. Item 2 below proposes such a revision.

Applications for grants under section 1625 may be submitted based on the proposed regulations. However, grants will be made based on the final regulations. Thus, applications may have to be revised to reflect the changes in the final regulations. Information concerning applying for a grant under section 1625 may be obtained from:

Director, Division of Facilities Development, NIH Mailroom, Federal Building, Room 416, 9000 Rockville Pike, Bethesda, Maryland 20014.

Applications for funds from the appropriation for fiscal year 1976 must be submitted to the above address on or before January 25, 1977.

Interested persons are invited to submit in writing comments, suggestions or objections to the proposed regulations on or before December 27, 1976.

Director, Bureau of Health Planning & Resources Development, Health Resources Administration, 5600 Fishers Lane, Room 11-05, Rockville, Maryland 20857.

All comments, suggestions and objections timely received will be considered and will be available for public inspection at the above address during regular business hours.

In consideration of the foregoing, it is therefore proposed to amend Title 42 of the Code of Federal Regulations as set out below.

The Secretary has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB circular A-107.

Dated: November 22, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: November 23, 1976.

MARJORIE LYNCH,
Acting Secretary.

1. Paragraph (c) of 42 CFR 122.106 is amended to read as follows:

§ 122.106 Conditional designation agreements.

* * * * *

(c) During the period of conditional designation the number and types of requirements and functions may, in accordance with paragraph (b) of this section, be progressively increased as the agency, in the judgment of the Secretary, becomes capable of added responsibility: *Provided,* That (1) an agency may not perform the functions described in § 122.107(c) (15) or (17) (except for the review and approval or disapproval of applications for assistance under section 1625 of the Act) during the first year of conditional designation, and may not in any event perform the functions described in § 122.107(c) (15) and (17) (except for the review and approval or disapproval of applications for assistance under section 1625 of the Act) until such agency has established a health systems plan in accordance with section 1513(b)(2) and (3) of the Act and the Secretary has in writing authorized the agency to perform such functions; and (2) an agency may not perform the function described in § 122.107(c)(9) during any period of conditional designation.

* * * * *

(Sec. 215, Public Health Service Act (42 U.S.C. 216).)

2. Title 42, Code of Federal Regulations, is amended by adding a new Part 124 as set forth below:

PART 124—PROJECT GRANTS FOR PUBLIC MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

Sec.

AUTHORITY: Secs. 215, 1602, 1625, Public Health Service Act (42 U.S.C. 216, 300o-1, 300r).

§ 124.1 Applicability.

The regulations of this Part are applicable to grants under section 1625 of the Public Health Service Act for construction or modernization projects designed to—

(a) Eliminate or prevent imminent safety hazards as defined by Federal, State or local fire, building, or life safety codes or regulations, or

(b) Avoid noncompliance with State or voluntary licensure or accreditation standards.

§ 124.2 Definitions.

As used in this Part:—

(a) "Act means the Public Health Service Act, as amended.

(b) "Construction" means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings. It includes architect's fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(c) "Cost" means the amount found by the Secretary to be necessary for construction or modernization under a project, except that such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(d) "Equipment" means those items which are necessary for the functioning of the facility but does not include items of current operating expense such as food, fuel, pharmaceuticals, dressings, paper, printed forms, and housekeeping supplies.

(e) "Facility for long-term care" means a facility (including a skilled nursing care or intermediate care facility), providing inpatient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services.

(1) Which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(2) In which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(f) "Health systems agency" means an agency which has been conditionally or fully designated pursuant to section 1515 of the Act and 42 CFR Part 122.

(g) "Hospital" includes general, tuberculosis, and other types of hospitals, and related facilities such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and education or training facilities for health professional personnel operated as an integral part of a hospital, but does not include any facility furnishing primarily domiciliary care.

(h) "Major repair" means those repairs to an existing building, excluding routine maintenance, which restore the building to a sound state, the cost of which is at least 10 percent of plant value or $200,000, whichever is greater.

(i) "Medical facility" means a hospital, public health center, outpatient medical facility, rehabilitation facility for long-term care.

(j) "Modernization" means the alteration, expansion (excluding expansion which increases bed capacity), major repair, remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings, including energy conservation projects.

(k) "Outpatient medical facility" means a facility, located in or apart from a hospital, for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients):

(1) Which is operated in connection with a hospital, or

(2) In which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State, or

(3) Which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full range of diagnostic and treatment services.

(l) "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(m) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical evaluation and services, and psychological, social, or vocational evaluation and services, under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or 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.

(n) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(o) "State" means any one of the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(p) "State health planning and development agency" or "State Agency" means the agency of a State government which has been conditionally or fully designated under section 1521 of the Act and 42 CFR Part 123.

(q) "Title" means a fee simple, or such other estate or interest in the project site (including a leasehold on which the rental does not exceed 4 percent of the value of the land) as the Secretary finds sufficient to assure undisturbed use and possession for the purpose of construction or modernization and operation of the project for a period of not less than twenty years.

(r) "Urban or rural poverty area" means a census tract, census county division, or minor civil division, as applicable, in which a percentage (which is at least the percentage determined in accordance with the following sentence) of the residents have incomes below the poverty level, as defined by the Secretary of Commerce. The percentage referred to in the preceding sentence shall be derived so that the total population of such areas as a percent of the population of the United States is equal to the total population of the United States with incomes below such poverty level, as a percent of the total population of the United States, plus five percent.

§ 124.3 Eligibility.

(a) *Eligible applicants.* A grant under section 1625 may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation for a project described in paragraph (b) of this section for a medical facility owned, operated, or owned and operated by the State or political subdivsion.

(b) *Eligible project.* A grant under section 1625 may be made only for a construction or modernization project designed to:

(1) Eliminate or prevent safety hazards which under Federal, State, and/or local fire, building or life safety codes or regulations, will, in the judgment of the Secretary, result in one or more of the following:

(i) Loss of licensure for the facility,

(ii) Closing of all or a substantial part of the facility,

(iii) Loss of eligibility for reimbursement under Title XVIII or Title XIX of the Social Security Act; or

(2) Avoid noncompliance with State licensure or voluntary accreditation standards where noncompliance will, in the judgment of the Secretary, result in one or both of the following:

(i) Loss of licensure for the facility,

(ii) Loss of accreditation resulting in loss of eligibility for reimbursement under Title XVIII or Title XIX of the Social Security Act.

§ 124.4 Application.

An application for a grant under this Part shall be submitted directly to the Secretary at such time and in such form and manner as the Secretary may prescribe. The application shall be executed by an individual authorized to act for the applicant and assume on behalf of the applicant the obligations imposed by the Act, this Part, and the term and conditions of the grant. The application shall contain the following:

(a) A description of the site of the project.

(b) A full description, with all appropriate documentation, of:

(1) The imminent safety hazards, licensure and/or accreditation problems of the facility;

(2) The type and amount of assistance sought under this Part;

(3) The construction or modernization project for which funds are sought, de-

scribing how it will remedy the problems described pursuant to paragraph (b)(1) of this section, with a complete schedule for the proposed construction or modernization; and

(4) How failure to remedy the problems described pursuant to pargaraph (b)(1) of this section will affect the population served by the facility.

(c) In the case of a construction project, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project or, in the case of a modernization project for continuation of existing health services, a finding by the State Agency of continued need for such health services. The finding shall be one of the following:

(1) Where the State has a certificate of need program which has been found by the Secretary to be satisfactory pursuant to section 1523(a)(4)(B) of the Act, a currently effective certificate of need granted by the State Agency under such program or, where the State certificate of need program under section 1523(a)(4)(B) is conducted by another agency of the State in accordance with section 1523(b)(1) of the Act, a currently effective certificate of need from such other agency which is adopted by the State Agency.

(2) Where the State does not have the program described in paragraph (c)(1) of this section or review under such program is not required, either—

(i) A currently effective finding under section 1122 of the Social Security Act by the State Agency, where the State Agency is the planning agency designated under such section, that the project is in conformity with the applicable standards, criteria and plans; or, where the planning agency designated under section 1122 is not the State Agency, such a finding by the designated planning agency which is adopted by the State Agency; or

(ii) A currently effective certificate of need from the State Agency pursuant to a State certificate of need law; or, where such certificate of need from such other agency which is adopted by the State Agency.

(3) Where the State does not have any of the programs described in paragraphs (c)(1) and (2) of this section or review under such programs is not required, a currently effective finding of need by the State Agency, utilizing the criteria set out at 42 CFR 100.107.

(d) Plans and specifications which meet the applicable requirements of 42 CFR 53.101, with the functional program of requirements on which such plans and specifications are based.

(e) An assurance that adequate financial support will be available for completion of the project, supported by a detailed project budget satisfactory to the Secretary which includes all existing and anticipated sources of funds for the project.

(f) An assurance that adequate financial support will be available for maintenance and operation of the project when completed, supported by budgets and detailed expenditure and revenue information satisfactory to the Secretary for both the facility and the applicant for the past three fiscal years and budgets and projections of expenditures and revenue for the future three fiscal years.

(g) An assurance that the applicant would not be able to complete the project without the grant applied for, supported by a description of all efforts to obtain funds needed to complete the project and the results of such efforts.

(h) An assurance that at all times after the application is approved there will be made available in the facility or portion thereof to be constructed or modernized, a reasonable volume of services to persons unable to pay therefor. The applicant shall comply with the standards and procedures of 42 CFR 53.111, except as the Secretary may prescribe pursuant to section 1602(6) of the Act. The functions of the State Agency designated under section 604 of the Act under 42 CFR 53.111 will be performed by the Secretary, except to the extent they are otherwise assigned.

(i) An assurance that at all times after the application is approved the facility or portion thereof to be constructed or modernized will be made available to all persons residing or employed in the area served by the facility. The applicant shall comply with the standards and procedures of 42 CFR 53.113, except as the Secretary may prescribe pursuant to section 1602(6) of the Act. The functions of the State Agency designated under section 604 of the Act under 42 CFR 53.113 will be performed by the Secretary, except to the extent they are otherwise assigned.

(j) An assurance that title to the project site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project, with such documentation as the Secretary may require.

(k) In the case of an application for construction or modernization of an outpatient medical facility, an assurance, supported by a written transfer agreement (or written documentation that such agreement will be obtained) with identified hospitals, that the services of a general hospital will be available to patients at such facility who are in need of hospital care.

(l) Evidence that—

(1) The appropriate health systems agency has been given the opportunity to review the application in accordance with section 1513(e) of the Act, with the result of any such review.

(2) The application has been reviewed in accordance with the applicable requirements of OMB Circular A-95.

(m) An analysis satisfactory to the Secretary and such other information and materials as the Secretary may require concerning the environmental impact of the proposed construction or modernization project.

(n) An assessment satisfactory to the Secretary of the project site in light of the considerations set forth in Executive Order 11296 (31 FR 10663, August 10, 1966) concerning the evaluation of flood hazards in locating Federally supported facilities.

(o) In the case of a project which involves the displacement of persons or businesses, an assurance that the applicant will comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(p)(1) An assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and

(2) An assurance that the following conditions and provisions will be included in all construction contracts:

(i) The provisions of "DHEW Requirements for Federally Assisted Construction Contracts Regarding Labor Standards and Equal Employment Opportunity," Form DHEW 514 (rev. July 1976) (issued by the Office of Grants and Procurement Management, U.S. Department of Health, Education, and Welfare) pertaining to the Davis-Bacon Act, the Contract Work Hours Standards Act, and the Copeland Act (Anti-Kickback) regulations except in the case of contracts in the amount of $2,000 or less; and pertaining to Executive Order 11246, September 24, 1965 (30 FR 12319), relating to nondiscrimination in construction contract employment except in the case of contracts in the amount of $10,000 or less, and

(ii) Representatives of the Secretary will have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(q) Such other information as the Secretary may require.

§ 124.5 Grant evaluation and award.

(a)(1) Within the limits of funds available for such purpose, the Secretary may award grants under this Part for project costs to applicants with approvable applications therefor which will, in his judgment, best promote the purposes of section 1625 of the Act, taking into consideration—

(i) The severity and seriousness of the safety hazard, licensure or accreditation problem or problems.

(ii) The relative need of the population to be served for the services to be provided, including the availability of alternatives for meeting the need.

(iii) The financial need of the applicant.

(iv) The extent to which the facility will serve persons below the poverty level, as determined by the Secretary of Commerce.

(v) The extent to which the project will decrease the costs of health services for the population served by the applicant.

(2) Priority for funding shall be based on the extent to which services will be made available relative to the cost of the project.

(b) The amount of any grant under this Part may not exceed 75 percent of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may, as determined by the Secretary, cover up to 100 percent of such costs.

§ 124.6 Grant payments.

(a) Except where the Secretary determines that extreme financial hardship warrants payment on a monthly basis, grant payments will be made to the applicant when construction of the project has reached the following stages of completion: 10%, 25%, 50%, 75%, 95%, 100%. The initial payment may include expenditures for eligible preconstruction costs.

(b) Each payment request must be made using a form prescribed by the Secretary and must be accompanied by certification from the project architect verifying the amount of construction completed at that time. In addition, the final payment will also be based upon an on-site inspection, conducted by a Department of Health, Education, and Welfare representative. Additional site visits may be made before or after completion of construction as the Secretary deems appropriate.

§ 124.7 Use of grant funds.

Any funds granted pursuant to this part, as well as funds assured by the applicant for the project, shall be expended solely for carrying out the approved project in accordance with section 1625 of the Act, the regulations of this Part, the terms and conditions of the grant award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

§ 124.8 Grantee accountability.

(a) *Records requirements.* (1) Applicants who have received Federal assistance under this part shall maintain, in accounting records which are separate from the records of all other funds, records which fully disclose the following:

(i) The amount of all payments received from the Secretary under this part,

(ii) Amounts and sources of all funds, in addition to funds received under this part, applied to the construction or modernization project funded under this Part,

(iii) Disposition of all funds for the construction or modernization project funded under this Part,

(iv) Total cost of the project approved under this Part; and

(2) Upon request, applicants shall make such records, books, papers, or other documents available to the Secretary and the Comptroller General of the United States or any of their duly authorized representatives which, in their opinion, may be related or pertinent to the grant under this Part.

(b) *Annual financial statement.* An applicant who receives grant assistance under this Part shall, not later than 90 days after the end of its fiscal year, unless a longer period is approved by the Secretary for good cause shown, file an annual financial statement which meets the requirements of section 1634 of the Act.

§ 124.9 Non-discrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in that particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(c) All portions and services of the entire facility for the construction or modernization of which, or in connection with which aid under the Act is sought must be made available without discrimination on account of creed and the applicant may not discriminate against any qualified person on account of creed with respect to the privilege of professional practice in the facility.

(d) Attention is also called to the requirements of Title IX of the Education amendments of 1972 and in particular to section 901 of such Act (20 U.S.C. 1681) which provides that no person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance (45 CFR Part 86).

(e) Each construction contract is subject to the condition that the applicant shall comply with the requirements of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, which provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism by any private or public general hospital that receives support in any form from any federally funded program.

(f) Each construction contract is subject to the condition that the applicant shall comply with the requirements of section 407 of the Drug Abuse Office and Treatment Act of 1972, as amended, which provides that drug abusers who are suffering from medical conditions shall not be discriminated against because of their drug abuse or drug dependence, by any private or public general hospital that receives support in any form from any federally funded program.

§ 124.10 Additional conditions.

The Secretary may impose additional conditions prior to or at the time of any grant award when in the Secretary's judgment such conditions are necessary to assure or protect advancement of the project in accordance with the purposes of the Act and the regulations of this Part or the conservation of grant funds.

§ 124.11 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this Part to State and local governments as those terms are defined in Subpart A of that Part 74, except to the extent inconsistent with this Part. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this Part.

45 CFR PART 74

Subpart:
- A General
- B Cash depositories
- C Bonding and insurance
- F Grant-related income
- G Matching and cost sharing
- L Budget revision procedures
- M Grant closeout, suspension, and termination
- O Property
- P Procurement standards
- Q Cost principles

[FR Doc.76-34989 Filed 11-24-76;8:45 am]

Materials Transportation Bureau

[49 CFR Parts 172, 173, 174, 176, 177]

[Docket No. HM-143; Notice No. 76-11]

BLASTING AGENTS

Proposed Rule Making

Purpose. The purpose of this notice of proposed rulemaking is to propose the following amendments to Parts 172, 173, 174, and 176 of the Department's Hazardous Materials Regulations:

1. Remove the shipping name Nitro carbo nitrate;

2. Add a new shipping name, Blasting agent, n.o.s. and a new class, Blasting agent;

3. Provide packagings for Blasting agents; and

4. Provide a new label and a new placard for Blasting agents.

The Department of Transportation's Hazardous Materials Regulations do not now include a definition of a blasting agent. A material used for blasting must be classified as one of three classes—Class A explosive, Class B explosive, or Oxidizer (nitro carbo nitrate). Neither the Class B explosive nor the Oxidizer classification is appropriate for many blasting agents.

On April 19, 1972, the Institute of Makers of Explosives petitioned the then

Hazardous Materials Regulations Board to create a new hazard class called "Blasting Agents."

The inclusion of a blasting agent description and hazard class will contribute to increased safety in transportation because some materials now shipped as nitro carbo nitrates (oxidizing materials) also present a potential explosive hazard.

Both the Mining Enforcement and Safety Administration (MESA) and the Bureau of Alcohol, Tobacco, and Firearms (BATF) publish definitions of blasting agents. MESA bases its storage requirements on the classification of an explosive as determined by this Department. Many materials used for blasting which would be considered blasting agents by MESA and BATF must be classed as Class B explosives under the DOT regulations. MESA requires magazine storage for DOT Class B explosives, but does not require magazine storage for materials identified as blasting agents.

In an effort to resolve these problems and to bring the DOT regulations into closer conformity with the regulations of MESA and BATF, the Materials Transportation Bureau (MTB) is proposing to incorporate a definition of a blasting agent into the DOT regulations. This definition is essentially the same as the statutory definition in the explosives laws administered by BATF (18 U.S.C., Section 841(e)) with certain additions which MTB considers necessary to achieve an acceptable level of safety in transportation.

The MTB considers blasting agents to be very insensitive explosives and is proposing that they be subject to the requirements of Section 173.86 which prescribes shipping requirements for new explosives. The MTB is also proposing a blasting agent label and placard.

Blasting agents would not be subject to specification packaging requirements. In addition, the MTB is proposing to delete the description, nitro carbo nitrate, from the regulations since all materials now so described would be included in the Blasting agent, n.o.s. description. A reasonable time would be provided for the change in the description of those materials now identified as nitro carbo nitrates to be revised to the blasting agent description.

The proposal requires more tests and spells out more detailed testing than are now required for Class A and Class B explosives because;

1. The packaging requirements for blasing agents are less restrictive than those for Class A and Class B explosives and, therefore, additional testing is considered necessary to clearly establish the basis for regarding a particular substance as a blasting agent; and

2. The Materials Transportation Bureau regulatory plan includes several changes such as rewriting the present explosive regulations. Some of the tests required for blasting agents (and possibly other tests not delineated here) could be incorporated in the proposed regulations. It is desirable to publish a blasting agent definition as expeditiously as possible, since the complete revision of the explosive section will be published in a future notice of proposed rulemaking.

The 212° F. temperature specified in the differential thermal analysis test is not found in any of the present regulations. It was chosen because many blasting agents contain appreciable quantities of water which can be affected at or above this temperature.

In consideration of the foregoing, it is proposed to amend Parts 172, 173, 174, and 176 of Title 49 as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In Part 172 Table of Sections, § 172.411 would be revised; § 172.523 would be redesignated § 172.524 and a new § 172.523 would be added to read as follows:

Sec.
172.411 Explosive A, Explosive B, Explosive C, and Blasting Agent labels.
172.523 Explosives B placard.
172.524 Blasting Agents placard.

2. Section 172.101 would be amended by deleting the entry "nitro carbo nitrate" and adding "Blasting agent, n.o.s." to read as follows:

§ 172.101 Hazardous Materials Table.

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in 1 package		Water shipments		
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add) blasting agent, n.o.s..	Blasting agent..	Blasting agent..	None.....	173.96	Forbidden.....	110 lb.....	1,2	1,2	.....

3. In § 172.411 the Heading would be revised and new paragraphs (c) and (d) would be added to read as follows:

§ 172.411 Explosive A, Explosive B, Explosive C, and Blasting Agent labels.

* * * * *

(c) Except for size and color, the BLASTING AGENT label must be as follows:

(d) In addition to complying with § 172.407, the BLASTING AGENT label must be orange. The printing must be black.

4. Section 172.524 would be redesignated to read "§ 172.523" and a new § 172.524 would be added to read as follows:

§ 172.524 Blasting Agents placard.

(a) Except for size and color, the BLASTING AGENTS placard must be as follows:

(b) In addition to meeting the requirements of this part, the BLASTING AGENTS placard must be orange with a ½-inch (12.7 mm) white outer border. The printing must be black.

Appendix B [Amended]

5. Appendix B to Part 172 would be amended by adding a new paragraph (c) (19) to read as follows:

(c) * * *

(19) *BLASTING AGENTS placard.* The words BLASTING AGENTS must be across the center area of the placard and made with letters 1⅞ inches (47.6 mm.) high with a 5/16-inch (7.9 mm.) stroke.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. In Part 173 Table of Sections, § 173.86 would be revised; § 173.96 would be added to read as follows:

Sec.
173.86 New explosives (including blasting agent), definition; approval and notification.
173.96 Blasting agents.

7. Section 173.86 Heading would be revised to read as follows:

§ 173.86 New explosives (including blasting agent), definitions; approval and notification.

* * * * *

8. Section 173.96 would be added to read as follows:

§ 173.96 Blasting agents.

(a) *Definition of a blasting agent.* A blasting agent is a material which has been tested in accordance with paragraph (b) of this section and as a result found to be so insensitive that there is very little probability of initiation to explosion or of transition from burning to detonation under conditions incident to transportation and which is primarily intended for use in mining activities as described in Division B of the 1972 edition of the Standard Industrial Classification Manual.

(b) *Tests.* Materials which are to be described as Blasting agents, n.o.s. for purposes of transportation, must be tested in accordance with this paragraph. Interpretations of the test results are provided in the test procedures.

(1) *Blasting cap sensitivity test.* (i) The container used for the blasting agent sample must be cylindrical, having a diameter of 3⅜ inches and a length of 6⅜ inches. The container must provide essentially no confinement.

(ii) A hole ⅜-inch in diameter shall be punched through the sidewall of the container ½-inch above the bottom closure.

(iii) A 3-foot length of detonating cord (50 grains of PETN per foot) must be inserted through the hole so that one end touches the wall of the container diametrically opposite the hole.

(iv) The container must be filled with the sample. Solid materials must be packed to the same filling density as they will be packed in the shipping container. The temperature of the sample must be between 70° F. and 75° F.

(v) The filled container must be placed on a level earthen surface with the protruding end of the detonating cord "telltale" laid out flat.

(vi) A commercial No. 8 fuse blasting cap (electric blasting cap) must be inserted in the center of the top of the sample for the full length of the cap. A No. 8 commercial cap means a cap which contains 0.40–0.45 grams of PETN base charge pressed into an aluminum shell with bottom thickness not to exceed 0.03-inch to a specific gravity of not less than 1.4g/cc and primed with standard weights of primer depending on the manufacturer.

(vii) Detonation of the sample is indicated by the detonation of the detonating cord "telltale".

(viii) The test must be conducted three times or until detonation occurs, whichever comes first.

(ix) A material which detonates in any trial may not be described as Blasting agent, n.o.s. for purposes of transportation.

(2) *Rifle bullet sensitivity test.* (i) The container used for the blasting agent sample must be cylindrical, having a diameter of 3⅞ inches and a length of 3 inches. The container must provide essentially no confinement. A mild steel plate 4 inches square x ½-inch thick must be affixed to one end of the container.

(ii) The container must be filled with the blasting agent under test. Solid materials must be packed to the same filling density as they will be packed in the shipping containers. The temperature of the sample must be between 70° F. and 75° F.

(iii) The open end of the filled container must be covered with a material which presents essentially no resistance to the passage of the bullet.

(iv) The filled container must be placed in a horizontal position with the plane of the cover normal to the trajectory of the bullet and facing the rifle.

(v) The test bullet must be fired through the 3-inch column of blasting agent as near the center as practicable and so that it impacts or penetrates the steel plate after passing through the sample. The bullet used must weigh at least 48 grains and be propelled at a muzzle velocity of at least 2700 feet per second. The muzzle of the rifle must be located not more than 100 feet from the cover of the sample container.

(vi) Detonation of the sample is indicated by sound and by damage to the steel plate in excess of that caused by the bullet.

(vii) The test must be conducted three times or until detonation occurs, whichever comes first.

(viii) A material which detonates in any trial may not be described as Blasting agent, n.o.s., for purposes of transportation.

(3) *Differential thermal analysis test.* (i) This test must be conducted using a standard, commercially produced, differential thermal analysis instrument or a laboratory-constructed apparatus which gives comparable results.

(ii) Care must be taken to insure that the portion of the blasting agent tested is representative of the complete mixture.

(iii) The test must be conducted three times. If the first exotherm exhibited by the material in any trial is less than 212° F., it may not be described as a Blasting agent n.o.s., for purposes of transportation.

(4) *Thermal stability test.* (i) At least 500 grams of the material must be placed in a loosely covered glass vessel and maintained at 167° F. for 48 consecutive hours.

(ii) A material which ignites or evidences decomposition by fumes, discoloration, or other characteristics may not be described as Blasting agent, n.o.s., for purposes of transportation.

(5) *Spark sensitivity test.* (i) The apparatus must be designed so that an electrostatic spark can be caused to jump from a pointed electrode to a metal plate which also serves as a sample holder.

(ii) Ten milligrams of material must be used for each test. Care must be taken to assure that the sample is representative of the material being tested.

(iii) Ignition must be evidenced by the material flaming, smoldering, or glowing from the spark.

(iv) The test must be conducted three times or until ignition occurs, whichever comes first.

(v) A material which ignites in any trial when exposed to a spark of 0.006 joules delivered from a 0.002 to 0.004 micro-farad capacitor may not be described as a Blasting agent, n.o.s., for purposes of transportation.

(6) *Impact sensitivity test.* (i) Impact tests must be conducted in the Bureau of Explosives Impact Tester.

(ii) The tests must be run on ten milligram samples. Care must be taken to assure that the test portions are representative of the material being tested.

(iii) The drop height used in all trials must be ten inches.

(iv) The test must be conducted ten times or until an explosion occurs, whichever comes first. An explosion is evidenced by flame or flame and noise. The production of smoke alone is evidence of decomposition, but not explosion.

(v) A material which explodes in any trial may not be described as Blasting agent, n.o.s., for purposes of transportation.

(7) *Fire test.* (i) The largest package of each type to be offered for transportation must be placed on incombustible supports and subjected to a fire.

(ii) The fuel used may be kerosene-soaked wood, flammable or combustible liquid, or flammable gas.

(iii) The fire shall be large enough to engulf the bottom of the package. The flames must reach at least half way up on all sides.

(iv) The duration of the fire must be such as to cause the material in the package to burn or fume off completely.

(v) Explosion is evidenced by a loud noise and the projection of fragments from the fire area.

(vi) This test must be conducted at least once.

(vii) Any material which explodes in this test may not be described as Blasting agent, n.o.s., for purposes of transportation.

(8) *Card gap test.* (i) A card gap test must be run as described in paragraph 3–12 of "Explosive Hazard Classification Procedures" contained in DOD TB 700–2 (May 19, 1967), (NAVORDINST 8020.3 to 11A–1–47, DSAR 8220.1).

(ii) This test must be conducted three times or until detonation occurs, whichever occurs first.

(iii) Any material which detonates with a gap of more than 70 cards may not be described as Blasting agent, n.o.s., for purposes of transportation.

(c) *Packaging for blasting agents.* (1) Each package of blasting agents when prepared for shipment must comply with the applicable requirements of § 173.24 and ass one of the following tests:

(i) Rigid packages (e.g., boxes and drums), prepared as for shipment, must be capable of withstanding a four-foot drop onto solid concrete so as to strike

the most vulnerable point on the package without rupture or any loss of contents.

(ii) Non-rigid packages (e.g., tubes and bags), prepared as for shipment, must be capable of withstanding three four-foot drops into solid concrete without rupture or any loss of contents.

(2) Blasting agents shall not be transported in portable tanks, cargo tanks, tank cars, or compressed gas cylinders.

(d) See §§ 174.81, 176.80, and 177.848 of this subchapter for loading requirements.

§ 173.182 [Amended]

9. In § 173.182 paragraph (a) would be amended by deleting "nitro carbo nitrate (see Note 1)" in the fourth and fifth lines from the end of the paragraph; Note 1 and paragraph (c) would be deleted.

PART 174—CARRIAGE BY RAIL

§ 174.81 [Amended]

10. In § 174.81(a) Table would be amended by adding "Blasting agent" as the last entry under Class B Explosives and placing an "X" in the columns headed, "Initiating and primary explosives," and "Fireworks, special or railway torpedoes." Note e following the table would be amended by striking the words "nitrocarbonitrate or" in the first line.

PART 176—CARRIAGE BY VESSEL

11. In Part 176 Table of Sections, Subpart J Heading and §§ 176.410 and 176.415 would be revised to read as follows:

Subpart J—Detailed Requirements for Flammable Solids, Oxidizers, Organic Peroxides, and Blasting Agents

Sec.

176.410 Blasting agents and ammonium nitrates.

176.415 Permit requirements for blasting agents and certain ammonium nitrates.

12. Section 176.83(a) Table would be amended by redesignating numbers "11 through 16" as "12 through 17" and adding a new number 11 to read as follows:

11 Blasting agents

An "X" would be added in column 3 and 10 opposite entry number 11.

13. Subpart J Heading would be revised to read as follows:

Subpart J—Detailed Requirements for Flammable Solids, Oxidizers, Organic Peroxides, and Blasting Agents

14. Section 176.410 Heading and paragraph (a)(1) would be revised; the introductory text of paragraphs (c), (d), and (e) and paragraph (e)(1) would be amended by deleting the words "nitro carbo nitrate" and adding "blasting agents" in place thereof:

§ 176.410 Blasting agents and ammonium nitrates.

(a) * * *

(1) Blasting agents.

* * * * *

15. Section 176.415 Heading would be revised; paragraphs (a)(2), (c)(1) and (c)(2) would be amended by deleting "nitro carbo nitrate" and inserting "blasting agents" in place thereof:

§ 176.415 Permit requirements for blasting agents and certain ammonium nitrates.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§ 177.848 [Amended]

16. Section 177.848(a) Table would be amended by adding "Blasting agents" as the last entry under Class B Explosives and placing an "X" in the columns headed, "Initiating and primary explosives * * *," and "Fireworks, special or railway torpedoes." Note e following the table would be amended by striking the words "nitro carbo nitrate or" in the first line.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and be submitted to the Docket Clerk, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Communications received on or before March 25, 1977, will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of Hazards Materials Operations, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C., both before and after the closing date for comments.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB circular A-107.

Issued in Washington, D.C., on November 16, 1976.

DR. C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-34554 Filed 11-23-76;8:45 am]

[49 CFR Part 173]

[Docket No. HM-142]

ETIOLOGIC AGENTS

Advance Notice of Proposed Rule Making

The Materials Transportation Bureau (MTB) is considering amending 49 CFR Part 173, as it applies to the transportation of etiologic agents, to extend the coverage of those regulations to a number of presently excluded substances.

The Hazardous Materials Transportation Act calls for a regulatory program applicable to materials which, when transported in commerce, pose an unreasonable risk to health, safety, or to property. However, under present MTB regulations, only those etiologic agents known to be hazardous to humans are regulated. In addition, although they are subject to certain regulatory requirements of Department of Health, Education, and Welfare, cultures of etiologic agents in quantities of 50 milliliters or less, diagnostic specimens, and biological products are also excluded from the MTB's regulations governing the transportation of hazardous materials. The MTB is concerned that these gaps in its present regulatory scheme may be leaving unaddressed some rather substantial risks associated with the transportation of many of those excluded etiologic agents. To provide the MTB with a more comprehensive basis for a future proposal to amend the regulations, the MTB request comments on the following specific areas of interest:

1. DEFINITION OF ETIOLOGIC AGENT

(a) Is the definition of etiologic agent given in 49 CFR 173.386 adequate?

(b) Should the definition be expanded to include agents which are harmful to plants and animals?

(c) Should the definition be expanded to include biological materials (such as recombinant DNA) used in or derived from genetic studies?

2. EXCEPTIONS

(a) Should etiologic agents in quantities of 50 milliliters or less (per outside packaging) be further regulated by the MTB as to packaging, marking, and labeling?

(b) Should the MTB, when determining the quantity of etiologic agent below which regulation is unnecessary, use a system which takes into account the potency, i.e., the toxigenicity or virility of the agent (similar to the system used for poisons)?

(c) Should the MTB establish more specific regulatory requirements for diagnostic specimens and what should these be?

3. LABELING REQUIREMENTS

(a) Should a small size label, consistent with the general label format for other hazardous materials, be adopted to accommodate use of small packages for etiologic agents?

(b) Alternately, should a minimum package or overpack size be established to enhance safety by making it less likely for the package to become lost during shipment?

4. TRANSPORTATION OF IMPORTED SHIPMENTS OF ETIOLOGIC AGENTS

(a) To what extent do prevailing practices regarding transportation of imported shipments of etiologic agents, or suspected etiologic agents particularly diagnostic specimens, pose a health or safety risk?

(b) What, if any, kind of monitoring or clearance procedures are necessary to adequately control perceived risks attributable to transportation of imported shipments of etiologic agents?

Comments are welcome on these questions, as well as any additional recommendations for enhancing the safety in transportation of etiologic agents.

Interested persons are invited to participate in the formulation of a proposed rule by submitting such written data, views, or arguments as they may desire.

Communications should identify the docket number and should be submitted to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C., 20590. Communications received on or before January 21, 1977 will be considered by the MTB during preparation of the notice of proposed rule making. All comments received will be available for examination by interested persons at the Office of Hazardous Materials Operations, Room 6500, Trans Point Building, 2100 Second Street, SW, Washington, D.C., both before and after the closing date for comments.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102)

Issued in Washington, D.C., on November 15, 1976.

DR. C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-34555 Filed 11-23-76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 533]

[Docket No. FE 76-3; Notice 1]

NONPASSENGER AUTOMOBILES—MODEL YEAR 1979

Average Fuel Economy Standard

This notice proposes an average fuel economy standard of 18.7 mpg for automobiles other than passenger automobiles ("nonpassenger automobiles") for model year 1979 pursuant to Title V of the Motor Vehicle Information and Cost Savings Act, as amended by the Energy Policy and Conservation Act, Pub. L. 94-163.

BACKGROUND

Statutory requirements. The enactment of the Energy Policy and Conservation Act was a reflection of the national concern with the depletable nature and uncertain availability of most of the energy upon which the Nation relies for its economic and social well being and the need to implement a national program for conserving energy. The gasoline shortages of the winter of 1973-1974, the inflationary effect of rising fuel costs on almost all goods and services, and this country's increasing dependence upon foreign petroleum sources dramatized this need.

The significance of petroleum for this country is demonstrated by the fact that 46 percent of its annual energy needs are met by petroleum. Over half of the petroleum is used for transportation. In 1975, the figure was 55 percent. Highway transportation accounted for 46 percent of all petroleum consumed.

Title V requires the Secretary of Transportation to establish average fuel economy standards (AFES's) for "automobiles". The responsibility for implementing Title V was delegated to the Administrator of the National Highway Traffic Safety Administration (41 FR 25015, June 22, 1976). Section 501(1) of the Title defines "automobile" as

> any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and
>
> (A) Which is rated at 6,000 lbs. gross vehicle weight or less, or
>
> (B) Which—(i) is rated at more than 6,000 lbs. gross vehicle weight but less than 10,000 lbs. gross vehicle weight,
>
> (ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and
>
> (iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Title divides automobiles into two categories: passenger automobiles and nonpassenger automobiles. Section 501(2) defines a "passenger automobile" as "any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals." Nonpassenger automobiles comprise an undefined, residual category of all other "automobiles", including those capable of off-highway operation. Under a proposed rule being considered by the NHTSA, the nonpassenger automobile category would include all multipurpose passenger vehicles and trucks with a gross vehicle weight rating (GVWR) of not more than 6,000 pounds; e.g., pickup trucks, cargo and passenger vans, jeeps, multistop vehicles, and campers.

Each manufacturer is responsible for the fuel economy of the automobiles manufactured by that manufacturer alone. With respect to automobiles manufactured by two or more manufacturers, the agency is considering issuing a proposed rule that would place the responsibility for their fuel economy on the manufacturer of the incomplete automobiles (frame and chassis structure, power train, steering system, suspension system, and braking system). Under the contemplated scheme, such a manufacturer would either load his incomplete automobile to a specified test weight or complete the automobile with representative body styles and test it for the purposes of determining compliance with the applicable average fuel economy standard and to generate data for the fuel economy labels required under section 506 of Title V. In the event that the final stage manufacturer completes the automobile so that the test weight would be exceeded, that manufacturer would then become the manufacturer of the automobile for the purposes of Title V. Comments on this scheme should await publication of the proposed rule relating specifically to incomplete vehicle manufacturers.

Seetion 502(b) of Title V requires the Administrator to issue AFES's for nonpassenger automobiles manufactured in model years (MY's) which begin more than 30 months after the date of enactment (December 22, 1975) of Title V. It also provides that any AFES must be prescribed at least 18 months prior to the beginning of the model year to which it applies. MY 1979 is the first MY that begins after the 30-month period. As a minimum, Title V requires that an AFES be issued for that MY for nonpassenger automobiles of not more than 6,000 pounds GVWR ("light non-passenger automobiles"). The Administrator is required also to establish AFES's for vehicles more than 6,000 pounds and less than 10,000 pounds, GVWR, if he makes the determinations set out in section 501(1)(B) that would result in such vehicles being deeemd "automobiles" within the meaning of Title V.

The AFES's are expressed in terms of combined highway-city mileage as determined in accordance with procedures of the Environmental Protection Agency (EPA). Title V does not require that each automobile to which an AFES applies have a fuel economy that exceeds the level specified in the AFES. Instead, Title V requires that the production-weighted average fuel economy of all of a manufacturer's automobiles subject to the AFES equal or exceed the level of that AFES. The average fuel economy performance of each manufacturer is calculated in accordance with procedures established by EPA. For any model year, a manufacturer who fails to comply with an AFES will be liable for a civil penalty equal to $5 for each tenth of a mile per gallon by which the manufacturer's average fuel economy falls below the applicable AFES multiplied by the total number of automobiles manufactured by the manufacturer in the model year which are subject to the AFES.

Scope and application. The standard proposed by this notice would apply to light nonpassenger automobiles manufactured in MY 1979. In calendar 1975, slightly more than 1,100,000 of these automobiles were sold new. Of these vehicles, 77.1 percent were pickup trucks, 16.3 percent were vans, 5.9 percent were general utility vehicles and the balance were station wagons on truck chassis, panel trucks and multistop vehicles. In 1975, light nonpassenger automobiles accounted for 4 percent of the total national consumption of petroleum. These vehicles are a growing part of the automobile fleet, and their share of petroleum consumption is expected to rise in the future.

The agency is not proposing a standard for vehicles of more than 6,000 pounds GVWR and less than 10,000 pounds GVWR that could be classified as nonpassenger automobiles ("heavy potential nonpassenger automobiles") because it lacks some of the data needed to make the determinations required by section 501(1). The heavy potential nonpassenger automobile group corresponds closely to the vehicles which the Motor Vehicle Manufacturer's Association terms class II trucks. To treat these vehicles as

automobiles, the Administrator must determine that setting AFES's for them is feasible and that either the AFES's will yield significant energy savings or the vehicles are used for substantially the same purposes as automobile of not more than 6,000 pounds GVWR.

Before the agency can set standards for any group of automobiles, it must have data establishing a baseline level of average fuel economy for the group. These data are necessary to enable the agency to predict the level of average fuel economy that the group of automobiles will achieve if their manufacturers take certain steps to increase fuel economy. Base line data for passenger automobiles were readily available from the EPA, which has been preparing fuel economy data for those vehicles for several years. While the EPA was also able to supply base line data for light nonpassenger automobiles, it could not do so for heavy potential nonpassenger automobiles and the NHTSA has not had time since enactment of Title V to develop its own data base.

Under the EPA proposal, Revised Light Duty Truck Regulations for 1979 and Later Model Year Vehicles (41 FR 6279, February 12, 1976), that agency will be able to begin providing base line data for most of these vehicles (up to 8,500 pounds GVWR) for MY 1979. Because NHTSA is considering establishing standards for MY 1980 for heavy potential nonpassenger automobiles, it has initiated efforts to develop the necessary base line data independently.

Classification. Section 502(b) permits the Administrator to establish classes of nonpassenger automobile and to set a separate standard for each class. The agency is not proposing to utilize this authority for MY 1979. Instead, it is proposing to establish a single AFES for all light nonpassenger automobiles manufactured in MY 1979.

The agency does not have sufficient data to assess the desirability or other implications of the various possible classifications of nonpassenger automobiles. For example, the agency needs to explore the effects of establishing multiple classes upon shifts in consumer demand from some types of nonpassenger automobiles to another. In addition, the agency must examine the potential criteria by which to classify nonpassenger automobiles, such as vehicle weight, vehicle configuration, engine-driveline family, and vehicle usage. Moreover, the agency must consider the effect that a multi-class system may have on the average fuel economy of all nonpassenger automobiles, and on the ability of a manufacturer to balance a vehicle with low economy with a vehicle of high fuel economy. To aid it in making these assessments, the agency requests interested persons to comment upon the benefits and other effects of establishing multiple classes of nonpassenger automobiles.

Other statutory considerations. Section 502(b) requires the AFES for nonpassenger automobiles to be set at the level which is the maximum feasible average fuel economy level which nonpassenger automobile manufacturers can achieve. Section 502(e) provides that, in determining maximum feasible average fuel economy, the following factors shall be considered:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards upon fuel economy; and
(4) The need of the Nation to conserve energy.

These four factors have formed the framework of the analysis conducted in developing the AFES for MY 1979 proposed herein. However, Title V does not require that findings of fact be made with respect to any of those four factors, and no such findings have been made or attempted. Title V requires only that a good faith consideration be given to these factors. The decisionmaking process in this rulemaking is not an evaluation of easily identified causes and effects; rather it is largely an evaluation of projections and the underlying assumptions and uncertainties, and weighing of the possible benefits against the attendant risks.

The information which supports the following discussions was obtained by the agency from a variety of sources, including studies and reports of various government agencies or contractors, publications such as *Ward's Automotive Reports*, and submissions to the agency made by manufacturers of nonpassenger automobiles. Much of the information submitted by the manufacturers is claimed by the manufacturer to be confidential business information. Memoranda of meetings between the agency and manufacturers at which information relative to nonpasenger automobiles was submitted are in the docket. In addition, a bibliography of materials examined by the agency will be placed in the docket.

Development of the AFES

Industry plans for improvement. In establishing a data base to support nonpassenger automobile fuel economy standards, the agency requested data from the automobile industry, with the primary focus on the domestic manufacturers. The agency was primarily interested in projections of fuel economy of nonpassenger automobiles through 1980, new technology related to fuel economy planned for introduction through 1980, the impact on fuel economy of EPA emission standards and test procedures, and design requirements for the performance of nonpassenger automobiles related to engine displacement, drive ratios, and vehicle weight and size. Responses were received from General Motors, Ford, and Chrysler. AMC chose not to respond. The future plans of AMC were derived from EPA reports and the Department of Transportation's former Voluntary Fuel Economy Monitoring Program.

In providing fuel economy performance projections for 1979 and 1980, the industry incorporated their plans for technology improvement performance and reduction and for changes in the model mix. They pointed out that major improvements to nonpassenger automobile fuel economy were made between 1974 and 1976 when the average fuel economy of all domestic and captive import light nonpassenger automobiles improved from 11.0 mpg to 16.1 mpg. They alleged that not much improvement could be expected for 1979 and 1980 because further improvement could only be achieved through major technology advances which require greater leadtime. From the data supplied, projections were made showing that the industry was, on the average, planning on improving domestic fuel economy but about 15.8 percent between 1976 and 1979 and 16.5 percent between 1976 and 1980, assuming no change in emission standards or test procedures.

The composition of the fleet is a critical aspect of any analysis of the potential fleet average fuel economy. General Motors and Ford sell, in addition to their domestically manufactured nonpassenger automobiles, Japanese manufactured pickup trucks, the Chevy Luv and the Ford Courier, with fuel economy averaging approximately 50 percent higher than the domestic vehicles. This high average fuel economy is due to lower weight. Obviously, a fleet average fuel economy that included the Japanese imports would be higher than a fleet average that did not include the Japanese imports. In discussions between the agency and General Motors and Ford, those manufacturers have represented that the Luv and the Courier are properly included in their respective nonpassenger automobile fleets. Therefore, the agency has tentatively concluded that the General Motors and Ford nonpassenger automobile fleets should include the Japanese imports. However, the agency perceives several issues affecting the question of whether the Chevy Luv and the Ford Courier are properly included in the General Motors and Ford nonpassenger automobile fleets for MY 1979. These issues, for which the agency requests that interested persons submit comments and information, include the meaning of the term "control", as that term is used in section 503(c) of Title V, and whether General Motors and Ford import the Chevy Luv and the Ford Courier, within the meaning of section 501(9) of Title V.

An additional word is necessary concerning the way in which the General Motors and Ford fleets were used in considering the potential for fuel economy improvements. In order to consider industry wide factors affecting fuel economy, in accordance with the legislative history of Title V as reflected in the Conference Report (S. Rep. No. 94-516, 94th Cong., 1st Sess., December 8, 1975, pp. 154-155), the agency wanted to consider the fuel economy improvement that could be expected in domestically produced light nonpassenger automobiles. Such a consideration is necessary to enable an accurate comparison of the fuel economy potential of AMC and Chrysler, which do not market an imported nonpassenger automobile, with that of General Motors and Ford. Therefore, the General Motors and Ford domestic non-

passenger automobile fleets were used as a basis for determing industry wide potential for fuel economy improvement. After that improvement was assessed, the General Motors and Ford fleet averages were increased to reflect inclusion of the Chevy Luv and Ford Courier.

In general, General Motors indicated significant domestic fleet (excluding the Luv) fuel economy improvements due to improved post-1976 technology and a decrease in vehicle performance. Even though General Motors indicated that there may be a slight shift in sales mix to higher inertia weight classes, a significant domestic fleet fuel economy improvement from 15.6 to 17.8 mpg or 14 percent, between 1976 and 1978 is projected. While significant fuel economy improvements are indicated from 1976 to 1978, General Motors projected virtually no fleet fuel economy gains between 1978 and 1980.

Ford indicated an increase in domestic fleet fuel economy (excluding the Courier) from 15.9 mpg to 19.1 mpg, due to technology improvements and a decrease in vehicle performance, or a 21 percent improvement, between 1976 and 1979 but no improvement between 1979 and 1980.

Chrysler indicated fuel economy improvements from 16.8 mpg in 1976 to 18.6 mpg in 1979 and 19.1 mpg in 1980, due both to post-1976 technology and to a sales mix shift to lower inertia weight vehicles beginning in 1977.

As mentioned previously, AMC did not answer the request for data. It did, however, provide its 1977 fleet sales mix estimates, which indicated a shift to higher inertia weight class vehicles. Based on data obtained from the sources previously indicated, an overall improvement in fuel economy of 12 percent was projected for AMC. This would result in an increase from 16.3 mpg in 1976 to 18.3 mpg in 1979 and 1980.

NHTSA's estimate of potential improvements in average fuel economy. Based on the manufacturers' responses and other data, NHTSA has independently assessed potential fuel economy improvements through reductions in performance and weight, and technological innovation. Based on its analysis, NHTSA concludes that:

(1) No fuel economy improvements over MY 1976 levels for MY 1979 light nonpassenger automobiles through aerodynamic modification are possible.

(2) Only modest fuel economy improvements over MY 1976 through weight reduction are possible for MY 1979.

(3) Substantial improvements in fuel economy over MY 1976 through technological improvements and reductions in CID X N/V of light nonpassenger automobiles are possible for MY 1979.

The effect of other considerations in determining an AFES. Fuel economy potential must be evaluated in light of non-engineering considerations, including the effect of other Federal motor vehicle standards, economic feasibility, and the need to conserve energy. Moreover, the legislative history of Title V indicates that industry-wide considerations should be taken into account. These factors and the shifts discussed below have led NHTSA to propose an AFES for nonpassenger automobiles only for MY 1979 and to set the standard at a level which is the production weighted average of the domestic manufacturers' planned average fuel economy for MY 1979. The manufacturers are planning the following average fuel economy for MY 1979:

	Miles per gallon
General Motors (including imports)	18.3
Ford (including imports)	19.7
Chrysler	18.6
AMC	18.3

The production weighted average of these levels of average fuel economy is 18.7 mpg. The proposed AFES for MY 1979 is also 18.7 mpg (based on certain assumptions with respect to 1979 EPA emissions levels and testing procedures, as discussed more fully below).

The agency recognizes that the proposed AFES requires no improvements from Ford, apart from their planned fuel economy improvements, and only minor improvements from the remaining domestic manufacturers. In addition, no improvements at all are required from foreign manufacturers. However, for the following reasons, the agency believes that it is desirable in MY 1979, to establish an AFES that all manufacturers can meet without substantially modifying their product plans.

Time and technology limit the extent to which a manufacturer can alter current plans for improving MY 1979 fuel economy. Therefore, the establishment of a standard which a manufacturer could not meet under any reasonable fleet mix would be of doubtful economic feasibility and might well increase the consumption of energy rather than conserve it.

In determining a standard, the agency must give consideration to the potential responses by automobile manufacturers and their customers. If a standard were based solely on the projections of Ford, or the foregin manufacturers, it would be set so high as to require substantial alteration of the present production plans of General Motors, Chrysler, and AMC. That alteration might result in three shifts that would tend to defeat the objective sought by the standard.

First, there could be a shift of automobiles out of the light nonpassenger automobile category. This would occur because a manufacturer has the ability to change the GVWR of the vehicles he manufactures. (A rating change of this nature can be accomplished easily by making relatively small modifications to the light nonpassenger automobiles, e.g., adding heavier springs, or in some cases, where the vehicles have excess capacity, by merely making a paper change to their rating.) Therefore, if a standard were set too high, it is to be expected that the manufacturer would change as many models as possible to a GVWR in excess of 6,000 pounds and thereby avoid the application of the AFES to those vehicles.

By removing from the reach of the AFES its light nonpassenger automobiles that are slightly below 6,000 pounds GVWR and relatively less fuel economical than its lighter light nonpassenger automobiles, the manufacturer could increase the average fuel economy of its light nonpassenger automobiles, while not increasing the fuel economy of the total vehicle fleet.

The second shift that might occur would be one in which sales of similar models simply shifted from one manufacturer to another without any resulting improvement in the average fuel economy of the nonpassenger automobiles subject to the AFES. Thus, a manufacturer whose average fuel economy was below or near the applicable AFES might be compelled to reduce production of some of its light nonpassenger automobiles that were relatively less fuel economical to ensure compliance with the AFES. Another manufacturer, whose average fuel economy was comfortably above the AFES and whose fleet included light nonpassenger automobiles similar in function and fuel economy to the first manufacturer's less fuel economical ones, might attempt to increase his share of that portion of the light nonpassenger automobile market by increasing production of his similar light nonpassenger automobiles. In that event, the effect of the standard would be not to conserve fuel but to alter the market without any effect on average fuel economy.

Third, if a standard were set so high as to force a substantial reduction in performance or utility of nonpassenger automobiles with a GVWR of 6,000 pounds or less, or a substantial increase in price due to technological modification, consumer demand would shift to vehicles in excess of 6,000 pounds GVWR whose performance was not impaired or whose price was not increased because, in MY 1979 at least, such vehicles would not be subject to an AFES. Heavy potential nonpassenger automobiles are very similar to light nonpassenger automobiles in configuration and utility and tend to be only slightly more expensive. Therefore, heavy potential nonpassenger automobiles, unburdened by reductions in performance or utility or increases in price due to mandatory fuel economy standards, could provide a very good substitute product for light nonpassenger automobiles. Under those circumstances, a shift by buyers from light nonpassenger automobiles to heavy potential nonpassenger automobiles might well occur. Such a shift would reduce or totally eliminate the increase in the average fuel economy of the combined light and potential heavy nonpassenger automobile fleet. If the shift were sufficiently large, there could be a net decline in the fleet average fuel economy.

NHTSA's concern that shifts in weight classes may occur as a result of manufacturer and consumer action arises not only from theory but also from the experience of the EPA in regulating the emissions of light duty trucks. When

emissions standards initially became effective for these vehicles, a substantial number of them had a GVWR of slightly less than 6,000 pounds. Several years later, primarily through manufacturer choice, the GVWR of these vehicles increased to slightly over 6,000 pounds. As a result, the vehicles were not classified as light duty trucks, and became subject to the less stringent emissions standards applicable to heavy duty engines. In the EPA notice mentioned above, that agency is proposing to reverse the effect of that shift to heavier vehicles by expanding the light duty truck category to include trucks more than 6,000 pounds GVWR and less than 8,500 pounds GVWR.

The EPA experience with light duty trucks buttresses this agency's belief that setting AFES's for light nonpassenger automobiles above the level proposed herein may either fail to produce commensurate improvements in the average fuel economy of those automobiles or even cause the combined average fuel economy of the light nonpassenger automobiles and heavy potential nonpassenger automobiles to decline. In order to obtain more insight on the market shift issues, the agency requests information and views from interested persons.

NHTSA recognizes the need to set standards that take account of the full potential for improving average fuel economy. It is for this reason that an AFES is being proposed at this time only for MY 1979. All manufacturers are planning to come close to, or exceed the standard for MY 1979 in the course of their voluntary product plans and, were a standard to be set for MY 1980 on the basis of information available at this time, that standard too would have to be a very conservative one. By limiting the present rulemaking action to MY 1979, the agency is obtaining the time necessary to examine more fully both the MY 1980 potential and the capabilities of the manufacturers to realize the fuel economy potential.

By limiting the present rulemaking action to MY 1979, NHTSA is also gaining the time necessary to examine the feasibility and energy consequences of establishing standards for heavy potential nonpassenger automobiles. If this action were found to be feasible and energy conserving, it would minimize the possibility of the re-rating of vehicles by manufacturers to avoid the standards, as well as shifts by customers from lighter to heavier and less fuel economical vehicles (the first and third shifts discussed above).

Finally, limiting the proposed action to MY 1979 will give NHTSA the time necessary to consider the feasibility of setting different fuel economy standards for different classes of nonpassenger automobiles. The action, if taken, would lessen the likelihood of an AFES simply shifting the market for a particular class from one manufacturer to another (the second shift discussed above).

In summary, NHTSA seeks to avoid issuing a standard that may have market consequences or other effects which the agency has not had an opportunity to evaluate, and which may result in an increase in total fuel consumption. In order to minimize the market consequences of the proposed standard, it is set at a level that will enable manufacturers to comply without substantially modifying their product plans, that is, near the level of fuel economy projected by General Motors, Chrysler and AMC. Ford's projected fuel economy is substantially higher. Although the proposed AFES is slightly above the level of average fuel economy planned by General Motors, Chrysler, and AMC, the agency's analysis of fuel economy potential for MY 1979 indicates that those manufacturers can achieve this higher level of average fuel economy for MY 1979 without making substantial changes in their planned fleet mix or taking other actions that might result in the counter-productive shifts discussed above. Chrysler plans an average fuel economy level of approximately 18.6. These plans are so close to the proposed standard that very little improvement would be necessary for Chrysler. The changes, if any, which Chrysler would have to make to their MY 1979 plans to meet the proposed standard, are extremely minor. General Motors and AMC are planning average fuel economy levels of 18.3. As discussed more fully below, the agency believes that these manufacturers can reach a level of 18.7 with only a small modification of their product plans.

NHTSA's engineering analysis. The agency performed an analysis of the fuel economy potential of light nonpassenger automobiles for MY 1979 as part of the necessary consideration of technological feasibility, economic practicability, and the effect on fuel economy of other Federal motor vehicle standards. The engineering analysis focused on General Motors, Ford, Chrysler, and AMC, the domestic manufacturers of light nonpassenger automobiles. The engineering analysis did not extend to foreign manufacturers of light nonpassenger automobiles because it seemed evident that no foreign manufacturer would be near the level at which the AFES is being proposed for MY 1979. Foreign light nonpassenger automobiles, which comprise approximately 20 percent of the total light nonpassenger automobile market, have a fleet average fuel economy that is approximately 40 percent higher than that of the domestic vehicles. This difference in average fuel economy is due to the much lower fleet average weight of the foreign light nonpassenger automobiles. Because the AFES proposed for MY 1979 is related to domestic manufacturers' plans and capabilities, this summary of the engineering analysis will be presented in terms of the domestic firms' capabilities. Moreover, since General Motors and AMC project average fuel economy below the proposed standard, the analysis suggests steps that those manufacturers can take above their product plans to meet the proposed standard.

As indicated earlier, the fleet average fuel economy of General Motors and Ford will be dependent in part on the fuel economy of their imported vehicles. It seems evident that the relatively small effect that potential fuel economy improvement of these imported vehicles would have on the manufacturers' projected average fuel economy was not sufficiently great to increase those projections by .1 mpg. However, the agency requests interested persons to submit information and views on the potential for fuel economy improvement in imported nonpassenger automobiles.

The base period. The agency chose MY 1976 as the base period from which to evaluate the potential for fuel economy improvement. The baseline for all projections is the EPA 1976 Light Duty Truck Data Base. MY 1976 is the latest model year for which accurate data for fuel economy exist. Further, it reflects the most recent consumer buying habits as indicated by production mix.

The overall light nonpassenger automobile fleet average for MY 1976 was calculated by taking the market-share weighted average of General Motors, Ford, Chrysler, and AMC. This calculation showed an overall domestic average fuel economy level of 16.0 mpg excluding the Chevy Luv and Ford Courier, and 16.4 mpg including those vehicles. General Motors achieved an average fuel economy level of 15.9 mpg including the Chevy Luv and AMC achieved 16.3 mpg. This average was based on 1976 EPA emissions standards and test procedures. The total fleet average also assumed a fleet fully-equipped with catalysts except for approximately half the AMC fleet. Finally, California vehicles, which were subject to more stringent emissions levels, were excluded from the base, although the AFES proposed in this notice does include a consideration of California vehicles. The agency believes that California light nonpassenger automobiles in MY 1979 will not affect the 50 state fleet average fuel economy by so much as 0.1 mpg.

Ways to improve fuel economy. Title V does not enable the agency to require that a particular method or methods of improving fuel economy be employed. However, in establishing an AFES, the agency must consider steps that manufacturers could take to improve economy, in light of the statutory list of factors to be considered.

The agency has considered the basic ways of improving the average fuel economy of automobiles, i.e., modifications in aerodynamics; reductions in fleet average vehicle weight through vehicle weight reduction and production mix shifts; reductions in vehicle acceleration, grade climbing, and passing ability by reducing engine displacement multiplied by total drive ratio; and improvements in the technology of engines and transmissions. A discussion of the potential for fuel economy improvements through these methods follows.

The agency wishes to emphasize that the proposed standard is a performance standard and, therefore, that the manufacturers would not be required to take any particular step discussed below. It

is anticipated, however, that each manufacturer would take one or more of the steps and place its own unique emphasis on each of those steps. Thus, the fuel economy improvements derived from those steps by a particular manufacturer would vary from the percentage fuel economy improvements as calculated by the agency.

(1) *Aerodynamic modifications.* Aerodynamic changes in light nonpassenger automobiles to improve fuel economy could be accomplished only through substantial vehicle redesign. In addition, the extent to which aerodynamic modifications are feasible for light nonpassenger automobiles is unclear since the primary design function of many of them is cargo transportation. Indeed, manufacturers have indicated that aerodynamic changes are not likely to be an effective method for improving the fuel economy of such vehicles, although the revised EPA testing procedures, discussed below, where road-load is a function of vehicle frontal area, may make aerodynamics a more fruitful area for improvement than the manufacturers believe. In any case, the lead time requirement for a major vehicle redesign sufficient to make aerodynamic modifications, even if such modifications can be effective fuel conserving techniques, is at least 36 to 44 months, based upon current industry redesign cycles. Since approximately only half that time remains before MY 1979, the agency believes there is insufficient lead time for any of the nonpassenger automobile manufacturers to effect the necessary vehicle redesign to achieve fuel economy gains for MY 1979 through aerodynamic modifications. However, the agency would be extremely interested in comments from knowledgeable persons with respect to fuel economy improvements in light nonpassenger automobiles through aerodynamic modifications for MY's after MY 1979.

(2) *Reduction of average vehicle weight.* Although the light nonpassenger automobile manufacturer indicated to the agency that there was little potential for weight reduction for light nonpassenger automobiles, the agency believes that reduction in vehicle weight, and in the average vehicle weight of a manufacturer's fleet, can be achieved in a variety of ways. Substantial weight can be taken off light nonpassenger automobiles through total vehicle redesign. However, that approach, like the aerodynamic improvements discussed above, would also require at least 36 to 44 months lead time and is not feasible by MY 1979.

However, weight reduction on a fleet average basis can be accomplished by a variety of methods for which there is sufficient lead time for MY 1979. A manufacturer could change his current production mix to produce and sell more lighter light nonpassenger automobiles in MY 1979. Redesigning engine blocks and transmissions making lighter engines standard equipment, or discontinuing a heavy engine option are means of reducing the fleet average vehicle weight. Material substitution in certain parts of the vehicle, such as the hood, gas tank, or doors, is another means of reducing weight for MY 1979 light nonpassenger automobiles. Finally, certain features which add weight to the vehicle, such as air conditioning, power brakes, or power steering could be offered as optional rather than standard equipment, offered as options on fewer vehicles, or discontinued entirely.

Although the manufacturers indicated no weight reduction plans for light nonpassenger automobiles, the agency believes that some weight reduction can occur. Weight reduction programs for passenger automobiles are in effect, and should enable passenger automobile manufacturers to reduce vehicle weight by MY 1979. The substantial technological overlap between passenger automobiles and light passenger automobiles should make this transfer of weight reduction methodology possible. The transfer should be further facilitated by the fact that the four major domestic manufacturers of light nonpassenger automobiles are also the major manufacturers of passenger automobiles. Some examples of weight reduction techniques developed, or under development, for passenger automobiles that may be transferable to light nonpassenger automobiles include the use of redesigned engine blocks or air conditioners, and the use of plastic fender innerliners. Moreover, production mix shifts toward lighter vehicles which are being planned by manufacturers for MY 1979 will result in some reduction of fleet average weight over 1976 levels.

In light of all these possibilities for weight reduction, the agency believes that an average reduction of 50 pounds per vehicle can be achieved without a disruption of General Motor's product plans. An average weight reduction of 50 pounds per vehicle will result in a shift of 10 percent of the nonpassenger automobile fleet to the next lower inertia weight class, assuming a uniform distribution of vehicles within weight classes, and will result in a fleet average fuel economy improvement of approximately 1.7 percent.

The improvement in fuel economy was calculated using the formula:

$$\text{Fuel economy} = A\ (\text{weight})^{-.85}\left(\frac{\text{CID}\times N/V}{\text{Weight}}\right)^{-.4}$$

This formula was derived by determining the sensitivity of fuel economy to weight and reductions in $\text{CID}\times N/V$, through a regression analysis of past and current vehicle fuel economy performances. and is the formula explained and used in the Report by the Federal Task Force on Motor Vehicle Goals Beyond 1980, Volume 2, pp. 5–1 and 5–2.

(3) *Reductions in $\text{CID}\times N/V$.* The expression, $\text{CID}\times N/V$, means the cubic inch displacement (CID) of a vehicle's engine, multiplied by the total drive ratio, which is the ratio of the engine revolutions per minute to the velocity of the vehicle in miles per hour (N/V).

A reduction in $\text{CID}\times N/V$, which can be achieved by using a smaller engine or changing the total drive ratio, will result in an increase in the fuel economy of a vehicle, but a decrease in vehicle acceleration, grade climbing, and passing ability. Reductions in the light nonpassenger automobile fleet average level of $\text{CID}\times N/V$ can be accomplished by MY 1979. The fleet average CID level can be easily reduced by changing the mix of engines in favor of smaller engines that are presently available. Moreover, N/V can be reduced by making technologically simple gear ratio changes.

There is a limitation on the $\text{CID}\times N/V$ reductions that can be achieved. Reductions in performance which are not "recaptured" through technology may reduce the utility of the vehicle to the consumer and may result in consumers shifting to higher performance, heavy potential nonpassenger automobiles. A fleet average reduction in $\text{CID}\times N/V$ can be accomplished for MY 1979 with existing technology without a reduction in fleet average performance over MY 1976 levels. If an engine is replaced with an engine of lower CID but equal horsepower, or if certain modifications in the transmission are made such as using a wide ratio transmission, there will be an improvement in fuel economy and the loss of performance to the fleet will be reduced or eliminated.

After considering General Motors' product plans, the agency believes that General Motors in MY 1979 can reduce its fleet average $\text{CID}\times N/V$ by about 12.2 percent over MY 1976 level without changing its planned MY 1979 light nonpassenger automobile fleet in a way that would cause or aggravate the shifts discussed earlier. Applying the fuel economy sensitivity formula discussed in connection with weight reduction to $\text{CID}\times N/V$ reduction, the agency determined that a reduction of approximately 12.2 percent in $\text{CID}\times N/V$ will result in a 4.9 percent fuel economy improvement over MY 1976 levels. This level of $\text{CID}\times N/V$ reduction was derived from an analysis of the effects of $\text{CID}\times N/V$ reduction on vehicle performance, and a comparison of General Motors' performance level after the reduction, with the planned performance levels of Ford and Chrysler for MY 1979. This comparison indicates that General Motors' performance levels would remain at a level comparable to Ford's and Chrysler's levels for MY 1979. Therefore, the reduction in $\text{CID}\times N/V$ should not result in performance so slow as to affect consumer demand.

With respect to AMC, a small, 5.8 percent reduction in $\text{CID}\times N/V$ is all that would be necessary, to enable AMC to reach an average fuel economy level of 18.7 mpg. This reduction of $\text{CID}\times N/V$ would result in a small decrease in AMC's power to weight ratio.

(4) *Technological modifications.* There are a variety of technological modifications that can be made to light nonpassenger automobile engines and transmissions to improve fuel economy in MY 1979. These modifications can be

divided into two categories. Major modifications include such measures as completely new engines (diesel, stirling, or gas turbine) or completely new transmission designs such as a continuously variable transmission. Minor modifications include (1) engine improvements such as combustion chamber redesign, compression ratio increase, fuel metering improvements, improved spark control, and improvements in emissions control devices, and (2) transmission improvements such as more efficient 3-speed automatic transmission, development of automatic transmissions with lockup torque converters, 4-speed manual transmissions, and overdrive or wide ratio transmissions.

There is insufficient lead time for implementation of major technological modifications by MY 1979. The diesel engine, while available to light nonpassenger automobile manufacturers, has not been tested in the market place to an extent sufficient to warrant the assumption of widespread diesel use by MY 1979. Although the agency believes that some diesels may be offered in nonpassenger automobiles by MY 1979, we are, at this time, unwilling to base an AFES upon an assumption of diesel usage. However, in light of the potential for fuel economy improvements that diesel engines offer, the agency requests interested persons to submit information and views regarding the potential for use of diesel engines in nonpassenger automobiles in MY 1979 and thereafter.

The agency has had neither the data nor the time to determine with specificity which of the variety of technological measures to improve fuel economy can be implemented by MY 1979. Minor modifications in technology to improve fuel economy can be made, however, by all manufacturers. In evaluating General Motor's fuel economy potential for MY 1979, the agency has assumed a 10.6 percent improvement in fuel economy for their domestic vehicles due to technology over the MY 1976 fuel economy level. This level of fuel economy improvement from technology seems reasonable in light of General Motors plans for MY 1979. After considering the available data, the agency believes that AMC is planning an improvement in fuel economy through technology of approximately 12–13 percent.

In summary, implementing the relatively minor amount of weight reduction, and reduction in CID $\times$ N/V above the reductions and technological improvements planned by AMC and General Motors, will allow those manufacturers to improve their planned MY 1979 fuel economies of 18.3 mpg. to 18.7 mpg.

EPA emissions levels and testing procedures. The EPA has proposed modifications to the MY 1976 emissions levels and testing procedures, which would be applicable to light nonpassenger automobiles manufactured in MY 1979. See EPA's notice, Revised Light Duty Truck Regulations for 1979 and Later Model Year Vehicles. Since EPA has not issued a final rule on the MY 1979 emissions levels and test procedures, NHTSA has had to make assumptions about those levels and procedures. These assumptions were based on what EPA proposed to do in their notice and representations made by EPA staff about how the EPA proposals may be modified. The EPA emissions standards for light nonpassenger automobiles were assumed to be 1.7/18/2.3 grams/mile for HC, CO, and NO_x, respectively. The determination of loaded vehicle weight was assumed to include 300 pounds for the vehicle load. Road load horsepower values are a function of vehicle frontal area. For all vehicles which EPA considers light duty trucks, the road load power (horsepower) at 50 mph shall be .58 times A rounded to the nearest whole number. For vans, the road load power (horsepower) at 50 mph shall be .50 times A, rounded to the nearest whole number. "A" is the basic vehicle frontal area (ft^2) plus the additional frontal area (ft^2) of mirrors and optional equipment exceeding 0.1 square feet and which are sold on more than 33 percent of the car line.

The NHTSA recognizes that there is substantial disagreement whether the emissions standards for light nonpassenger automobiles for MY 1979 will result in a fuel economy penalty. EPA, after a consideration of available technology, believes that the assumed emissions standards can be met without a fuel economy penalty. The manufacturers, in their comments to the EPA proposal mentioned above and in information submitted to this agency, have disagreed with the EPA analysis. For purposes of this proposal, the NHTSA will assume that no such fuel economy penalty exists, and requests that all interested persons submit information, data, and views relating to the existence of a fuel economy penalty and the magnitude of any such penalty that may exist. If, from the comments received, the agency determines that the MY 1979 emissions standards will result in a fuel economy penalty, the agency will reduce the proposed AFES as appropriate.

For purposes of this notice, the agency is also assuming that no measured fuel economy penalty due to the adoption of the frontal area method of determining road load horsepower will result over MY 1976. The agency recognizes that the derived road load horsepower values will be higher than the current regulation requires. These higher values are likely to result in some fuel economy penalty due solely to the means of measurement. However, the magnitude of any such penalty that may exist is presently unknown. The agency anticipates that interested persons, especially manufacturers of light nonpassenger automobiles, will submit comments to assist the agency in determining the magnitude of any decrease of measured fuel economy from MY 1976 levels due to changes in the measurement procedures. If the agency determines that such a measured fuel economy penalty exists, and the magnitude of such a penalty, the proposed AFES will be reduced accordingly.

The agency has tentatively concluded that no other changes in Federal motor vehicle standards between MY 1976 and MY 1979 will affect the fuel economy of light nonpassenger automobiles.

Economic practicability. As previously stated, the AFES proposed for MY 1979 was designed to enable the manufacturers of light nonpassenger automobiles to comply without significantly changing their production plans for MY 1979. The agency believes that this fact is strong support for the economic practicability of the standard for all affected manufacturers, because it may be assumed that the manufacturers' own production plans are economically practicable.

The cost implications associated with the weight reductions and CID $\times$ N/V reductions discussed above are relatively minor and therefore are considered to be within the financial means of the manufacturers. Weight reduction of 50 pounds per vehicle can be accomplished by the domestic manufacturers by material substitution alone at a manufacturing cost of not more than approximately $10–$15 per vehicle and a tooling cost of less than $500,000 per manufacturer. Material substitution is an extreme example of worst case planning since many other, less burdensome weight reduction techniques are available. At least a portion of the weight reduction can be accomplished by relatively small changes in production mix, or by replacing the heavier eight cylinder engines with lighter eight cylinder engines, or six cylinder engines. For full manufacturers, capacity to produce enough of the lighter, lower displacement engines to accommodate the necessary conversion already exists, or is being added independently of the fuel economy program. Therefore, the conversion could be accomplished without additional tooling costs. Presumably, manufacturing costs for the smaller engines would be lower than those costs for the larger engines due to savings in materials.

Reductions in CID $\times$ N/V can be effected either by reducing the displacement of engines (which can be accomplished on a fleet average basis by selling more vehicles with smaller engines) or changing the total drive ratio. To the extent that engine displacement is reduced, the discussion in the immediately preceding paragraph about the cost of reducing weight through reducing engine displacement is applicable. If manufacturers elect to change the total drive ratios, those changes can be effected easily by changing gears in the differential at a negligible cost per vehicle.

The costs to the manufacturers of the technological improvements are approximately $12.00 per vehicle and are considered reasonable since the assumed level of technological improvements reflect the manufacturers' plans for such improvements for MY 1979 independent of any AFES. Moreover, many of the technological improvements that are likely to be implemented by manufacturers will be taken from the technology developed to meet the passenger automobile fuel economy standards set by Congress under the Act. Thus, the costs of these improvements should be spread

over a base much larger than the light nonpassenger automobile fleet.

The economic practicability of the fuel economy improvement with respect to the consumer was also considered. The proposed AFES should not lead to significant increases in new vehicle purchase prices. As discussed earlier, changing the light nonpassenger automobile fleet to improve fuel economy through weight reduction, CID×N/V reduction, or technological improvements should not lead to major cost increases to the manufacturer which would then be passed on as price increases to the consumer. Indeed, some of these changes should reduce manufacturing and operating costs.

The effect of the proposed AFES on light nonpassenger automobile operating and maintenance costs was also considered. The level of weight reduction assumed should not lead to significant increases in maintenance or operating costs, although body repairs to vehicles where there has been material substitution may be slightly more expensive. With respect to reduction of engine displacement, the smaller 8 cylinder engines and the 6 cylinder engines that could be used to replace the heavier 8 cylinder engines are already in wide use and should not present operational or maintenance problems that may occur in the first years of the introduction of new technology. The average reduction in fuel costs over the lifetime of a vehicle subject to the AFES would be substantial and is described in detail in the summary of costs and benefits.

The agency also considered whether the proposed AFES would allow the production of a fleet of light nonpassenger automobiles that would satisfy consumer demand. Thus, the purposes for which the vehicles were designed, such as cargo transportation, or recreation, were considered in evaluating weight reduction potential, and the need to maintain a level of vehicle performance which would be acceptable to the consumer was considered in evaluating reductions in CID×N/V. Moreover, the agency considered the plans of light nonpassenger automobile manufacturers for MY 1979, to determine how the manufacturers evluated consumer demand for light nonpassenger automobiles in MY 1979 and evaluated the economic feasibility of the proposed standard in light of the manufacturers' conception of how consumer demand in MY 1979 could be satisfied. Since the proposed AFES assumed levels of CID×N/V reduction and technological improvement for MY 1979 that are comparable to the plans of the manufacturers and since the assumed level of weight reduction should have little, if any, effect on the attractiveness of the vehicles to consumers, the agency believes that the proposed AFES will allow the manufacture of a fleet of light nonpassenger automobiles responsive to consumer demand.

Need of the nation to conserve energy. Because national dependence on foreign petroleum has continued to increase since the enactment of the Energy Policy and Conservation Act, the agency considers the national need to conserve energy to be strong. Accordingly, the proposed AFES for MY 1979 is intended to reap the highest possible fuel savings, considering the uncertainties surrounding the various shifts that might be caused by a more stringent standard, and the net increase in fuel consumption that could result from those shifts.

Summary of benefits and costs. The attribution of benefits and costs to the proposed AFES or any other AFES poses certain difficulties. In the case of the proposed AFES, it can be argued that, since the AFES is based largely upon voluntary plans of the manufacturers, almost identical levels of benefits and costs would accrue regardless of whether the AFES becomes effective and that therefore the AFES would have no benefits or costs other than those associated with improvements made by General Motors and AMC above their currently planned level of average fuel economy for MY 1979. At the same time, it may not be appropriate to consider any manufacturer's plans to be entirely voluntary. One factor in at least the later stages of the preparation of the manufacturers' MY 1979 plans can be reasonably assumed to have been the knowledge that AFES's would be set for MY 1979 and thereafter. At least some of the efforts of some of the manufacturers to improve average fuel economy for MY 1979 are arguably attributable to efforts either to meet the MY 1979 AFES, to maintain a margin of superior average fuel economy over manufacturers with lower average fuel economy, or to meet anticipated AFES's after MY 1979.

The agency believes that the most reasonable approach of considering benefits and costs of the proposal is to consider the range of benefits and costs associated with the two extremes discussed above. Thus, if one assumes that the AFES would result in no benefit or costs other than the fuel savings and costs associated with AMC and General Motors, the following savings would represent the benefits of the standard. Assuming that light nonpassenger automobiles are driven 110,000 miles in their lifetime, at an average of 11,000 miles per year, the annual savings in fuel would be 12.86 gallons of gasoline, per vehicle, and the lifetime savings in fuel would be 128.6 gallons. At a pump price of gasoline of $0.65 per gallon, the per vehicle savings in cost would be $8.36 annually, or $83.60 for the life of the vehicle. For the MY 1979 fleet the savings in fuel would be 7.89 million gallons annually, and 78.9 million gallons for the life of the fleet. The annual savings in fuel costs for the fleet would be $5.13 million. The lifetime savings would be $51.3 million.

If one assumes that all the planned fuel economy improvements of the manufacturers were caused by the fuel economy program, the benefits of the proposed AFES would be as follows.

Since only the domestic manufacturers had an average fuel economy for MY 1976 of less than 18.7 mpg under MY 1976 EPA testing procedures, the consideration of fuel savings will focus on the performance of light nonpassenger automobiles manufactured by those manufacturers and will assume that no manufacturer exceeds the AFES. Raising the average fuel economy level of all domestic light nonpassenger automobiles manufactured in MY 1979 to 18.7 mpg would result in an annual savings of 95 million gallons of gasoline over what would have been consumed were the average fuel economy at the MY 1976 level. In MY 1976, the average fuel ecoomy of all light nonpassenger automobiles manufactured by domestic manufacturers, including captive imports, was 16.1 mpg. This is 2.6 mpg less than the 18.7 mpg average for MY 1979. If it is assumed that the average lifetime of a light nonpassenger automobile is 10 years, or 110,000 miles, a comparison of the amount of gasoline which it takes to drive 110,000 miles at 18.7 mpg and 16.1 mpg shows that each vehicle will save, over MY 1976 levels, a lifetime total of 950 gallons, or an average of 95 gallons per year. Based on the pump price of gasoline of $.65 proposed by EPA for use on new automobile fuel economy labels (May 21, 1976, 41 FR 21002), the savings in lifetime fuel costs per light nonpassenger automobile would be $617 and in annual fuel costs $61. Since the domestic MY 1979 light nonpassenger automobile fleet is expected to number 1,100,000 vehicles, the annual fleet fuel savings would be 104.5 million gallons and the annual savings in fuel costs would be $617 million.

The agency notes that these estimates of savings are quite conservative. For example, the agency expects the future pump price of gasoline to exceed the $.65 a gallon assumed in the analysis. Even if a future pump price could be accurately predicted and used to calculate the benefits more precisely, the result would still be conservative. The establishment in the Energy Policy and Conservation Act of standards specifying levels of average fuel economy higher than are likely to be achieved in the current controlled market or even in foreseeable future markets suggests that the pump price does not and will continue not to reflect the social value assigned to gasoline by Congress. In addition, the analysis does not illustrate the cumulative fuel savings that will result from AFES's for model years after MY 1979.

The agency estimates, based on data submitted by light nonpassenger vehicle manufacturers, an expenditure of not more than an average of $12 per vehicle need be made by a manufacturer to achieve the proposed AFES for MY 1979. With the usual 100 percent mark-up, the retail price increase per new vehicle would be $24. This figure does not include the cost of converting the light nonpassenger automobile fleet to catalysts and employing EGR systems to comply with EPA emissions requirements. The agency believes that manufacturers would have employed such emission control technology regardless of the fuel economy program. It should also be noted that the $12 per vehicle figure

refers to technological improvements only and not the cost of reductions in weight or $CID \times N/V$. Reductions in $CID \times N/V$ should be virtually cost free, since the capacity to produce smaller engines is available, and changing the N/V involves a change in gear at a negligible cost per vehicle. Weight reduction for light nonpassenger automobiles should also be virtually cost free through redesigning vehicle components, since weight reduction techniques from the passenger automobile programs should spill over to light nonpassenger automobiles. However, the cost of weight reduction achieved solely by material substitution could be as much as an additional $12 per vehicle to manufacturers and $24 to a consumer.

In consideration of the foregoing, it is proposed that a new Part 533, Average Fuel Economy Standards for Nonpassenger Automobiles, be added to Title 49 of the Code of Federal Regulations, to read as set forth below.

Interested persons are invited to submit comments on all aspects of the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In accordance with Executive Order 11821 a review of this action was undertaken to determine whether it met the criteria for a "major action" requiring preparation of an Inflationary Impact Statement. The review indicated that the costs and economic impacts of this action are less than a "major" action and that therefore no IIS is needed.

This part is proposed under the authority of section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002(b)).

Comment closing date: January 7, 1977.

Proposed effective date: Date of publication of final rule in the FEDERAL REGISTER.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 502, Pub. L. 94-163, 89 Stat. 871 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on: November 19, 1976.

JOHN W. SNOW,
Administrator, National Highway Traffic Safety Administration.

PART 533—AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES

Sec.
533.1 Scope.
553.2 Purpose.
533.3 Applicability.
533.4 Definitions.
533.5 Requirements.
533.6 Measurement and calculation procedures.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 502, Pub. L. 94-163, 89 Stat. 871 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.

§ 533.1 Scope.

This part establishes an average fuel economy standard pursuant to section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended, for nonpassenger automobiles.

§ 533.2 Purpose.

The purpose of this part is to increase the fuel economy of nonpassenger automobiles by establishing a minimum level of average fuel economy for those vehicles.

§ 533.3 Applicability.

This part applies to manufacturers of nonpassenger automobiles.

§ 533.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy," "average fuel economy standard," "manufacture" "manufacturer," and "model year" are used as defined in section 501 of the Act.

(2) The term "automobile," is used as defined in section 501 of the Act and in accordance with the determinations in 49 CFR 523.

(b) *Other terms.* As used in this part, unless otherwise required by the context:

"Act" means the Motor Vehicle Information Cost Savings Act, as amended by Pub. L. 94-163;

"Administrator" means the Administrator of the National Highway Traffic Safety Administration;

"Nonpassenger automobile" is used in accordance with the determinations in 49 CFR Part 523.

§ 533.5 Requirements.

(a) Each manufacturer of nonpassenger automobiles shall comply with the requirement in paragraph (b) of this section.

(b) The average fuel economy of all nonpassenger automobiles manufactured by a manufacturer, described in paragraph (a) of this section, in model year 1979 shall be not less than 18.7 mpg, as determined under § 533.6.

§ 533.6 Measurement and calculation procedures.

(a) Any reference to nonpassenger automobiles manufactured by a manufacturer shall be deemed:

(1) To include all nonpassenger automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

(2) To exclude all nonpassenger automobiles manufactured (within the meaning of paragraph (a)(1) of this section) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

(b) The average fuel economy of all nonpassenger automobiles that are manufactured by a manufacturer and are subject to § 533.5(b) shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 503(a)(2) of the Act.

[FR Doc.76-34762 Filed 11-19-76;4:43 pm]

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PUBLIC MEETING

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, December 9, 1976 at 1:45 p.m. and on Friday, December 10, 1976 at 9:45 a.m. in Hearing Room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue, NW., Washington, D.C.

The Conference will consider the following matters:

1. A proposed recommendation regarding judicial review under the Clean Air Act and Federal Water Pollution Control Act.
2. A proposed recommendation regarding interpretive rules of general applicability and statements of general policy.
3. A proposed statement concerning procedures to deal with emergency shortages of natural gas.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations and supporting reports, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone (202) 254–7020.

Date: November 17, 1976.

RICHARD K. BERG,
Executive Secretary.

[FR Doc.76-34917 Filed 11-24-76;8:45 am]

COMPLIANCE AND ENFORCEMENT PROCEEDINGS COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Compliance and Enforcement Proceedings of the Administrative Conference of the United States, to be held at 10:00 a.m., December 9, 1976 in the library of the Conference, 2120 L Street, N.W. Suite 500, Washington, D.C.

The Committee will meet to consider pending studies on agency settlement procedures and disclosure as a regulatory technique.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this Committee meeting contact Stephen Klitzman, Staff Attorney, 202–254–7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 19, 1976.

[FR Doc.78-34918 Filed 11-24-76;8:45 am]

ADMINISTRATIVE DISCRETION SUBCOMMITTEE OF THE INFORMAL ACTION COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10:00 a.m., December 9, 1976 in Room 400 of the Gelman Building, 2120 L Street, N.W., Washington, DC 20037.

The Committee will meet to consider two matters:

(1) Professor Thomas Maroney's preliminary work on his study of Department of Justice and FTC discretion in investigating and prosecuting civil antitrust cases.

(2) Inquiries directed to agency general counsels regarding informal adjudication.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037, at least two days in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this Committee meeting contact Jeffrey Lubbers (202–254–7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 19, 1976.

[FR Doc.76-34919 Filed 11-24-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

EAST DEER CREEK LAND USE PLAN

Availability of Final Environmental Statement; Extension of Review Period

The Notice of Availability for the East Deer Creek Planning Unit, Colville National Forest, Washington, USDA–FS–R6–FES–(Adm.)–75–20, that appeared in the FEDERAL REGISTER Volume 41, Number 196, Thursday, October 7, 1976 (41FR 44203), is corrected to extend the review period to December 30, 1976.

ROBERT B. TERRILL,
Forest Supervisor.

NOVEMBER 17, 1976.

[FR Doc.76-34920 Filed 11-24-76;8:45 am]

SWIFT TRAIL FOREST HIGHWAY 34

Availability of Final 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 Swift Trail Forest Highway 34 in Arizona, USDA–FS–FES(Adm) R3–75–04.

The environmental statement considers probable environmental effects of the proposed project.

The final environmental statement was transmitted to CEQ on November 22, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Rm. 3230, 14th and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87102.
Coronado National Forest, 301 West Congress, Tucson, Ariz. 87501.

Single copies are available upon request to Forest Supervisor, Coronado National Forest, 301 W. Congress, Tucson, Arizona, zip code 85701. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

GARY E. CARGILL,
Acting Regional Forester, R–3.

NOVEMBER 22, 1976.

[FR Doc.76-34921 Filed 11-24-76;8:45 am]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Advisory Committee on Administrative Law Judges will meet at 9:30 a.m. on Monday, December 13, 1976. This meeting will be held in Room 7B09 of the U.S. Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The Advisory Committee's agenda will consist of a discussion of the increasing number of programs established by Congress which require hearings and whether such hearings should be conducted by administrative law judges or some other type of hearing officers, and if the latter, what type of independence, if any, should these hearing officers have; should there be different levels or tiers of administrative law judges; standards of productivity for administrative law judges, and the consequences of the failure to meet such standards; and such other matters as members of the Advisory Committee may wish to discuss, including issues to be considered at future meetings.

This meeting will be open to the public.

Inquiries regarding this notice may be addressed to Arthur L. Burnett, Assistant General Counsel, Legal Advisory Division, Office of General Counsel, Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415, telephone: Area Code 202-632-5421 or 632-5422.

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

[FR Doc.76-34881 Filed 11-24-76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

Notice of Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, Supp. V, 1975), notice is hereby given that the Census Advisory Committee on Housing for the 1980 Census will convene on December 15, 1976 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Housing for the 1980 Census was established in March 1976 to provide technical advice and guidance in planning the forthcoming deceninal Census of Housing to ensure that the major statistical requirements of decision makers are provided by the 1980 Census of Housing program.

The Committee is composed of 18 members including a representative from each of nine organizations and nine members appointed by the Secretary of Commerce.

The agenda for the meeting is: (1) Population content for the 1980 Census—(a) 100 percent and sample items, (b) classification of institutions and plans for data presentation, (c) identification of the disabled or handicapped and plans for data presentation; (2) changes in the housing unit definition; and (3) shelter costs for homeowners.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Arthur F. Young, Chief, Housing Division, Bureau of the Census, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-2863.

Dated: November 23, 1976.

ROBERT L. HAGAN,
Acting Director, Bureau of the Census.

[FR Doc.76-34958 Filed 11-24-76;8:45 am]

Domestic and International Business Administration

BROOKHAVEN NATIONAL LABORATORY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before December 16, 1976.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00026. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, New York 11973. Article: Cryogenic Helium Turboexpander/Compressor Unit, Model TD-1/2 Cell. Manufacturer: L'Air Liquide, France. Intended use of article: The article is intended to be installed in a cryogenic testing facility for research on superconducting magnets in which it will produce temperatures below 4.2 degrees Kelvin. Application received by Commissioner of Customs: November 5, 1976.

Docket Number: 77-00027. Applicant: University of Wisconsin, The McArdle Laboratory, Madison, Wisconsin 53706. Article: Electron Microscope, Model H-500 and Accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in experimental oncology (cancer research) in the following studies of biological ultrastructure:

(1) Studies involving a structural analysis and map location of SV40 virus-specific RNAs using the "R loop" method and that of chemically coupling ferritin to the ends of RNA molecules as well as direct visualization of RNA molecules with the extremely high resolution capable with this microscope.

(2) Continued molecular mapping of many deletions and other arrangements in the genome, using the heteroduplex mapping technique by electron microscopy. Methods for the localization of various RNA transcripts on the map using electron microscopy of DNA-RNA heteroduplexes will also be undertaken as well as the visualization of various controlling proteins bound to DNA of the virus.

(3) Investigations of the ultrastructure of junctional complexes formed between two hepatocytes in cell culture. Studies of the overall morphology of the cultured cells at extremely low magnification extending up to magnifications in excess of 100,000 times will also be carried out.

(4) Studies undertaken to visualize with this electron microscope the ribosomal precursor RNAs (45s, 41s, 32s, etc.) taken from cells treated with base analogues including 5-azacytidine, 5-fluorouracil, 8-azaguanine and 6-thioguanine. Application received by Commissioner of Customs: November 5, 1976.

Docket Number: 77-00028. Applicant: Columbia University, Havemeyer Hall, New York, N.Y. 10027. Article: CO_2 TEA 801A Laser and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the studies of infrared-radiation-induced chemical reactions, including isotope separation. Chemicals that will be employed are non-toxic, volatile liquids. Reaction is driven by absorption of IR photons from an intense infrared source. Application received by Commissioner of Customs: November 5, 1976.

Docket Number: 77-00029. Applicant: Department of Commerce, National Bureau of Standards, Washington, D.C. 20234. Article: Model A7 Automatic Inductive Bridge for Resistance Measurements, with Model A7-L Interface Option. Manufacturer: Automatic Systems Laboratories Ltd., United Kingdom. Intended use of article: The article is intended to be used to automatically measure on an accurate basis the resistance of a number of platinum resistance ther-

momenters for monitoring the temperature of different experiments. Application received by Commissioner of Customs: November 8, 1976.

Docket Number: 77–00030. Applicant: Battelle Memorial Institute, 505 King Avenue, Columbus, Ohio 43201. Article: Mass Spectrometer, Model MS702R (used). Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article is intended to be used to study metals, pollution standard, and organics for trace impurities, isotopic composition and structure. Application received by Commissioner of Customs November 8, 1976.

Docket Number: 77–00031. Applicant: California Department of Food and Agriculture, Laboratory Services, Division of Plant Industry, 1220 N Street, Sacramento, CA 95814. Article: Electron Microscope, Model EM 9S–2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of plant virus, including purified preparation and infected tissue; mycoplasma infected tissue; phytopathogenic bacteria; and a variety of other plant pathogens and pests including fungi, nematodes, and insects. In addition, tissue from plants treated with a variety of pesticides, or grown under adverse cultural conditions will be studied. The objective of the research to be conducted is the rapid and accurate diagnoses of plant diseases to help protect agriculture in the state of California. Application received by Commissioner of Customs: November 8, 1976.

Docket Number: 77–00033. Applicant: Cornell University Medical College, Department of Physiology, 1300 York Avenue, New York, N.Y. 10021. Article: Two Micromanipulators, Type MPG, BN 6880 (Right hand model and left hand model). Manufacturer: August Fischer KG, West Germany. Intended use of article: The article is intended to be used to obtain samples of tubular fluid which are to be analyzed in order to investigate kidney function. The experiments are designed to understand the regulation of sodium, calcium and water balance at the level of the individual nephron. Application received by Commissioner of Customs: November 8, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special
Import Programs Division.

[FR Doc.76–34826 Filed 11–24–76;8:45 am]

YALE UNIVERSITY

Decision On Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00470. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, Connecticut 06520. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of DNA from both small and large viruses, cellular and viral RNA molecules, subcellular organelles, such as ribosomes and isolated chromosomes. Studies will be conducted to determine the structure of DNA at its most elementary level and the role of the structure in its function.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 30, 1976).

Reasons: The foreign article provides distortion free micrographs over a magnification range from 100 to 200,000X without a pole-piece change and a guaranteed resolution of 3.5 Angstroms point-to-point (Å pt.). The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU–4C electron microscope currently supplied by the Adam David Company (Adam David). The Model EMU–4C with its standard pole-piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range could be reduced to 200 magnifications or less. But the continued reduction of magnification induced an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs, an optional low magnification pole-piece providing 500–70,000× should be used. It is noted that changing the pole-piece on the Model EMU–C4 requires a break in the vacuum of the column that induces the danger of contamination which would very likely lead to the failure of the experiment.

The EMU–4C provided a guaranteed resolution of 5Å pt. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 20, 1976 that distortion free micrographs at low magnifications (100×) and high magnification at 200,000× without a pole-piece change and the additional resolution of the article are pertinent to the applicant's intended purposes. HEW also advises that the low magnification range without pole-piece change and the guaranteed resolution of the domestic Model EMU–4C was not scientifically equivalent to that of the foreign article for the applicant's intended use at the time the article was ordered. We, therefore, find that the Model EMU–4C was not of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special
Import Programs Division.

[FR Doc.76–34828 Filed 11–24–76;8:45 am]

Maritime Administration

[Docket No. S–523]

AMERICAN PRESIDENT LINES, LTD.

Application

Notice is hereby given that American President Lines, Ltd., has filed an application pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (the Act), requesting written permission for domestic rights for vessels operating in a proposed eastbound Round-the-World service in a proposed operating-differential subsidy contract (which has been the subject of proceedings pursuant to section 605(c) of the Act under Docket S–493 and S–493 Sub-2) to carry cargo between California ports and Atlantic coast ports. The eastbound Round-the-World service contemplates a maximum of 36 sailings annually in lieu of a maximum of 28 sailings on American President Lines' Atlantic/Straits, Trade Route 17 service.

Any person, firm or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on December 10, 1976, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficent interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 22, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-34903 Filed 11-24-76;8:45 am]

ACADEMY TANKERS, INC. ET AL.

Applications for Renewal of Operating Differential Subsidy Contracts

[Docket No. S-524]

Notice is hereby given that the following companies have filed applications with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act of 1936, as amended (the Act), to renew their operating-differential subsidy (ODS) contracts, which will expire December 31, 1976, to provide that they will expire December 31, 1977, unless extended, to operate the vessels listed, in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.). Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Company	Contract No.	Date of renewal application	Vessels
Academy Tankers, Inc., Americana Bldg., 811 Dallas Ave., Houston, Tex. 77002.	MA/MSB-219	Nov. 10, 1976	*Thomas Q, Thomas M.*
American Trading Transportation Co., Inc., 555 5th Ave., New York, N.Y. 10017.	MA/MSB-221	.....do.....	*Washington Trader.*
Atlantic Richfield Co., 515 South Flower St., Los Angeles, Calif. 90071.	MA/MSB-270	Nov. 12, 1976	*Sinclair Texas, Arco Prudhoe Bay, Arco Anchorage, Arco Enterprise, Arco Heritage, Atlantic Trader, Arco Prestige, Arco Endeavor, Arco Sag River, Arco Juneau, Arco Fairbanks.*
Blackships, Inc., P.O. Box 1166, Pittsburg, Pa. 15230.	MA/MSB-246	Nov. 11, 1976	*Gulfking, Gulfqueen, Gulfprince, Gulfknight, Gulfoil, Gulfcrest, Gulfpride, Gulfsolar, Gulfteer, Gulflion, Gulftiger, Gulfspray, Gulfsupreme.*
Chas. Kurz & Co., Inc., 313 Chestnut St., Philadelphia, Pa. 19106.	MA/MSB-188	Nov. 15, 1976	*Tullahoma, Gaines Mill, Spirit of Liberty.*
Connecticut Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-191	Nov. 12, 1976	*Connecticut.*
Cove Tankers Corp., 88 Pine St., New York, N.Y. 10005.	MA/MSB-357	Nov. 11, 1976	*Mount Explorer, Mount Navigator, Cove Communicator.*
Eagle Terminal Tankers, Inc., 250 Park Ave.,	MA/MSB-210	.....do.....	*Eagle Charger, Eagle Leader.*
Empire Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-235	Nov. 12, 1976	*Potomac.*
Globe Seaways, Inc., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-209	.....do.....	*Overseas, Anchorage.*
Ingram Ocean Systems, Inc., 4100 1 Shell Square, New Orleans, La. 70139.	MA/MSB-367	Nov. 15, 1976	*Martha R. Ingram.*
Intercontinental Bulktank Corp., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-216	Nov. 12, 1976	*Overseas Alaska.*
International Ocean Transport Corp., 3 Parkway, Philadelphia, Pa. 19102.	MA/MSB-244	.....do.....	*Allegiance, Bradford Island, Fort Hoskins, Council Grove, Banner.*
James River Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New work, N.Y. 10017.	MA/MSB-236	.....do.....	*James.*
Keystone Shipping Co., 313 Chestnut St., Philadelphia, Pa. 19106.	MA/MSB-189	Nov. 15, 1976	*Perryville.*
Keystone Tankship Corp., c/o Keystone Shipping Co., 313 Chestnut St., Philadelphia, Pa. 19106.	MA/MSB-190	.....do.....	*Golden Gate.*
Manhattan Tankers Co., Inc., 1 Chase Manhattan Plaza, New York, N.Y. 10005.	MA/MSB-204	Nov. 11, 1976	*Manhattan.*
Mobil Oil Corp., 150 East 42d St., New York, N.Y. 10017.	MA/MSB-363	Nov. 15, 1976	*Mobil Aero, Mobil Arctic, Mobil Lube, Mobil Meridian.*
Mohawk Shipping Co., Inc., c/o Ogden Marine Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-238	Nov. 12, 1976	*Mohawk.*
Newport Tankers, 7 West 54th St., New York, N.Y. 10019.	MA/MSB-248	Nov. 11, 1976	*Achilles.*
Ocean Clippers, Inc., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-228	Nov. 12, 1976	*Overseas Traveler.*
Ocean Tankships Corp., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-217 MA/MSB-187	.....do.....	*Overseas Vivian, Overseas Natalie.*
Ocean Transportation Co., Inc., 511 5th Ave., New York, N.Y. 10017.	MA/MSB-208	.....do.....	*Overseas Aleutian, Overseas Ulla.*
Ogden Merrimac Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-239	.....do.....	*Merrimac.*
Ogden Sea Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-241	.....do.....	*Columbia.*
Overseas Bulktank Corp., 52 Wall St., New York, N.Y. 10005.	MA/MSB-218	.....do.....	*Overseas Arctic, Overseas Juneau.*
Overseas Oil Carriers, Inc., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-207	.....do.....	*Overseas Joyce.*
Penn Tanker Co., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-222	.....do.....	*Ogden Champion, Ogden Challenger.*
Rio Grande Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-243	.....do.....	*Yellowstone.*
Sea Tankers, Inc., 1114 Avenue of the Americas, New York, N.Y. 10036.	MA/MSB-233	.....do.....	*Overseas Alice, Overseas Valdez.*
Sea Transport Corp., 250 Park Ave., New York, N.Y. 10017.	MA/MSB-211	Nov. 11, 1976	*Eagle Traveler, Eagle Voyager.*

Company	Contract No.	Date of renewal application	Vessels
Transeastern Shipping Corp., 1 Chase Manhattan Plaza, New York, N.Y. 10017.	MA/MSB-203	.....do.....	*Transeastern.*
Vancor Steamship Corp., 11 Broadway, New York, N.Y. 10004.	MA/MSB-226	Nov. 15, 1976	*Vantage Horizon.*
Wabash Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-192	Nov. 12, 1976	*Ogden Wabash.*
Willamette Transport, Inc., c/o Ogden Marine, Inc., 280 Park Ave., New York, N.Y. 10017.	MA/MSB-193	.....do.....	*Ogden Willamette.*

Notice is hereby given that the Fredericksburg Shipping Company which has an application for ODS pending before the Board has filed a subsequent application with the Board pursuant to Title VI of the Act to either (1) renew its ODS contract until December 31, 1977 (unless extended) if the pending application for an ODS contract is approved prior to December 31, 1976 (on which date it will expire) or (2) in the event that approval of the pending application cannot be obtained prior to December 31, 1976, apply for an ODS contract which will expire on December 31, 1977 (unless extended) for the operation of the vessel listed below in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the U.S. from ports in the U.S. to ports in the U.S.S.R. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Company	Contract No.	Date of renewal application	Vessels
Fredericksburg Shipping Co., c/o Keystone Shipping Co., 313 Chestnut St., Philadelphia, Pa. 19106.	.....	Nov. 15, 1976	*Fredericksburg.*

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approvals, the vessels listed above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such requests as an administrative matter for which there is no requirement for further section 605(c) notices.

Any person having an interest in the granting of any of the applications and who would contest a finding by the Board that the service now provided by vessels of U.S. registry is inadequate, must on or before December 7, 1976, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition to intervene with regard to any application shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the applications for renewal, the purpose of such hearing will be to receive evidence relevant to (1) whether the applications herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 22, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-34904 Filed 11-24-76;8:45 am]

National Oceanic and Atmospheric Administration

DELBAY PHARMACEUTICALS, INC. ET AL.

Issuance of Certificate of Exemption for Pre-Act Endangered Species Products

On September 29, 1976, notice was published in the FEDERAL REGISTER (41 FR 42969) that Delbay Pharmaceuticals, Incorporated, Union, New Jersey; Dome Laboratories, West Haven, Connecticut; and Indian Arts and Crafts, Incorporated, Seattle, Washigton, each had applied for a Certificate of Exemption to engage in certain commercial activities with respect to pre-Act endangered species parts or products. Notice is hereby given that on November 15, 1976, as authorized by the provisions of the Endangered Species Act of 1973, as amended (Pub. L. 94-359) and the regulations issued thereunder (50 CFR Part 222, Subpart B), the National Marine Fisheries Service issued Certificates of Exemption to Delbay Pharmaceuticals, Incorporated; Dome Laboratories; Indian Arts and Crafts, Incorporated, which permit the above activities. The Certificates of Exemption are available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: November 22, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76-34857 Filed 11-24-76;8:45 am]

STEPHEN B. BARLOW AND C. CHRISTOPHER CAMBRIDGE

Receipt of Applications for Certificate of Exemption

Notice is hereby given that the following applicants have applied in due form for Certificates of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicants:

1. Stephen B. Barlow, 283 Brook Street, Providence, Rhode Island 02906.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Twelve (12) etched sperm whale teeth and seventeen (17) jewelery items made from sperm whale teeth.

2. C. Christopher Cambridge, RFD No. 1, Box 102G, Kenduskeag, Maine 04450.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a three-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part;

(ii) The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or

offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Approximately 133 whole whale teeth, 349 pieces cut from whale teeth and four (4) pounds of very small pieces cut from whale teeth.

Written comments on these applications may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before December 27, 1976.

HARVEY M. HUTCHINGS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

NOVEMBER 19, 1976.

[FR Doc.76-34858 Filed 11-24-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CP 75-9]

ALUMINUM AND MAGNESIUM STEP AND EXTENSION LADDERS

Denial of Petition

In this notice the Consumer Product Safety Commission denies a petition requesting the establishment of safety standards for aluminum and magnesium step and extension ladders.

Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

On November 21, 1974, Frederick Saphra, Professional Engineer from Seaford, New York, petitioned the Commission to develop mandatory safety standards for aluminum and magnesium step and extension ladders (Petition No. CP 75-9).

The petition asserts that there is no proper standard which governs various aspects of the design, construction, and testing of these ladders. It also states that present voluntary standards utilize only static ratings and tests which are inadequate to protect against the loads encountered in the dynamic use of ladders.

After careful consideration, the Commission has decided to deny this petition because it appears, based on the information available to the Commission at this time, that a mandatory standard is not necessary to reduce or eliminate any unreasonable risks of injury which petitioner believes are associated with the ladders he describes. The Commission has information that: (1) New voluntary standards are being developed that are aimed at correcting inadequacies in the earlier voluntary standards such as those cited by the petitioner; (2) such voluntary standards are expected to be in effect within a reasonable time; and (3) it is expected that the present high degree of compliance by the industry to the existing voluntary standard will continue when the voluntary standards become more stringent. For these reasons, the Commission's refusal to grant the petition and initiate a rulemaking proceeding for aluminum and magnesium step and extension ladders at this time does not unreasonably expose consumers to a risk of injury from such products.

Even before Petition No. CP 75-9 was received, the Commission was considering various actions to enhance the safety of ladders. The initial investigation by the Commission's staff into the risks associated with this product disclosed that factors relating to approximately 50% of the current accidents reported through the National Electronic Injury Surveillance System (NEISS) could possibly be addressed by a standard. In-depth investigations by the Commission's staff of a number of ladder accidents disclosed that many injuries involving ladders appear to involve some degree of misuse. This suggested a need for more education of consumers in the safe use of these products. Since there was estimated to be a high percentage of conformance with the voluntary standards which had been already published, the Commission's staff contacted voluntary standards organizations and industry representatives in order to determine the suitability of using a voluntary program to improve existing voluntary standards and deliver sufficient safety information to the consumer. These initiatives produced a high degree of cooperation from industry and the voluntary standards organizations.

At the present time, the American National Standards Institute (ANSI) A14 committee, which has developed existing voluntary standards for ladders, is engaged in extensive testing and evaluation of ideas for more stringent voluntary standards for both wood and metal ladders. The areas which are being considered include the following:

a. Label tests to measure adhesion and effective life.
b. Extension ladder sliding tests.
c. Friction test for rungs and steps.
d. Adequate safety factors.
e. Dynamic and cyclic tests of ladders.
f. Useful life and resistance to weathering.
g. Corrosion.
h. Suitable materials.
i. The proper use and misuse of ladders.
j. Human engineering factors.
k. Stability.
l. The effect of ladder accessories on ladder strength, human engineering factors, safety factors, and stability.

The areas which are being considered by ANSI for more stringent voluntary standards include the areas which are the subject of the petition.

In addition, the American Ladder Institute has developed cautionary labels to be voluntarily attached to ladders by manufacturers in order to inform consumers of potential hazards. This program applies to ladders manufactured after April 1976 by those manufacturers who are members of the American Ladder Institute. The Commission is advised that approximately 80 percent of U.S. ladder manufacturers are members of this Institute.

In view of the extensive cooperation and responsible consideration of suggested improvements in standards which these voluntary standards organizations have exhibited, and since it appears that adequate voluntary standards will be adopted in 1977 which are expected to sufficiently address the risks of injury connected with those products, the Commission has determined that a mandatory federal standard is not required at this time.

To assure the continuing expeditious development of the voluntary standards, the Commission has directed the staff to actively cooperate with and monitor such development. The staff is to report to the Commission in 90 days on the status of voluntary standards development so that the Commission may take what action may be appropriate commensurate with the status of the voluntary efforts.

Copies of the petition and other relevant materials may be seen at, or obtained from, the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207, during business hours Monday through Friday.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (sec. 10(d), Pub. L. 92-573, 86 Stat. 1217, 15 U.S.C. 2059(d)) notice is hereby given of the Commission's denial of the above-described petition.

Dated: November 22, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-34825 Filed 11-24-76;8:45 am]

[Petition No. CP 75-24]

EXTERNAL SURFACE TEMPERATURE OF OVENS

Denial of Petition

The purpose of this notice is to announce that the Consumer Product Safety Commission has denied a petition, CP 75-24, to issue a consumer product safety standard for the external surface temperature of ovens under the Consumer Product Safety Act (CPSA).

Section 10 of the CPSA (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. It further provides that if the Commission denies such a petition it shall publish its reasons for denial in the FEDERAL REGISTER.

BACKGROUND

In a petition dated May 13, 1975, Susan T. Glascoff of Wayne, New Jersey petitioned the Commission, pursuant to section 10 of the CPSA, to commence a pro-

ceeding for the issuance of a consumer product safety rule to regulate the external surface temperature of ovens. The petition was precipitated by an incident in which Ms. Glascoff's infant son received second degree burns of his hands as a result of touching the outside of an oven which was in use at the time.

RESPONSE OF THE COMMISSION

After careful consideration of the petition and additional data and information collected by the Commission's staff, the Commission has decided to deny this petition. The Commission bases its decision on the finding that a mandatory standard is not necessary to eliminate or reduce the alleged unreasonable risk of injury associated with the product.

Before initiating a proceeding to develop a consumer product safety standard, the Commission is required by section 7 of the CPSA to preliminarily determine that a consumer product safety standard is necessary to eliminate or reduce an unreasonable risk of injury associated with such product. There are presently in use two voluntary certification standards dealing with the design, performance and safety characteristics of gas and electric ranges and ovens. The two standards are UL 858 (Underwriters Laboratories' standard for household electric ranges) and ANSI Z21.1(b) (a standard for household cooking gas appliances). As of September 30, 1975, both of these standards were revised significantly by lowering the maximum allowable temperatures of exposed surfaces of ovens. Under the most recent revision to standard ANSI Z21.1(b), effective July 1, 1977, the maximum allowable temperature for the exposed surfaces, from 0–36" above floor level, of gas ranges is 55° C (131° F) based on a thermesthesiometer reading at a measurement time of 4 seconds. (The thermesthesiometer is a device to sense the contact temperature resulting from touching a surface, and is designed to take into account the thermal conductivity as well as the temperature of a surface material.) From 36" to 60" above floor level the maximum allowable temperature is 65° C (149° F) based on a thermesthesiometer reading at a measurement time of 4 seconds. Apparently all manufacturers of gas ovens are presently manufacturing ovens in accordance with these provisions. The present maximum allowable temperature under UL 858 closely corresponds to the temperature limits of ANSI Z21.1(b). The Commission believes that these temperature limits provide adequate protection against burns.

In view of the existence of the voluntary certification standards mentioned above and the apparent high degree of compliance with them by the industry, the Commission finds at this time that a mandatory consumer product safety standard to regulate the external surface temperature of ovens, requested by this petitioner, is not necessary to eliminate or reduce the alleged unreasonable risk of injury associated with the product. As a result of the existence of and apparent compliance with the voluntary standards, the Commission believes that the decision not to initiate mandatory rulemaking proceedings at this time will not unreasonably expose the petitioner or other consumers to the risk of injury that the petitioner alleges is presented by the product.

In the future, the Commission will continue to provide advice to the voluntary standards organizations and will encourage, wherever possible, the improvement of those aspects of the voluntary standards that concern safety. The Commission also will monitor the impact of these voluntary standards on consumer injuries. If the Commission determines at some future time that the standards are not adequately protecting the public, the Commission will take appropriate action.

The Commission has been engaged in an ongoing examination of the need to regulate and the feasibility of regulating hot surfaces on a generic basis. Within the next twelve months, the Commission will be considering a staff prepared discussion paper on various possible approaches for a generic standard for hot surfaces, possible test methods, and a possible need for additional research.

The Commission staff has also constructed a "product profile" for ranges, ovens, and stoves and a "product profile" for hot surfaces. These profiles are prepared by the staff and summarize the Commission's present state of knowledge of the safety of these products and related information. They are available to the public through the Office of the Secretary of the Commission. The Commission hopes that the profiles will stimulate comment and attract additional data and analysis from any interested organization or individual. Requests for copies of these profiles and any comments regarding them may be sent to the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

CONCLUSION

Accordingly, pursuant to section 10(d) of the CPSA (15 U.S.C. 2059(d)), notice is given of the Commission's denial of the petition CP 75–24 dated May 13, 1975.

A copy of the petition may be seen during working hours, Monday through Friday, in the Office of the Secretary.

Dated: November 22, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76–34824 Filed 11–24–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 645–8]

ENVIRONMENTAL RADIATION EXPOSURE ADVISORY COMMITTEE

Renewal

Pursuant to section 7(a) of the Office of Management and Budget Circular No. A–63, Transmittal Memorandum No. 1, dated July 19, 1974, it is hereby determined that renewal of the Environmental Radiation Exposure Advisory Committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Environmental Radiation Exposure Advisory Committee through December 1, 1978, unless otherwise sooner terminated, will be filed at the Library of Congress.

JOHN QUARLES,
Acting Administrator.

NOVEMBER 18, 1976.

[FR Doc. 73–34893; Filed 11–24–76; 8:45]

[FRL 649–6; PF50A]

FMC CORP.

Filing of Pesticide Petition; Correction

In FR Doc 76–29886, published on October 12, 1976 (41 FR 44735), the following changes should be made to the pesticide petition (PP 6F1701) submitted by FMC Corporation. The proposed tolerance for combined residues of carbofuran and its metabolites in or on peanuts is 4 parts per million (ppm), of which no more than 1.5 ppm are carbamates. Also, the filing notice should include the proposed tolerance for carbofuran and its metabolites in or on peanut hulls of 10 ppm, of which no more than 8 ppm are carbamates.

Dated: November 19, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–34891 Filed 11–24–76;8:45 am]

[FRL 650–1; OPP–42026A]

INDIANA

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On August 9, 1976, notice was published in the FEDERAL REGISTER (41 FR 33322) of the intent of the Regional Administrator, EPA, Region V, to approve, on a contingency basis, the Indiana Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Indiana State Plan). Contingency approval was requested by the State of Indiana pending promulgation of implementing regulations. Complete copies of the Indiana State Plan were made available for public inspection at the Office of the Indiana State Chemist and Seed Commissioner, West Lafayette, Indiana; Pesticides Branch, Air and Hazardous Materials Division, EPA, Region V, Chi-

cago; and the Office of Pesticide Programs, EPA, Washington, D.C.

Written comments were received from the National Canners Association and Orkin Exterminating Company, Inc. The comments were carefully reviewed and evaluated by EPA and by the Office of the Indiana State Chemist and Seed Commissioner, which has been designated as the State lead agency responsible for implementing the Indiana State Plan.

The National Canners Association commented that, because pesticide applicator training is not required by the FIFRA, the proposed training budget of the Indiana Cooperative Extension Service should not be considered by EPA in its assessment of the adequacy of funding to support the State Plan. Because the State of Indiana plans to utilize training programs as an integral part of the pesticide applicator certification program to be implemented under the State Plan, estimated funds for training were identified and included as an attachment to the State Plan. However, the Agency assessed funding of the proposed certification program only on the basis of information provided by the lead agency.

The National Canners Association also commented on the State's intention to charge certification fees. Section 4 of the amended FIFRA establishes a coordinated State/Federal program for certifying applicators, with section 4(a)(1) making EPA responsible for prescribing applicator standards. Section 4(a)(2) provides that if a State, at any time, desires to certify applicators of pesticides, the Governor shall submit a State Plan for such purpose. Further, under section 24 of FIFRA, States are given a great deal of flexibility in developing their individual programs, provided those programs meet the prescribed Federal standards. In this Agency's view, this comment pertains to State requirements under the 1975 Indiana Pesticide Use and Application Law rather than Federal requirements pertaining to the acceptability of a State Plan as established in Federal regulations.

Under the State Plan, an aerial subcategory is proposed for certain categories of commercial applicators. The National Canners Association suggests that where Indiana has identified an aerial subcategory, a subcategory entitled "Ground" should also be established to cover all applicators in the category. However, the Agency has determined that this is not necessary, because Indiana's commercial applicator categories and subcategories include applicators who apply pesticides with ground equipment.

Orkin Exterminating Company commented on Indiana's plan to use Continuing Education Units (CEU) as a means of assuring that certified applicators are kept abreast of changing technology and maintain their competency. Concern that the CEU concept entails completion of a college level course was expressed; this is not the intent of the State Plan. The State lead agency and Cooperative Extension Service are in the process of evaluating and assigning potential CEU credit to all existing and proposed State and industry sponsored training programs. The CEU concept will allow certified applicators a great deal of flexibility in selecting training programs, of their particular interest, for maintaining competency.

Contingency approval of the State Plan was requested by the State of Indiana pending promulgation of implementing regulations. Draft regulations were submitted and approved by the Agency. Subsequently, during the formal comment period, the draft regulations approved by the Agency were promulgated by the Office of the Indiana State Chemist and Seed Commissioner and the State has requested full approval of the State Plan.

The Agency has determined that all contingencies required of the Plan have been met by the State and the State Plan now satisfies the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR Part 171. Accordingly, the Indiana State Plan is approved.

Effective date: Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Indiana State Plan shall be effective immeditaely. Neither the Indiana State Plan itself nor this Agency's approval of the Plan creates any direct or immediate obligations on pesticide applicators or other persons in the State of Indiana. Delays in starting the work necessary to implement the Plan, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: November 9, 1976.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator, Environmental Protection Agency, Region V.

[FR Doc.76-34889 Filed 11-24-76;8:45 am]

[FRL 649-2]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Open Meeting

Pursuant to Pub. L. 92-423, notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 9 a.m. on December 15, 1976, in Conference Room 2117, Mall Area, Waterside Mall, and at 8:30 a.m., December 16, 1976, in Conference Room 1101, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

The purpose of the meeting will be to discuss proposed approaches to address the problem of organic contaminants in drinking water and to review suggested changes to be made regarding the proposed Underground Injection Control Regulations. Other topics to be discussed will include the status of the Rural Water Survey and an update on the Environmental Protection Agency's water supply public communications activities.

Both days of the meeting will be open to the public. The Council encourages the hearing of outside statements and allocates a portion of time for public participation. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at Council meetings.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Water Supply (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The telephone number is: Area Code 202-426-8847.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

NOVEMBER 19, 1976.

[FR Doc.76-34894 Filed 11-24-76;8:45 am]

[FRL 649-7; PF55]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Shell Chemical Co., 1025 Connecticut Ave. NW, Washington DC 20036, has submitted a petition (PP 6F1851) to the Environmental Protection Agency which proposes that 40 CFR 180.296 be amended by establishing tolerances for residues of the insecticide dimethyl phosphate of 3-hydroxy-N-methyl-cis-crotonamide in or on the raw agricultural commodities sweet corn kernels at 0.3 part per million (ppm), field corn grain at 0.2 ppm, and field corn fodder and field corn forage (including silage) at 2.0 ppm. The proposed analytical method for determining residues is a gas-liquid chromatographic procedure using a phosphorus-sensitive flame photometric procedure. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 16, Registration Division (WH-567), Office of Pesticide Programs,

at the above address, or by telephone at 202/426–9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8 a.m. to 4:30 p.m. Monday through Friday.

Dated: November 19, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–34890 Filed 11–24–76;8:45 am]

[FRL 649–8; OPP–00036A]

STATE-FEDERAL FIFRA IMPLEMENTATION ADVISORY COMMITTEE; WORKING GROUP ON ENFORCEMENT

Meeting Postponement

Pursuant to Pub. L. 92–463, notice is hereby given that the two-day meeting of the State-Federal FIFRA Implementation Advisory Committee's Working Group on Enforcement has been postponed to Wednesday and Thursday, January 5–6, 1977, at the same time and location. The meeting was originally scheduled to be held beginning at 8:30 a.m. on December 1 and 2 in the VIP Room at the Atlanta Cabana, Peachtree and 7th Streets, Atlanta, Ga.; the announcement appeared in the FEDERAL REGISTER on November 9, 1976 (41 FR 49517).

For further information, please contact P. H. Gray, Jr., Executive Secretary, State-Federal FIFRA Implementation Advisory Committee, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755–7014.

Dated: November 19, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76–34883 Filed 11–24–76;8:45 am]

[FRL 649–1]

SCIENCE ADVISORY BOARD TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

Open Meeting

NOVEMBER 16, 1976.

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Advisory Board will be held beginning at 9:00 a.m., December 14, 1976, in room 2117, U.S. Environmental Protection Agency, Waterside Mall, 401 M Street, SW., Washington, D.C.

This meeting is a regularly scheduled meeting of the Committee. The Committee will hold a series of discussions with personnel of EPA's Office of Research and Development and the Office of Planning and Management regarding the planning of EPA's R. & D. programs relating to pollution control technology. The discussion will focus on understanding the plannnig process, how national R. & D. needs are determined and converted into research programs and other factors that influence and constrain R. & D. planning. In addition, the Committee will hear briefs on the activities of working groups that have been gathering and assessing information regarding the quality of EPA's research and development programs related to pollution control technology and will discuss future plans for this activity. Further, the Committee will be briefed on relevant activities of the Science Advisory Board and will discuss members items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Lloyd T. Taylor, Executive Secretary, Technology Assessment and Pollution Control Advisory Committee, (703) 557–7720, by c.o.b. December 7, 1976.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

[FR Doc.76–34892 Filed 11–24–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP72–122 (PGA77–1)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Pursuant to FPC Opinion No. 770–A

NOVEMBER 19, 1976.

Take notice that Colorado Interstate Gas Company (CIG) on November 10, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed change would increase the commodity rate under each of CIG's jurisdictional rate schedules by 15.97 cents per Mcf.

The filing is made pursuant to FPC Opinion No. 770–A issued November 5, 1976, in Docket No. RM75–14, and includes only increased purchased gas costs associated with that opinion.

CIG respectfully requested that the instant filing be made effective on December 1, 1976.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

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 November 30, 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.76–34875 Filed 11–24–76;8:45 am]

[Docket No. RP72–149 (PGA77–1)]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

NOVEMBER 19, 1976.

Take notice that Mississippi River Transmission Corporation ("Mississippi") on November 4, 1976, submitted for filing Fiftieth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to become effective December 1, 1976.

The instant filing is being made pursuant to the provision of Mississippi's purchased gas cost adjustment clause provisions to track a rate change filing of Natural Gas Pipeline Company of America ("Natural") pursuant to its Motion to make suspended tariff sheets at Docket No. RP76–106 effective December 1, 1976.

Mississippi submitted schedules containing computations supporting the rate changes to become effective December 1, 1976. Mississippi states that copies of its filing were served on Mississippi's juridictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission 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 November 30, 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 unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–34876 Filed 11–24–76;8:45 am]

Center for Disease Control

COAL MINE DUST PERSONAL SAMPLER UNITS

Hearing To Revoke Certificates of Approval of Bendix Corporation Units

Section 202(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 842(a)) provides that accurate samples of respirable dust in coal mine atmospheres shall be taken and that such samples shall be taken by a device approved by both the Secretary

of the Interior and the Secretary of Health, Education, and Welfare. In 1970, the Secretaries jointly adopted the regulations in Part 74 of Title 30, Code of Federal Regulations which set forth the requirements for approval of coal mine dust personal sampler units and the procedures for applying for such approval (35 FR 4327). The regulations provide for the issuance of a certificate of approval to applicants whose sampler units meet the prescribed tests and specifications. The testing and approval program is administered by the Secretary of the Interior, through the Mining Enforcement and Safety Administration (MESA) and by the Secretary of Health, Education, and Welfare, through the National Institute for Occupational Safety and Health (NIOSH).

Pursuant to 30 CFR 74.7, NIOSH has issued certificates of approval to the Bendix Corporation under approval numbers TC-74-018, TC-74-019, TC-74-020, TC-74-021, and TC-74-022 for Bendix coal mine dust personal sampler units. 30 CFR 74.11 provides that a certificate of approval for a coal mine dust personal sampler unit issued under Part 74 may be revoked for cause by NIOSH.

Tests conducted by NIOSH and MESA reveal that Bendix filter cassettes used with the coal mine dust personal sampler units spontaneously gain weight in excess of 0.1 mg after preweighing by Bendix and before their use in coal mines. Therefore, the units do not comply with the requirements of Part 74 and determinations of compliance based on dust samples collected with the Bendix units using such filter cassettes are unreliable.

Notice is hereby given that a hearing will begin at 10:00 a.m. on December 13, 1976, in Conference Room "L" of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Maryland for the purpose of receiving relevant evidence concerning whether the certificates of approval issued for the Bendix Corporation personal sampler units should be revoked. The hearing will be open to the public subject to available space.

Mr. John Moran, Special Assistant for Safety and Testing and Certification, Appalachian Laboratory for Occupational Safety and Health, NIOSH, is designated as Chairman of the hearing, which will be conducted in an informal manner in accordance with the following procedures:

Appropriate representatives of NIOSH and MESA will present their evidence as to why the Bendix Corporation certificates of approval should be revoked. The Chairman and Bendix Corporation will be able to question those representatives. Bendix Corporation will then have an opportunity to make its presentation and to respond to questions from the Chairman, and from representatives of NIOSH and MESA. Parties making presentations will be given the opportunity to make supplementary statements which may include comments on or rebuttal of other persons' views and an opportunity to make recommendations concerning the issues in any of the statements. Any party may appear in person or by counsel. Copies of the technical data which serve as the basis for this hearing may be examined at, or obtained from NIOSH, 5600 Fishers Lane (Park Bldg. Rm. 3-32), Rockville, Maryland 20857.

A verbatim record of the proceedings of the hearing session will be maintained. All relevant written statements, charts, tabulations and other data will be received in the record. The Chairman will submit to the Director, NIOSH, the transcript of the hearing and all material submitted for the record together with his recommendations on the issues. Thereafter, the Director, NIOSH, will make a decision in writing concern the Bendix Corporation certificates of approval at issue and announce such decision.

Dated: November 22, 1976.

JOHN F. FINKLEA,
Director, National Institute for Occupational Safety and Health.

[FR Doc.76-34956 Filed 11-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DERMATOLOGY ADVISORY COMMITTEE

Meeting Change

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 announced in a notice published in the FEDERAL REGISTER of November 12, 1976 (41 FR 50066), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the Dermatology Advisory Committee meeting scheduled for December 15, 1976, is changed to December 16, 1976, beginning at 9 a.m.

Dated: November 18, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-34793 Filed 11-24-76;8:45 am]

[Docket No. 75N-0008]

SCHERING CORP.

Metibiotic Foam and Metibiotic Infusion; Withdrawal of Approval of New Animal Drug Applications

The Food and Drug Administration is withdrawing approval of new animal drug applications (65-007V and 65-074V) for Metbibiotic Foam and Metibiotic Infusion; effective November 26, 1976.

Published elsewhere in this issue of the FEDERAL REGISTER is an order amending the monographs to revoke the provisions for certification and use of the drug products named in this notice.

In the FEDERAL REGISTER of August 30, 1974 (39 FR 31678), the Commissioner of Food and Drugs issued a notice of opportunity for hearing proposing to withdraw approval of new animal drug applications for certain intramammary infusion products for treating mastitis. Included in that notice were products manufactured by Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033 (hereinafter Schering). The Commissioner proposed to withdraw approval on the basis that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of the approval of the products, showed there was a lack of substantial evidence that the drug products were effective as fixed combinations.

The following two products manufactured by Schering were named in the August 30, 1974 FEDERAL REGISTER notice:

1. NADA 65-007V; Metibiotic Foam: procaine penicillin G 100,000 units, dihydrostreptomycin 300 mg (as the sulfate), prednisone acetate 4 mg (dispensed from a pressurized container); 21 CFR 540.-274e and 21 CFR 540.874d.

2. NADA 65-074V; Metibiotic Infusion; procaine penicillin G 100,000 units, dihydrostreptomycin 300 mg (as the sulfate), prednisone acetate 4 mg; 21 CFR 540.274e and 21 CFR 540.874d.

Schering responded to the notice on September 30, 1974, by requesting a hearing with regard to NADA 65-007V and by submitting data to support the request. The company did not respond and did not request a hearing with regard to NADA 65-074V because the product had previously been deleted from its line.

On June 30, 1976, the Director of the Bureau of Veterinary Medicine served upon Schering a proposed order denying its request for a hearing on the ground that the data submitted were not adequate and well-controlled studies from which experts, qualified by scientific training and experience to evaluate the effectiveness of animal drugs, could conclude that Metibiotic Foam was effective as a fixed combination for the treatment of bovine mastitis. Schering was provided 60 days in which to respond to the notice with sufficient data, information, and analysis to demonstrate that there was a genuine and substantial issue of fact which justified a hearing.

In response to the proposed order, Schering, by letter dated August 26, 1976, withdrew its request for a hearing for Metibiotic Foam and requested that approval for its new animal drug applications for both Metibiotic Foam (NADA 65-007V) and Metibiotic Infusion (NADA 65-074V) be withdrawn.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), and in accordance with § 514.115 Withdrawal of

approval of applications (21 CFR 514.-115), notice is given that approval of NADA 65–007V and NADA 65–047V and all supplements and amendments thereto is hereby withdrawn, effective November 26, 1976.

A copy of the proposed order denying Schering's request for a hearing is on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: November 16, 1976.

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

[FR Doc.76–34795 Filed 11–24–76;8:45 am]

[Docket No. 76N–0002]

DAWES LABORATORIES ET AL.

Diethylstilbestrol; Notice of Hearing On Proposal To Withdraw Approval of New Animal Drug Applications

The Food and Drug Administration (FDA) is granting a hearing on the proposal to withdraw approval of new animal drug applications (NADA's) for use of diethylstilbestrol (DES) in animals used for food for human consumption. The date for the hearing will be set at the prehearing conference to be held on January 5, 1977.

The Commissioner of Food and Drugs issued a notice of opportunity for hearing, published in the FEDERAL REGISTER of January 12, 1976 (41 FR 1804) on his proposed withdrawal of approval of all outstanding NADA's for use of DES as not shown to be safe and as a cancer-causing substance which the Secretary may not exempt from the anticancer clause of the Federal Food, Drug, and Cosmetic Act applicable to new animal drugs. Four requests for hearing, covering 11 NADA's, have been received and all four requests are granted to the extent that a hearing will be held on the continued approvability of those NADA's as to certain issues set out in this notice. A hearing is denied as to other issues. A prehearing conference will be held at 10 a.m. on Wednesday, January 5, 1977, before Administrative Law Judge Daniel J. Davidson in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

The NADA's that are the subject of the proposed withdrawal are those listed in the January 12 notice of opportunity for a hearing. Pending at that time was a previous request from Standard Chemical Manufacturing Co. for withdrawal of its NADA No. 34735, which request was granted and the NADA withdrawn, effective July 30, 1976, by order published on that date in the FEDERAL REGISTER (41 FR 31926). Four holders of NADA's have requested a hearing on the withdrawal of their 11 NADA's for DES:

Requestor	*NADA No.*
1. Dawes Laboratories, 450 State St., Chicago, IL 60411.	10421, 11485, 34916
2. Vineland Laboratories, Inc., Subsidiary of Damon, 2285 E. Landis Ave., Vineland, NJ 08360.	10964
3. Hess & Clark, Division of Rhodia, Inc., 7th and Orange Sts., Ashland, OH 44805.	11295, 12553, 44344, 45981, 45982
4. O. M. Franklin Serum Co., P.O. Box 22335, Denver, CO 80222. and Fort Dodge Laboratories Ft. Dodge, IA 50501.	15274 31446

(The Franklin Serum Co. and Fort Dodge Laboratories are divisions of American Home Products Corporation.)

No requests for hearing were received from any other persons holding approved NADA's or other approvals for DES, whether granted under sections 409, 505, 507, or 512 of the act (21 U.S.C. 349, 355, 357, 360b), or section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90–399). Accordingly, elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing a final order withdrawing approval of those NADA's and other approvals. Holders of these approvals nevertheless may be permitted to participate in the hearing as interested persons. Notice of the hearing is being provided to the holders of all such approvals for DES that are known to FDA by sending copies of this notice via certified or registered mail to their last known addresses as set out below:

NADA No.	*Name and address*
9525---	Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46206.
9757---	Pfizer, Inc., 235 E. 42d St., New York, NY 10017.
9770---	See NADA 9757.
9783---	See NADA 9757.
10132---	Walnut Grove Products, 201 Linn St., Division of W. R. Grace Co., Atlantic, IO 50022.
10258---	American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.
10261---	Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065.
10566---	Simonsen Manufacturing Co., Quimby, IO 51049.
11090---	See NADA 9525.
11356---	See NADA 9757.
11365---	E. R. Squibb & Son, Inc., P.O. Box 4000, Princeton, NJ 08540.
14773---	Peter Hand Foundation, Inc., 2 E. Madison St., Waukegan, IL 60085.
35017---	Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, KS 66106.
35019---	See NADA 35017.
36313---	Feed Additives, Inc., Fremont, NB 68025.
36479---	S. B. Penick Co., 100 Church St., New York, NY 10008.
36554---	Dale Alley Co., P.O. Box 444, St. Joseph, MO 64502.
36671---	See NADA 36554.
36976---	Standard Chemical Manufacturing Co., 701 S. 42d St., Omaha, NB 68103.
37148---	National Oats Co., 1931 Baugh Ave., East St. Louis, IL 62205.
37541---	See NADA 37148.
37869---	See NADA 36313.
38507---	Texas Nutrition & Service Co., P.O. Box 5375, Forth Worth, TX 76108.
38509---	See NADA 38507.
38510---	See NADA 38507.
38682---	Ultra Life Laboratories, Inc., No. 1 Ultra Way Drive, Highland, IL 62249.
39161---	Square Deal Fortification Co., Kouts, IN 46347.
39491---	Bresley-Koeling, Inc., Ord, NB 68862.
39715---	Feed Products, Inc., 1000 W. 47th Ave., Denver, CO 80211.
39716---	See NADA 39715.
39717---	See NADA 39715.
39718---	See NADA 39715.
39772---	See NADA 10261.
40014---	Western Feed Supplements, Elensburg, WA 98926.
42162---	See NADA 9525.
42355---	Chemetron Corp., Chicago, IL 60611.
42702---	Farmland Industries, Kansas City, MO 64116.
42840---	See NADA 10261.
44526---	Western Farmers Association, Seattle, WA 98111.
44795---	Falstaff Brewing Corp., 5050 Oakland Ave., St. Louis, MO 63110.

Notice of hearing is provided to any other person holding an approved NADA or other approval for DES by this publication.

Parties to the hearing will be the Bureau of Foods and the Bureau of Veterinary Medicine of FDA, and NADA holders Dawes Laboratories ("Dawes"), Vineland Laboratories ("Vineland"), Hess and Clark Division of Rhodia, Inc. ("Hess & Clark"), and American Home Products Corporation ("Home Products").

The Commissioner has reviewed the issues of fact for which a hearing is requested. Several requests for hearing suggested as a hearing issue that consideration be given to discarding the livers of animals given DES. The Commissioner notes that liver is an edible tissue, and therefore, as a matter of law, a cancer-causing drug whose use results in residues that are detectable in liver by an assay method meeting the requirements of the Secretary is prohibited by the anticancer clause of the act. It is therefore not a factual issue for the hearing whether the livers of treated animals be discarded or not.

Several requests suggested as a factual issue whether the risks, if any, of using DES implants exceed the environmental, health-related, and economic benefits of such implants. For a carcinogenic or potentially carcinogenic new animal drug, the anticancer clause, section 512(d)(1)(H) of the act, requires the Commisioner to determine, inter alia, whether the method of examination (the assay), which is submitted to show that the new animal drug is safe, has a lowest limit of reliable measurement that will permit him to conclude that under the proposed conditions of the drug's use no residue of the drug will be found in edible tissue of animals to which it has been administered. In determining the minimally

acceptable lowest limit of reliable measurement the assay for residues of that drug must attain to assure that the proviso to the anticancer clause will be satisfied, the Commissioner is not authorized to weigh any economic or other benefit that may assertedly be derived from the use of the drug against the carcinogenic risk that may be associated with use of the drug.

An environmental impact analysis report has been prepared for the proposed withdrawal of diethylstilbestrol NADA's, notice of its availability was announced in the FEDERAL REGISTER of October 29, 1976 (41 FR 47572), and is available at the office of the Hearing Clerk, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The report concluded that "the proposed action will not significantly affect the quality of the human environment and that an Environmental Impact Statement is not required." The Commissioner has therefore concluded that if the new animal drug DES has not been shown to be safe or does not meet the exemption of section 512(d)(1)(H) of the act, no asserted environmental, economic, or health benefits of its use can justify its continued approval. The hearing issues, as set out below, are therefore directed to determine whether or not DES has been shown to be safe, or satisfies that exemption; the "balancing" of economic, environmental, or health benefits is not a factual issue for the hearing.

The Commissioner concludes that a hearing will be granted as to the following factual issues:

1. Is DES a carcinogen, and is there a known no-effect level for its carcinogenic properties?

2. Does DES have any adverse biological effects other than carcinogenesies that call its safety into question, and have safe tolerance levels been established for those effects?

3. Have all residues in edible tissue resulting from the use of DES been identified, evaluated, and shown to be safe?

4. Have residues, including residues at levels that appear to be below the detection capability of the method currently approved by regulation, resulting from the use of DES implants been detected in edible tissues of animals presented for slaughter?

5. Have residues, including residues at levels that appear to be below the detection capability of the method currently approved by regulation, resulting from the use of DES in feed been detected in edible tissues of animals presented for slaughter?

6. Are residues, including residues at levels below the detection capability of the method currently approved by regution, resulting from the use of DES implants likely to occur in edible tissue when the conditions of use approved in the NADA's are followed?

7. Are residues, including residues at levels below the detection capability of the method currently approved by regulation, resulting from the use of DES in feed likely to occur in edible tissue when the conditions of use approved in the NADA's are followed?

8. Are there adequate and reliable methods that are practicable for regulatory purposes and capable of detecting and identifying residues in edible tissue resulting from the use of DES at all levels above the level taken as the operational definition of no residue, or at all levels above a level established as a safe tolerance for any noncarcinogenic adverse effects, whichever is the lower? And can adequate and necessary conditions for safe use be established?

9. Is the mouse uterine-paper chromatography method, which is the assay currently approved for DES by regulation, adequate and practicable for regulatory purposes and capable of detecting and identifying illegal residues in edible tissues resulting from the use of DES?

The FDA Bureau of Foods and Bureau of Veterinary Medicine have filed with the Hearing Clerk a narrative statement setting forth their position with respect to the issues for hearing and a summary of the types of evidence they intend to introduce in support of their position at the hearing. Additionally, the Bureaus have filed with the Hearing Clerk copies of the NADA's, published studies, and all other data bearing upon the questions of whether DES has been shown to be safe and whether DES may be exempted from the anticancer clause of session 512 of the act. Interested persons may obtain a copy of the narrative statement from the office of the Hearing Clerk, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Such persons may also examine the data on DES at the office of the Hearing Clerk from 9 a.m. to 4 p.m.

The other parties to the hearing shall submit all the written data, information, and views required by 21 CFR 2.153(b) by December 27, 1976. Any request for an extension of the period for submission of the required materials or for a postponement of the prehearing conference scheduled for January 5, 1977, shall be addressed to the Administrative Law Judge.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 512, 82 Stat. 343-351 (21 U.S.C. 360b)); 21 CFR 514.200 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)):

It is ordered, That a public hearing be held on the issues set out in this notice.

Dated: November 23, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-34967 Filed 11-24-76;8:45 am]

[Docket No. 76N-0002]

ELANCO PRODUCTS CO., ET AL.

Diethylstilbestrol; Final Order Withdrawing Approval of New Animal Drug Applications

The Food and Drug Administration (FDA) is withdrawing approval of certain new animal drug applications (NADA's) for use of diethylstilbestrol (DES) in animals used for human consumption on the ground that use of the drug results in residues that have not been shown to be safe within the meaning of the Federal Food, Drug, and Cosmetic Act and that render continued approval of the drug unlawful under the Delaney anticancer clause of the act, effective December 27, 1976.

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing a notice of hearing for those holders of NADA's that have requested a hearing and demonstrated that genuine and substantial issues of fact exist about the safety of their drug products that require a hearing for resolution and amending Parts 522 and 558 (21 CFR Parts 522 and 558) to reflect this decision.

In the FEDERAL REGISTER of January 12, 1976 (41 FR 1804), the Commissioner issued a notice of opportunity for hearing proposing to withdraw approval of all existing NADA's for DES. In that notice, he set forth in detail the facts upon which he had concluded that:

1. Information and data available since the applications were approved, together with earlier data reevaluated in the light of current scientific knowledge, demonstrate that DES is not shown to be safe for use as approved.

2. The anticancer clause in section 512(d)(1)(H) of the act is applicable.

Holders of all approved applications were given 30 days to request a hearing pursuant to section 512(e)(1) of the act and § 514.200 (21 CFR 514.200) by filing written appearances requesting such a hearing, giving the reasons why approval of the applications should not be withdrawn and providing a well-organized and full-factual analysis of the data from scientific and other investigations that such holders were prepared to prove in support of their opposition to the Commissioner's proposal for the purpose of demonstrating that genuine and substantial issues of fact exist that require a hearing.

The holders of the approvals listed below failed to file timely written requests for hearing within 30 days as required by § 514.200, or indeed at any time since, which constituted an election by such persons not to avail themselves of the opportunity for a hearing and waiver of any contentions concerning the legal status of any of their drug products:

NADA No.	*Name and address*
9525----	Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46206.

NADA No.	Name and address
9757----	Pfizer, Inc., 235 East 42d St., New York, NY 10017.
9770----	See NADA 9757 (Pfizer, Inc.).
9783----	See NADA 9757 (Pfizer, Inc.).
10132---	Walnut Grove Products, 2d and Linn St., Division of W. R. Grace Co., Atlantic, IO 50022.
10258---	American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.
10261---	Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065.
10566---	Simonsen Manufacturing Co., Quimby, IO 51049.
11090---	See NADA 9525 (Elanco Products Co.).
11356---	See NADA 9757 (Pfizer, Inc.).
11365---	E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.
14773---	Peter Hand Foundation, Inc., 2 East Madison St., Waukegan, IL 60085.
35017---	Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, KS 66106.
35019---	See NADA 35017 (Thompson-Hayward Chemical Co.).
36313---	Feed Additives, Inc., Fremont, NB 68025.
36479---	S. B. Penick Co., 100 Church St., New York, NY 10008.
36554---	Dale Alley Co., P.O. Box 444, St. Joseph, MO 64502.
36671---	See NADA 36554 (Dale Alley Co.).
36976---	Standard Chemical Manufacturing Co., 701 South 42d St., Omaha, NB 68103.
37148---	National Oats Co., 1931 Baugh Ave., East St. Louis, IL 62205.
37541---	See NADA 37148 (National Oats Co.).
37869---	See NADA 36313 (Feed Additives, Inc.).
38507---	Texas Nutrition & Service Co., P.O. Box 5375, Fort Worth, TX 76108.
38509---	See NADA 38507 (Texas Nutrition Service Co.).
38510---	See NADA (Texas Nutrition & Srvice Co.).
38682---	Ultra Life Laboratories, Inc., No. 1 Ultra Way Drive, Highland, IL 62249.
39161---	Square Deal Fortification Co., Kouts, IN 46347.
39491---	Bresley-Koeling, Inc., Ord, NB 68862.
39715---	Feed Products, Inc., 1000 West 47th Ave., Denver, CO 80211.
39716---	See NADA 39715 (Feed Products, Inc.).
39717---	See NADA 39715 (Feed Products, Inc.).
39718---	See NADA 39715 (Feed Products, Inc.).
39772---	See NADA 10261 (Merck Sharp & Dohme Research Laboratories).
40014---	Western Feed Supplements, Ellensburg, WA 98926.
42162---	See NADA 9525 (Elanco Products Co.).
42355---	Chemetron Corp., Chicago, IL 60611.
42702---	Farmland Industries, Kansas City, MO 64116.
42840---	See NADA 10261 (Merck Sharp & Dohme Research Laboratories).
44526---	Western Farmers Association, Seattle, WA 98111.
44795---	Falstaff Brewing Corp., 5050 Oakland Ave., St. Louis, MO 64166.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 505, 507, 512, 52 Stat. 1052–1053 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 348, 355, 357, 360b)) and the Animal Drug Amendments of 1968 (sec. 108 (b) (2), 82 Stat. 353) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 CFR 24262)), the Commissioner finds that information and data available since the foregoing applications were approved, together with earlier information and reevaluated in the light of current scientific knowledge, demonstrated that the DES products covered by the applications have not been shown to be safe for use as approved and that the anticancer clause of section 512(d)(1)(H) of the act is applicable.

Pursuant to these findings, the Commissioner hereby orders:

1. That the foregoing specifically enumerated approvals and all amendments and supplements thereto be and they are hereby withdarwn.

2. That any approval held by any sponsor for any DES product which was not named in the notice of opportunity for hearing but was granted by section 108(b)(2) of the Animal Drug Amendments of 1968 be and is hereby withdrawn.

3. That all applications with respect to an animal feed bearing or containing DES that were approved pursuant to § 558.225, except those approved pursuant to that regulation for the sponsors now, as amended elsewhere in this issue of the FEDERAL REGISTER be and they are hereby withdrawn.

This order shall be effective December 27, 1976.

Dated: November 23, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-34968 Filed 11-24-76;8:45 am]

Office of Education

COMMUNITY EDUCATION PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that pursuant to the authority contained in section 405 of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1864), applications are being accepted for the Community Education Program. This program is authorized to make grants to State educational agencies (SEA) and to local educational agencies (LEA) to pay the Federal share of the cost of establishing, expanding, and maintaining community education programs. The program is also authorized to make grants to institutions of higher education (IHE) to develop and establish or expand programs which will train persons to plan and operate community education programs.

Applications must be received by the U.S. Office of Education, Application Control Center on or before February 7, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.563. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 2, 1977, 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,

(2) The 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 rooms 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.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered 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. Applications will not be accepted after 4:00 p.m. on the closing date, February 7, 1977.

C. *Pre-Applications.* No pre-applications will be required for Fiscal Year 1977.

D. *State comment.* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. This information copy should be submitted to the State Coordinator for Community Education, as designated by the Chief State School Officer. For verification of submission to the SEA, the LEA applicant must enclose in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. State educational agencies wishing to submit advice and comment on any application originating within their State may do so by forwarding such advice and comment to the Community Education Program, U.S. Office of Education. (See address below.) Advice and comments received from SEAs no later than March 8, 1977 will be considered in reviewing applications.

E. *Application information and forms.* Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the U.S. Office of Education, Community Education Program, Regional Office Building Three, Room 5622, 7th and D Streets, SW., Washington, D.C. 20202 (202) 245-0691.

F. *Program information.* In formulating proposals, potential applicants should be aware of the amount of funds avail-

able for the program this Fiscal Year, FY 77. Of $3,553,000 appropriated for the program for Fiscal Year 1977, $1,564,000 is available for grants to State educational agencies, $1,564,000 is available for grants to local educational agencies, and $425,000 is available for grants to institutions of higher education. During the 1976 Fiscal Year, approximately 550 applications were received from LEAs, approximately 40 from SEAs, and approximately 70 from IHEs. A total of 93 grants were awarded: 48 to LEAs, 32 to SEAs, and 13 to IHEs. In the LEA category, the average grant was $33,000, in the SEA category, $47,800, and in the IHE category, $43,000. Applicants should be aware that funds are generally available only to cover leadership, administrative, and coordinating costs as specified in section 160c.10(c) and other sections of the regulation. All grants will be new awards; no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for one year in duration.

G. *LEA eligibility requirements.* Reference is made to the preamble to the Community Education Program Regulation, 40 FR 57926 (December 12, 1975), particularly pages 57927 through 57928, for a discussion of the term "local educational agency" as used in that regulation. An examination of this discussion may provide useful guidance to parties planning to file an application for assistance under the program.

H. *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Part 100a), which are included in the Community Education Program application package, and the Community Education Program Regulation (45 CFR Part 160c) published on December 12, 1975 in the FEDERAL REGISTER, also included in the application package.

(20 U.S.C. 1864; 45 CFR Part 160c.)

(Catalog of Federal Domestic Assistance Number 13.563; Community Education Program.)

Dated: November 19, 1976.

EDWARD AGUIRRE,
United States Commissioner of Education.

[FR Doc.76-34829 Filed 11-24-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALBUQUERQUE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Multiple Use Advisory Board for the Albuquerque District, Bureau of Land Management, will meet Monday and Tuesday, December 13 and 14, 1976. The meeting on Monday will convene at 1:00 PM at the Albuquerque District Office, 3550 Pan American Freeway, N.E., and depart immediately to view a part of the land involved in a Regional Coal Environmental Statement. The tour will last approximately four hours and is open to the public; however, participants other than Board Members must furnish their own transportation.

The Tuesday meeting will begin at 8:00 AM at the Albuquerque District Office. Topics on the agenda for consideration and development of recommendations are: Federal Land Policy Management Act of 1976, Amendments to the Mineral Leasing Act, The Revenue Sharing Act, recycling of the San Juan, the Chaco and the Upper Rio Puerco-Cabezon Planning Units, and Star Lake-Bisti Coal and Rio Puerco Grazing Environmental Statements.

The meeting will be open to the public. Time will be made available for public statements starting at 3:00 PM. Statements should be limited to the items set forth in the agenda. Those wishing to make an oral statement should inform the District Manager prior to the meeting. Written statements may be filed for the Board's consideration by submitting them at the meeting or mailing them in advance to the Bureau of Land Management at the address listed below. Further information concerning the meeting may be obtained from R. Keith Miller, District Manager, 3550 Pan American Freeway, N.E., P.O. Box 6770. Albuquerque, New Mexico 87107. Telephone (505) 766-2455.

Minutes of the meeting will be available at the Albuquerque District Office for public inspection and copying thirty days after the meeting.

R. KEITH MILLER,
District Manager.

NOVEMBER 16, 1976.

[FR Doc.76-34929 Filed 11-24-76;8:45 am]

National Park Service

LOUISE M. BERTSCHY, ET AL.

Intention to Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before December 27, 1976, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concessions contract with Mrs. Louise M. Bertschy, Harold M. Turner, John F. Turner, and Donald M. Turner, Moose, WY 83012, authorizing them to continue to provide dude ranch and associated concession facilities and services for the public at Triangle X Ranch, Grand Teton National Park for a period of two (2) years from January 1, 1975 through December 31, 1976.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Grand Teton National Park, Park Headquarters, Moose, Wyoming 83012.

The foregoing concessioners have performed their obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1974, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before December 27, 1976.

Interested parties should contact the Regional Director, Rocky Mountain Regional Office, P.O. Box 25287, Denver, Colorado 80225, for information as to the requirements of the proposed contract.

Dated: August 5, 1976.

LYNN H. THOMPSON,
Regional Director, Rocky Mountain Region.

[FR Doc.76-34849 Filed 11-24-76;8:45 am]

WAKEFIELD NATIONAL MEMORIAL ASSOCIATION

Intention To Issue Concession Limit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before December 27, 1976, the Department of the Interior, through the Superintendent, George Washington Birthplace National Monument, proposes to issue a concession permit to The Wakefield National Memorial Association, authorizing it to provide concession facilities and services for the public at George Washington Birthplace National Monument for a period of five (5) years from January 1, 1977 through December 31, 1981.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, George Washington Birthplace National Monument Washington's Birthplace, Virginia 22575.

The foregoing concessioner has performed its obligations to the satisfaction of the National Park Service, under an existing permit which expires by limitation of time on December 31, 1976, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and eval-

uated must be submitted on or before December 27, 1976.

Interested parties should contact the Superintendent, George Washington Birthplace National Monument for information as to the requirements of the proposed permit.

Dated: October 1, 1976.

DON R. THOMPSON,
Superintendent.

[FR Doc.76-34848 Filed 11-24-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of November, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending Nov. 19, 1976

Name of applicant	Location of enterprise	Principal product or activity
Berkshre Transformer	Kent, Conn	Manufacture of electronic coils, transformers, and inductors.
Junior's Grocery	Olanta, S.C	Sales of groceries and gas.
Captain Roger's Inc	Lake Bowen, S.C	Restaurant.
Thomas E. Jones	West Blocton, Ala	Supermarket.
Jimmy Lee Gowan, M.D	Union, S.C	General practice of medicine.
Jack's Feed Service	Dothan, Ala	Sales, warehousing, and delivery of animal health aids and formula feeds.
Jansen Printing Co	Osseo, Wis	Newspaper publishing and printing.
Little River Ford, Inc	Ashdown, Ark	Motor vehicle dealers.
Smith Gin Co., Inc	Odem, Tex	Cotton gin.
Kinton Agri-Service, Inc	Haxtun, Colo	Wholesale of liquid and dry fertilizers.
Agricultural Service Co	Fruita, Colo	Wholesale distribution of fertilizer, chemicals, liquid feed and other farm supplies.
Ute Mountain Equipment, Inc	Cortez, Colo	Sales and service of farm machinery.

[FR Doc.76-34931 Filed 11-24-76;8:45 am]

LEGAL SERVICES CORPORATION

COMMITTEE ON APPROPRIATIONS AND AUDIT

Meeting

The next meeting of the Committee on Appropriations and Audit of the Legal Services Corporation Board of Directors will be held on Wednesday, December 15, 1976, in the Corporation's offices at 733 Fifteenth Street, NW, Washington, D.C.

The meeting will begin at 9:30 a.m. and will be for the purpose of considering and acting on matters concerning investment of Corporation funds, the use of income derived from such investment, and the Fiscal Year 1978 budget request to the Congress.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.76-34863 Filed 11-24-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-107]

LICENSING MANAGEMENT CORP.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Licensing Management Corporation, New York, New York, an exclusive patent license in Canada, France, Great Britain, Japan, Sweden and West Germany for the NASA owned invention covered by the foreign counterparts of U.S. Patent No. 3,888,362 for "Cooperative Multiaxis Sensor for Teleoperation of Article Manipulation Apparatus", which issued to NASA on June 10, 1975. Copies of the above U.S. Patent can be purchased from the U.S. Patent Office, Department of Commerce, Washington, D.C., 20231 for $.50 a copy. Interested parties should submit written inquiries or comments within 60 days of this Notice to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: November 16, 1976.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-34830 Filed 11-24-76;8:45 am]

[Notice 76-108]

LICENSING MANAGEMENT CORP.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 C.F.R. 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Licensing Management Corporation, New York, New York, an exclusive patent license in Australia, Canada, France, Great Britain, Italy, Japan, Sweden and West Germany for the NASA owned inventions covered by the foreign counterparts of: (1) U.S. Patent No. 3,955,941 for "Hydrogen Rich Gas Generator", issued to NASA on May

11, 1976, (2) U.S. Patent No. 3,906,913 for "System for Minimizing Internal Combustion Engine Pollution Emission", issued to NASA on September 23, 1975, (3) U.S. Patent Application Serial No. 553,687 for "Improved Hydrogen Rich Gas Generator", filed by NASA on December 27, 1975, and (4) U.S. Patent Application Serial No. 487,156 for "Hydrogen Rich Gas Generator", filed by NASA on July 10, 1974. Copies of the above U.S. Patent Nos. 3,955,941 and 3,906,913 can be purchased from the U.S. Patent Office, Department of Commerce, Washington, D.C., 20231 for $.50 a copy. Copies of the U.S. Patent Applications can be purchased from the National Technical Information Service, Springfield, Virginia, 22150, at a cost of $3.50 a copy. Interested parties should submit written inquiries or comments within 60 days of this Notice to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: November 19, 1976.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-34831 Filed 11-24-76;8:45 am]

[Notice 76-109]

SPACE SCIENCE STEERING COMMITTEE JUPITER ORBITER PROBE 1981 (JOP81) AD HOC ADVISORY SUBCOMMITTEE

Rescheduled Meeting

A meeting of the Space Science Steering Committee, Jupiter Orbiter Probe 1981, Ad Hoc Advisory Subcommittee, which was originally scheduled for December 15–17, 1976, and which was announced in the FEDERAL REGISTER Doc. 76-95 on Tuesday, November 9, 1976, on page 49557, has been rescheduled for January 5, 6, and 7, 1977. The previously announced hours, place, subject matter, and determination that the sessions should be closed to the public remain the same.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs.

NOVEMBER 19, 1976.

[FR Doc.76-34832 Filed 11-24-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

NOTICE OF PARTIALLY CLOSED MEETING

NOVEMBER 23, 1976.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App I (Supp. V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, December 13, and 14, 1976. The Tuesday morning session between 11:00 a.m. and adjournment at approximately 12:00 noon will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration in the determination dated November 23, 1976, and cosigned by the Assistant General Counsel for Administration. Closure is necessitated by classified briefings and discussions by NACOA members and agency officials from the Departments of Defense, Transportation, Commerce, and possibly others, concerning the role of the Merchant Marine with regard to national security. All other sessions will be open to the public.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971. Its duties are to (1) undertake a continuing review of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before 30 June of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration. All members of the Committee have appropriate security clearances.

A general agenda contains the following topics:

DECEMBER 13, 1976

OPEN

Full day of briefings on separation and dissemination of weather forecasts and warnings begins at 9:15 a.m. in Room 708 of the World Weather Building, 5200 Auth Road, Camp Springs, Maryland. Adjourns approximately 5:00 p.m. with a short break for lunch from 12:00–12:30.
Overview: Weather Forecasting in the National Weather Service.
Special Programs in the National Weather Service serving aviation, agriculture, etc.
Dissemination of forecasts and warnings.
Long range forecasts: problems and prospects.
The role of the National Meteorological Center.
The role of weather satellites.
Tour of National Meteorological Center, Weather Service Forecast Office, and Satellite Field Service Station.
River and flood forecasting.
Applications of new technology.
Recapitulation and general discussion.

DECEMBER 14, 1976

MORNING—OPEN

Begins at 9:00 a.m. in Room 6802, Department of Commerce Building. Break for closed portion at 11:00 a.m.
Coast Guard future plans.
Discussion of NACOA work in progress.

MORNING—CLOSED

Begins at 11:00 a.m. in Room 6802, Adjournment at 12:00 noon.
National Security and the U.S. Merchant Marine.

AFTERNOON—OPEN

Begins at 1:00 p.m. in Room 6802 and other rooms to be announced. Adjournment at approximately 4:00 p.m.
Working groups on national goals and objectives, marine transportation, air pollution monitoring, and weather service operations.

The public is welcome at the open sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

A copy of the determination to close a portion of this meeting is available for public inspection and copying.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 377-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.76-35047 Filed 11-24-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Dresden Nuclear Power Station Unit No. 3 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment incorporated a correction to the MCPR limits issued by Amendment No. 23 to Facility Operating License No. DPR-25. The correction adds an interim restriction inadvertently omitted from Amendment No. 23.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 23 to License No. DPR-25 issued November 4, 1976 and a related Safety Evalu-

ation of the same date, and (2) Amendment No. 24 to License No. DPR–25 and the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of November, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76–34654 Filed 11–24–76;8:45 am]

[Docket No. 50–254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR–29 issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised the Technical Specifications for operation of the Quad Cities Station Unit No. 1 (the facility) located in Rock Island County, Illinois. The amendment was effective on November 6, 1976.

The license amendment changed the Technical Specifications for the facility to authorize startup and operation of the reactor with the Reactor Core Isolation Cooling System out of service for a period of seven days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 3, 1976, and a supplement thereto dated November 6, 1976, (2) The Commission's letter to Commonwealth Edison Company dated November 6, 1976, (3) Amendment No. 34 to License No. DPR–29, and (4) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Moline Public Library, 504 17th Street, Moline, Illinois 60625. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of November, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76–34653 Filed 11–24–76;8:45 am]

[Docket Nos. 50–424, 50–425]

ALVIN W. VOGTLE NUCLEAR PLANT, UNIT NOS. 1 AND 2

Negative Declaration Supporting: Amendments Relating to Change of Ownership Interest and Extension of Dates for Completion of Construction

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the permittee's proposed amendments to the construction permits for the Alvin W. Vogtle Nuclear Plant, Units 1 (CPPR–108) and 2 (CPPR–109), located in Burke County, Georgia, issued to Georgia Power Company. The amendments would authorize (1) the addition of Oglethorpe Electric Membership Corporation, Municipal Electric Authority of Georgia and City of Dalton as co-owners of the station with Georgia Power Company and (2) the extension for two years of the dates for completion of construction of Units Nos. 1 and 2.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the proposed amendments to CPPR–108 and CPPR–109 and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed amendments other than that which has already been predicted and described in the Commission's Final Environmental Statement for Alvin W. Vogle Nuclear Plant, Units 1, 2, 3 and 4, pubilshed in March 1974.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Burke County Public Library, 4th Street, Waynesboro, Georgia 30830. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 5th day of November, 1976.

For The Nuclear Regulatory Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch No. 2, Division of Site Safety and Environmental Analysis.

[FR Doc.76–34656 Filed 11–24–76;8:45 am]

[Docket No. 50–255]

PALISADES NUCLEAR GENERATING PLANT

Availability of Draft Addendum to the Final Environmental Statement

Notice is hereby given that a Draft Addendum to the Final Environmental Statement (NUREG–0130) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed conversion of the Palisades Plant from a provisional operating license to a full-term operating license at an increased power level. The Palisades Plant is located in Van Buren County, Michigan and is operated by the Consumers Power Company.

The Draft Addendum discusses new information and changes in the staff evaluation or plant design since issuance in June 1972 of the Final Environmental Statement related to the operation of the Palisades Plant.

The Draft Addendum is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan. The Draft Addendum is also being made available at the Department of Management and Budget, Lewis Cass Building, Lansing, Michigan 48913, and the Southwestern Michigan Regional Planning Commission, 2907 Division Street, St Joseph, Michigan 49085. Requests for copies of the Draft Addendum should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Attention: Director, Division of Site Safety and Environmental Analysis.

Interested persons may submit comments on the Draft Addendum to the Final Environmental Statement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Draft Addendum (local agencies may obtain these documents upon request).

Comments are due by January 10, 1977. Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan. Upon consideration of comments submitted with respect to the Draft Addendum, the

Commission's staff will prepare a Final Addendum, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Addendum from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 16th day of November 1976.

For the Nuclear Regulatory Commission.

FRED J. CLARK,
Acting Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76-34651 Filed 11-24-76;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Erwin I. Hatch Nuclear Plant, Unit No. 1, located in Applying County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to modify the requirements related to safety-relief valve lift settings and the use of spare safety-relief valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not invlove a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 3, 1976, (2) Amendment No. 39 to License No. DPR-57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17 day of November 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-34655 Filed 11-24-76;8:45 am]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 28 and 27 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date that modifications to the pressure actuation devices are completed.

These amendments will modify the Technical Specifications related to the Core Spray (CS) and Low Pressure Coolant Injection (LPCI) System injection valve open permissive setpoints, Recirculation Pump discharge valve (RPDV) closure setpoint and the minimum single LPCI pump flow rate.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated August 25, 1975 and October 5, 1976, (2) Amendments Nos. 28 and 27 to Licenses Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of November 1976.

For the Nuclear Regulatory Commission.

JAMES J. SHEA,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-34657 Filed 11-24-76;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE CO. OF COLORADO

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Technical Specifications relating to administrative controls, including changes to the reporting requirements, to conform to the Commission's uniform license requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 21, 1976, (2) Amendment No. 16 to License No. DPR-34, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Greeley Public Library, City

Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 17th day of November, 1976.

For the Nuclear Regulatory Commission.

RICHARD P. DENISE,
Assistant Director for Special Projects, Division of Project Management.

[FR Doc.76-34658 Filed 11-24-76;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS & ELECTRIC CORP.

Issuance of Amendment to Provisional Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation, which revised Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant located in Wayne County, New York. The amendment is effective as of its date of issuance.

This amendment authorizes changes in the design of Ginna spent fuel storage pool from that reviewed and approved in the operating license review and as described in the R. E. Ginna Nuclear Power Plant Final Safety Analysis Report. The changes will increase spent fuel storage capacity from 210 to 595 assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of proposed Issuance of Amendment to Provisional Operating License in connection with this action was published in the FEDERAL REGISTER on June 14, 1976 (41 FR 24006). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated January 30, as supplemented by letters dated May 19, June 3, August 5 and September 29, 1976, (2) Amendment No. 11 to Provisional License No. DPR-18 and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Lyons Public Library, 67 Canal Street, Lyons, New York 14489 and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 15th day of November 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-34659 Filed 11-24-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.105, Revision 1, "Instrument Setpoints," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to ensuring that the instrument setpoints in systems important to safety initially are within and remain within specified limits. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 16th day of November 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-34660 Filed 11-24-76;8:45 am]

[Dockets Nos. 50-324 and 50-325]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating Licenses Nos. DPR-71 and DPR-62, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 located in Brunswick County, North Carolina.

The amendments would allow spent fuel discharged from the licensee's H. B. Robinson plant (a pressurized water reactor located near Hartsville, South Carolina) to be stored at the Brunswick Steam Electric Plant (boiling water reactors), and would authorize the licensee to replace the spent fuel racks at Brunswick with modular racks to both increase storage capacity of spent fuel discharged from the Brunswick plant and provide storage capability for H. B. Robinson spent fuel. The amendments are proposed by the licensee's application for amendment dated September 23, 1976.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By December 27, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Richard E. Jones, Esquire, Carolina Power & Light

Company, 336 Fayetteville Street, Raleigh, North Carolina 27602, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated September 23, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 15th day of November 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-34650 Filed 11-24-76;8:45 am]

[Docket No. 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR-69 issued to Baltimore Gas and Electric Company which temporarily suspends Appendix A Technical Specification 3/4.7.8 for operation of the Calvert Cliffs Nuclear Power Plant, Unit 2 located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment temporarily suspends the Technical Specification which requires snubber operability, to allow snubber recalibration to be performed concurrently with post fuel loading hot functional testing, prior to initially achieving criticality.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 5, 1976 and November 11, 1976, (2) Amendment No. 1 to License No. DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 15th day of November 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.76-34652 Filed 11-24-76;8:45 am]

STUDY OF WAYS TO IMPROVE THE EFFICIENCY OF FEDERAL/STATE SITTING REVIEW

State Workshops and Additional Panel Meetings

It was announced in the FEDERAL REGISTER on October 28, 1976, (41 FR 47293) that the Nuclear Regulatory Commission is undertaking a study of ways to improve the efficiency of Federal/State Siting review and invited comment.

The National Governors' Conference is sponsoring, under NRC funding, a workshop to provide State government views to the study. The workshop will convene at 9 a.m. on Wednesday and Thursday, December 15 and 16 at the Atlanta American Motor Hotel, Atlanta, Georgia.

This workshop is being held to obtain the views of, and to provide the opportunity for interaction among, State siting officials; however, they will be open to public attendance, observation and submission of written statements. Reports of the workshop will be filed in the Public Document Room. It is expected that a second workshop will be convened in late March 1977. Its date and location will be announced in the FEDERAL REGISTER.

Persons who wish further information about this workshop or who wish to attent or submit a written statement, should write Energy Program, National Governors' Conference, Suite 202, Hall of the States, 444 N. Capitol St., Washington, D.C. 20001, or call (202) 624-5370 (beginning December 3), giving name, address, and phone number. Because this office is moving, calls before December 3 can not be completed.

41 FR 47293 announced the first meeting of a Panel on State Regulatory Activity Involved in Need for Power for November 11 and 12 and a second meeting for the second week of February 1977. Notice is hereby given that the second meeting of this panel is scheduled for February 10 and 11, 1977; the panel will convene at 9 a.m. each day in room 1167, 1717 H Street, N.W., Washington, D.C.

41 FR 47293 also announced the first meeting of a Success Factor Evaluation Panel for November 17 and 18 and indicated that a second meeting of the panel would be held during the third week of February, 1977. Notice is hereby given that the second meeting of the Success Factor Evaluation Panel is now scheduled for February 16 and 17, 1977; the panel will convene at 9 a.m. each day in room 1167, 1717 H Street, N.W., Washington, D.C.

The panel meetings are being held to obtain the opinions of, and to provide the opportunity for interaction among, invited experts; however, they will be open for public attendance, observation and submission of written statements. Reports of the meetings will be filed in the NRC Public Document Room.

Persons who wish further information about these panel meetings, or who wish to attend or submit a written statement, should write Elizabeth McCarthy, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or call her at (301) 492-7950, giving name, address, and phone number.

Dated at Bethesda, Md. this 19th day of November, 1976.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc.76-34997 Filed 11-24-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON ASSESSMENT OF SELECTED LIGHT-WATER REACTOR SAFETY MATTERS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the

ACRS Working Group on Assessment of Selected Light-Water Reactor Safety Matters will meet on December 3, 1976 at 1717 H Street, N.W., Washington, DC 20555. The purpose of this meeting is to review selected matters related to LWR safety referred to it by the NRC. In order to carry out its preliminary review of these matters, the Working Group will divide itself into two ad hoc groups holding concurrent meetings.

The agenda shall be as follows:

FRIDAY, DECEMBER 3, 1976

8:30 a.m.–9:00 a.m. The entire Working Group will meet in Room 1046 in closed Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions, based upon their independent review of reports regarding matters which should be considered during the open sessions in order to formulate a Working Group report and recommendations to the full Committee.

9:00 a.m. until conclusion of business. Ad Hoc Working Group No. 1 will meet in Room 1046 and Ad Hoc Working Group No. 2 will meet in Room 1146, each in open session, to hear presentations and hold discussions with representatives of the NRC Staff and the nuclear industry, and their consultants, pertinent to selected matters relating to LWR safety.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session Working Group members and consultants will discuss their opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Ad Hoc Working Groups to hold one or more closed sessions for the purpose of reviewing internal Commission documents or to explore with the NRC Staff and participants matters involving proprietary information. It may also be necessary to hold a closed session to receive reports from individual NRC Staff members who may wish to discuss with the ACRS their advice, opinions and personnel policy suggestions and who may only be willing to discuss some matters in a closed session. It is the preference of the Working Group to have this portion of the meeting in open session. Accordingly, if these individuals are willing to discuss their opinions in open session, this portion of the meeting will be open.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92–463, that it is necessary to close portions of the meeting as noted above to protect the free exchange of opinions during the Working Group's deliberative process and to protect intra agency memoranda (5 U.S.C. 552(b)(5)), to protect proprietary information (5 U.S.C. 552(b)(4)), and to protect the confidentiality of internal NRC Staff opinions and recommendations, which, if written, would fall within the provisions of exemption 5 U.S.C. 552(b)(5), to promote the full and frank exchange of these matters between individual NRC Staff members and the ACRS (5 U.S.C. 552(b)(5)), and which relate to the internal personnel rules and practices of the Commission (5 U.S.C. 552(b)(2)), and to prevent the disclosure of information of a personal nature which would consitute an unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). Separation of factual information from the exempt material which may be discussed in these closed sessions is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 26, 1976, to Mr. R. L. Wright, Jr. ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on December 2, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1919, Attn: Mr. R. L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Excutive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. R. L. Wright, Jr., of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after December 13, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room 1717 H St., N.W., Washington, DC 20555 after March 3, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: November 17, 1976.

JOHN C. HOYLE,
Advisory Committee.

NOTE.—This is a republication of a document which originally appeared at 41 FR 51087, November 19, 1976.

[FR Doc.76-34316 Filed 11-17-76;10:01 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-48]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aviation Safety Recommendations.—During recent investigations of incidents involving inability to stop aircraft on the runway, the National Transportation Safety Board has found that the frictional characteristics of some runway surfaces have not been maintained sufficiently to provide effective braking action; this is particularly true for surfaces in the touchdown zones of runways during wet runway conditions.

The Safety Board believes that such conditions pose a serious hazard for emergency takeoff aborts at high gross weights when the last 1,000 to 1,500 feet of runway are required to stop safely. Accordingly, the Board, by letter issued November 18 to the Federal Aviation Ad-

ministration, recommended that (1) all portions of Advisory Circular 150/5320–12 applicable to the testing and maintenance of paved runway surfaces be required as a condition for continuous certification of all airports utilized by turbine-powered air carrier aircraft, and be incorporated into 14 CFR Part 139 (recommendation A–76–136; Class II—Priority Followup); and (2) until such time as the above provisions of AC 150/5320–12 are made mandatory, require that periodic friction surveys, as outlined in Chapter 5 of AC 150/5320–12, be conducted on all runways certificated under 14 CFR Part 139, and require that appropriate corrections be taken if unsafe surface conditions exist or that timely cautionary notices, such as NOTAMS, be issued if immediate corrections cannot be made and operational considerations dictate continued use of the runways (A–76–137; Class I—Urgent Followup).

Railroad Safety Recommendations.—Six additional safety recommendations have now been released as a result of investigation of the auto-train derailment last May 5 near Jarratt, Virginia. The recommendations were issued November 19 in two separate letters; Nos. R–76–52 through R–76–55 were addressed to the Federal Railroad Administration, and R–76–56 and R–76–57 were addressed to the Association of American Railroads. Two earlier recommendations, Nos. R–76–18 and R–76–19, were issued May 7 to Auto-Train Corporation (41 FR 19791, May 13, 1976).

Investigation indicated that the train, traveling about 72 mph on the Seaboard Coast Line Railroad, derailed when a wheel fractured. The wheel had been overheated previously by dragging brakes.

In the letter to FRA, the Safety Board notes that present Federal inspection procedures will not insure the detection of critical conditions in wheels before in-service failure. Since corrective action is warranted, the Board recommends that FRA (1) establish national standards for the inspection of railroad wheels that will insure detection of critical conditions in wheels before inservice failures occur (R–76–52); (2) review the methods employed in marking wheels and determine if the present method of marking wheel rims is detrimental to the service life of railroad wheels (R–76–53); (3) develop a method that does not depend on crew observation that will automatically detect when a wheel(s) has failed or derailed (R–76–54); and (4) revise the Code of Federal Regulations to insure that wheels exposed or suspected of being exposed to critical temperatures are removed from service (R–76–55). The Board desires priority followup action on the first three, Class II, recommendations; the fourth recommendation, Class I, is urgent.

The letter addressed to the Association of American Railroads notes that current railroad practices do not insure that overheated wheels will be removed from service before failure. Accordingly, the Board asks the Association to establish a system to insure that (1) wheels exposed to critical temperatures are removed from service before inservice failure occurs (R–76–56), and (2) wheels exposed or suspected of being exposed to critical temperatures are reported by railroad employees (R–76–57). R–76–56 is a Class I recommendation; R–76–57, Class II.

More detailed information on the derailment may be obtained from the formal report, NTSB–RAR–76–11, which the Board expects to release in the near future.

Letters in Response to Safety Board Recommendations.—During the past week, letters were received from the following recommendation addressees:

Federal Railroad Administration. Response dated November 9 concerns recommendation R–76–23, issued June 18 following investigation of the November 19, 1975, grade crossing accident at Elwood, Illinois, between an AMTRAK turboliner passenger train and a dump truck. (See 41 FR 26078, June 24, 1976.) The recommendation asked FRA to require improvements to the coupler assembly on the French-manufactured turbotrains currently in service to minimize the possibility of uncoupling under crash conditions.

The November 9 letter indicates that on July 15, FRA requested information from AMTRAK as to contemplated action. FRA quotes from AMTRAK's August 10 reply which states that AMTRAK has (1) begun a study to determine the resistance to uncoupling when passenger rail cars are subjected to high lateral force, as was determined during the development and evaluation testing of the standard AAR Type-H tight-lock couplers; and (2) requested the designers and builders of the French railway equipment to furnish data on the ability of the European-style coupling system to withstand high lateral forces.

FRA states that in August 1973, two French-manufactured turbine train units were shipped to the United States as demonstrator units and were put into service 2 months later; each of the units originally had a maximum coupling arrangement strength of about 38 tons. At FRA's request, however, AMTRAK recently increased these units' maximum strength to about 110 tons. Four additional French-built turbine train units, imported in early 1975 and put into service in April 1975, also were equipped with coupling arrangements of 110-ton maximum strength capacity, according to FRA. FRA will monitor AMTRAK's progress in developing a means to improve further the coupling arrangements of the six French-manufactured turbine train units. FRA notes that this type of train now is being manufactured under license in the United States and is being equipped with a standard Type H tight-lock coupler.

Bay Area Rapid Transit District (BART). Letter of November 1 concerns recommendations R–76–42 through R–76–44 and is in response to the Safety Board's request of October 13 which sought a more complete description of procedures used when a train is moved with the automatic train control malfunctioning. (See 41 FR 46527, October 21, 1976.) In answer, BART has furnished the Board with a copy of the District's Operations Rules and Procedures Manual, pointing particularly to pages 33 and 34 of the Manual for rules that govern mainline manual movement, and to pages 42 through 48 for run instruction information.

Safety Board Reply to Recommendation Response.—Board letter to the Federal Highway Administration concerns recommendation H–76–19 and is in reply to FHWA's response of October 12. (See 41 FR 47291, October 28, 1976.) The recommendation was developed as the result of investigation of the Surtigas, S.A., tank-semitrailer overturn, explosion and fire, near Eagle Pass, Texas, April 29, 1975. The Board takes note of inclusion of the recommended action in FHWA's revision of its Federal Aid Highway Program Manual 6–2–1–1, "Interim Design Standards for Highways," and FHWA's statement, "* * * the safety related criteria of the directive are established as goals * * *" However, the Board reminds FHWA that the recommendation called for the criteria established to be *mandatory for all* modified and new construction, and asks for further comments with respect to the Board's view that these criteria should be mandatory.

Safety recommendation letters are available to the general public; single copies may be obtained without charge. Copies of the letters responding to safety recommendations and Safety Board replies may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

NOVEMBER 22, 1976.

[FR Doc.76–34847 Filed 11–24–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON REPLACEMENT COST IMPLEMENTATION

Cancellation of Meeting

This is to give public notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Securities and Exchange Commission Advisory Committee on Replacement Cost Implementation meeting scheduled to be held on December 6, 1976 at the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. has been cancelled.

GEORGE A. FITZSIMMONS,
Advisory Committee,
Management Officer.

Dated: November 19, 1976.

[FR Doc.76–34902 Filed 11–24–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Hazardous Materials Operations

TRANSPORTATION OF HAZARDOUS MATERIALS

Exemption Applications

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

COMMENTS BY: December 28, 1976, with respect to applications for a new exemption; and December 14, 1976, with respect to applications for renewal and applications to become a party.

ADDRESSED TO: Docket Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, SW., Washington, D.C.

Each mode of transportation for which a particular exemption, renewal or party status is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New exemptions

Application No.	Applicant	Regulation(s) affected	Nature of application
7506-N	Martin Marietta Corp., Orlando, Fla.	49 CFR 173.57, 173.87	To authorize shipment of a 10,000 lb/in²a helium pressurized cylinder in a projectile containing class A explosive. (Mode 1.)
7511-N	USPC, Plastic Container Division, Hillside, Ill.	49 CFR, pts. 173, subpts. D, F	To authorize shipment of corrosive liquids, except hydrogen peroxide, for which DOT specification 34 drum is prescribed and flammable liquids with flash point above 20° F for which the packaging requirements of sec. 173.119(b) are applicable in a non-DOT specification removable head polyethylene container without overpack. (Modes 1, 2, and 3.)
7514-N	Olin Corp., Stamford, Conn	49 CFR 173.217(b)	To authorize shipment of certain oxidizing materials in polyethylene bottles overpacked in DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, and 4.)
7519-N	The Barto Corp., Teaneck, N.J	49 CFR 178.205-7(b)	To authorize use of a pressure-sensitive tape as closure for the 12B fiberboard box. (Modes 1, 2, 3, 4, and 5.)
7520-N	Puerto Rico Marine Management, Elizabeth, N.J.	49 CFR pt. 173, subpt. C; 46 CFR 98.35.	To authorize shipment of certain flammable and combustible liquids in a non DOT specification portable tank. (Mode 3.)
7521-N	Chem Service, Inc., West Chester, Pa.	49 CFR 172.400, 177.841(e)	To authorize packages of excepted quantities of poisons to be shipped without the required label and in the same vehicle with foodstuffs. (Mode 1.)
7522-N	Aldrich Chemical Co., Milwaukee, Wis.	49 CFR 178.168, pt. 173	To authorize use of boxes built in accordance to DOT specification 15A except that the wood is to be CDX plywood for any commodity for which the 15A is authorized. (Modes 1, 2, 3, 4, and 5.)
7523-N	Dearborn Chemical Corp., Lake Zurich, Ill.	49 CFR 172.400	To authorize shipment of excepted quantities of class B poisons in unlabeled packages. (Modes 1 and 2.)
7524-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314, 173.315	To authorize shipment of monobromotrifluromethane in DOT specification 51 and MC 331 containers and an AAR specification 120A500W tank car. (Modes 1, 2, and 3.)
7525-N	Connecticut Valley Arms, Inc., Haddam, Conn.	49 CFR 173.107(a)	To authorize shipment of percussion caps in inside plastic flat cans, shrink-wrapped onto cardboard cards, 12 in a chipboard box, with 8 of these in a DOT specification 12B box. (Modes 1 and 2.)
7526-N	Lithium Corp. of America, Bessemer City, N.C.	49 CFR 173.134	To authorize shipment of alkyl aluminum halides (triethyl aluminum) in non-DOT specification portable tanks. (Modes 1 and 3.)
7527-N	Chem Service, Inc., West Chester, Pa.	49 CFR 172.400	To authorize shipment of excepted quantities of corrosive materials and class B poisons in unlabeled packages. (Mode 1.)
7528-N	Central Steel Drum, Newark, N.J	49 CFR 173.28(n), 178.118-10	To authorize conversion of 18 gage steripac drums to DOT specification 17H drum for shipping of any hazardous material authorized to be packaged in a 17H drum. (Modes 1, 2 and 3.)
7529-N	Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.	49 CFR 173.302	To authorize shipment of helium in a modified DOT specification 39 cylinder. (Modes 1 and 4.)
7530-N	Mobay Chemical Corp., Pittsburgh, Pa.	49 CFR 173.119(b)(8)	To authorize shipment of certain flammable liquids in non-DOT specification steel drums. (Modes 1, 2, and 3.)
7531-N	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.88(e)(2)(ii), 173.92(b)	To authorize shipment of a booster separation motor, class B explosive, in a propulsive state. (Mode 1.)
7532-N	Fabricated Metals, Inc., Modena, Pa.	49 CFR 173.268, 173.272, 173.245	To authorize shipment of nitric acid over 40 pct, 98 pct sulfuric acid, and aqua ammonia in DOT specification 57 portable tanks. (Modes 1 and 2.)
7533-N	H. Muehlstein & Co., Inc., Greenwich, Conn.	49 CFR 173.163	To authorize shipment of sodium chlorate in non-DOT specification steel drums. (Modes 1 and 3.)
7534-N	IMC Chemical Group, Inc., Allentown, Pa.	49 CFR 173.65	To authorize shipment of TNT packaged in plywood boxes in accordance with the United Nations regulations. (Mode 1.)
7535-N	Martin Marietta Chemicals, Charlotte, N.C.	49 CFR 173.245	To authorize shipment of certain corrosive liquids in non-DOT specification cargo tanks. (Mode 1.)
7536-N	Department of Defense, Washington, D.C.	46 CFR 146.29-41	To authorize an increase in draft weights to 4,928 lb for a 5-ton boom and to 9,856 lb for a 10-ton boom. (Mode 3.)
7537-N	Lucidol Division of Pennwalt Corp., Buffalo, N.Y.	49 CFR 173.157(b)(3)	To authorize an increase to 50 lb net weight (dry weight) in each outside box for benzol peroxide. (Mode 1.)
7538-N	Southern Chemical Products Co., Macon, Ga.	49 CFR 173.245	To authorize manufacture of a non-DOT specification 55-gal polyethylene drum for shipment of certain corrosive liquids. (Modes 1, 2, and 3.)
7539-N	Petrolite Corp., St. Louis, Mo.	49 CFR 173.119	To authorize shipment of certain flammable liquids in DOT specification 57 portable tanks. (Mode 1.)
7540-N	Structural Composities Industries, Inc., Azusa, Calif.	49 CFR 173.302, 173.304	To authorize shipment of certain nonflammable compressed gases in non-DOT specification FRP aluminum lined cylinders. (Modes 1, 2, 3, 4, and 5.)
7541-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315	To authorize shipment of certain flammable and nonflammable compressed gases in ISO-type portable tanks. (Modes 1 and 3.)
7542-N	U.S. Cylinders, Inc., Citronelle, Ala.	49 CFR 173.303	To authorize shipment of acetylene in a 3 piece steel cylinder having a longitudinal welded seam. (Modes 1 and 2.)
7543-N	Monsanto Co., St. Louis, Mo	49 CFR 173.154	To authorize shipment of certain flammable solid waste material in DOT specification 56 portable tanks. (Mode 1.)
7544-N	Eastman Kodak Co., Rochester, N.Y.	49 CFR 178.211-2(b), pt. 173, subpts. C, D, E, G.	To authorize shipment of those hazardous materials packaged in DOT specification 2U containers to be overpacked in a modified DOT specification 12P fiberboard box deviating from fiberboard strength requirements. (Modes 1, 2, and 3.)
7545-N	Fabricated Metals, Inc., Modena, Pa.	49 CFR 173.119, 173.125	To authorize shipment of isopropanol and ethyl acetate in DOT specification 57 portable tanks. (Modes 1 and 2.)
7546-N	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302, 173.304, 173.306, 173.314, 173.315.	To authorize shipment of certain compressed gases in a heat pipe system. (Modes 1 and 4.)
7547-N	GTE Sylvania, Danvers, Mass.	49 CFR 173.368	To authorize transportation of palletized arsenical flue-dust and certain other poisonous solids in non-DOT specification metal drums. (Mode 1.)
7548-N	COMSC, Washington, D.C	46 CFR 146.29-100	To authorize exemption from "over the square of the hatch" prohibition for explosive missiles. (Mode 3.)

Application No.	Applicant	Regulation(s) affected	Nature of application
7549-N	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.245a	To authorize shipment of ethyl chlorothioformate in modified DOT specification 51 portable tanks. (Modes 1 and 3.)
7550-N	Rockwell International, Canoga Park, Calif.	49 CFR 173.206	To authorize shipment of a cold trap assembly containing solid sodium enclosed in a stainless steel assembly in a skid based elevated plywood cover assembly. (Mode 1.)
7551-N	FMC Corp., Philadelphia, Pa.	49 CFR 173.119, 173.245, 173.346, 173.348, 173.353, 173.357, 173.359, 173.362a, 173.365, 173.367, 173.377.	To authorize shipment of certain flammable, corrosive, and poisonous materials in damaged containers overpacked in 17C drums. (Mode 1.)
7552-N	Mobay Chemical Corp., Pittsburgh, Pa.	49 CFR 173.346	To authorize shipment of cyclohexyl isocyanate in non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7553-N	Ethyl Corp., Baton Rouge, La.	49 CFR 176.74(c)	To authorize stowage of motor fuel antiknock compound on more than 50 pct of total open deck area. (Mode 3.)
7554-N	Varian Associates, Palo Alto, Calif.	49 CFR 172.204, 172.400, 173.153, 173.224, 173.21.	To authorize shipment of certain hazardous materials in expected quantities without certification of shipping papers, in non-DOT packaging without labels and to allow corrosives in the same package as other materials. (Modes 4 and 5.)
7555-N	Provost Cartage, Inc., Ville D'Anjou, Canada.	49 CFR 173.263, 173.265, 173.163	To authorize shipment of hydrochloric acid, hydrofluosilicic acid, and sodium chlorate in fiber glass reinforced plastic tanks. (Mode 1.)
7556-N	Transnuclear, Inc., White Plains, N.Y.	49 CFR 173.392(c)(7), 172.504, 172.506, 172.508.	To authorize shipment of natural uranium concentrate in freight containers bearing the IMCO placard. (Modes 1, 2, and 3.)
7557-N	Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.154	To authorize shipment of certain oxidizing materials in a hopper-type pressure discharge bulk trailer and a DOT specification 56 container (Modes 1 and 2.)
7558-N	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.315	To authorize shipment of certain cryogenic liquids in Linde model HTM-2000 portable tanks. (Mode 3.)
7559-N	Ronson Corp., Ogletown, N.J.	49 CFR 173.21(d)	To authorize shipment of a cigarette lighter charged with fuel and equipped with an ignition element without Bureau of Explosives approval. (Modes 1, 2, and 3.)
7560-N	Martin Marietta Corp., Orlando, Fla.	49 CFR 173.57, 173.87, 175.3	To authorize shipment of projectile containing a helium pressure vessel and certain explosive items and other hazardous materials. (Mode 5.)
7561-N	Rapid Electroplating Process, Inc., Chicago, Ill.	49 CFR 172.400	To authorize shipment of sodium cyanide solutions, in excepted quantities, in unlabeled packages. (Mode 1.)
7562-N	AMVAC Chemical Corp., Los Angeles, Calif.	49 CFR 173.358	To authorize shipment of organic phosphate compounds and mixtures thereof to be shipped in DOT specification 34 drums. (Modes 1, 2, and 3.)
7563-N	Poly Science Corp., Niles, Ill.	49 CFR 173.242, 173.286	To authorize shipment of chemical kits containing certain corrosive materials and certain other hazardous materials in glass bottles in the same outer shipping container. (Modes 1, 2, 3, and 4.)
		Renewals	
7066-X	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(b)	To renew and amend USCG SP 35-74 (SP 7066) authorizing shipment of certain flammable and combustible liquids in non-DOT stainless steel portable tanks by both water and motor carrier. (Modes 1 and 3.)
7070-X	Lea-Ronal, Inc., Freeport, N.Y.; Engelhardt Industries, Providence, R.I.; American Chemical & Refining Co., Waterbury, Conn.; Technic, Inc., Cranston, R.I.; Auric Corp., Newark, N.J.; Oxy Metal Industries Corp., Nutley, N.J.	49 CFR 175.630	To renew SP 7070 authorizing shipment of a poisonous solid in non-DOT specification packaging and waiving the co-mingling restrictions (Modes 4 and 5.)
7564-X	Intsel Corp., New York, N.Y.	49 CFR 173.266(b)(8)	To renew USCG SP 26-72 authorizing shipment of hydrogen peroxide, not over 52 pct, in a DOT specification 34 container. (Mode 3.)
7565-X	Fleeman Aviation, Monroe, La.	49 CFR 172.101, 175.3, 175.30	To renew FAA exemption 1052C authorizing shipment of certain hazardous materials in quantities greater than that authorized by the regulations and not allowed for cargo aircraft. (Mode 4.)
7566-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.78	To renew USCG SP 21-70 authorizing use of type EE forklift trucks within holds or compartments for handling pallets of explosives. (Mode 3.)
7567-X	Conus, Inc., Jonesboro, Ark.	49 CFR 172.101, 175.3, 175.30	To renew FAA exemption 1025E authorizing shipment of certain hazardous materials in quantities greater than authorized by the regulations and not allowed for cargo aircraft. (Mode 4.)
7568-X	W. A. Murphy, Inc., El Monte, Calif.	49 CFR 176.415	To renew USCG SP 37-72 authorizing loading/handling and off-loading of bagged nitro carbo nitrate in containers at a nonisolated facility. (Mode 3.)
		Parties to an Exemption	
5680-P	Mobil Chemical Co., Richmond, Va.	49 CFR 173.358(a)(11)	To become a party to SP 5680 authorizing shipment of an organic phosphate compound in DOT 105A300W tank cars. (Mode 2.)
7506-P	U.S. Department of Defense, Washington, D.C.	49 CFR 173.57, 173.87	To become a party to application 7506-N authorizing shipment of a 10,000 lb/in² a helium pressurized cylinder in a projectil containing class A explosives. (Mode 1.)
7511-P	Carboline Co., St. Louis, Mo.	49 CFR pt. 173 supts. D, E	To become a party to application 7511-N authorizing shipment of certain corrosive and flammable liquids in a non-DOT specification polyethylene container. (Modes 1, 2, and 3.)

This notice of receipt of applications for new exemptions, renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53 (e)).

Issued in Washington, D.C., on November 16, 1976.

DR. C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-34556 Filed 11-24-76;8:45 am]

National Highway Traffic Safety Administration

YOUTH HIGHWAY SAFETY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Youth Highway Safety Advisory Committee to be held on January 7, 1977, from 9:00 a.m. to 5:00 p.m. and January 8, 1977 from 9:00 a.m. to 12:00 noon at the DOT Headquarters Building, 400 Seventh Street, SW., Rooms 5332-5334, Washington, D.C.

The agenda for this meeting is as follows:

Briefing on Multi-Year Plan (Youth Programs).
Review Draft of "How To Do Manual."
Review Provisional Licensing Systems for Young Novice Drivers.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting.

For further information, contact Wm. H. Marsh, Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C., telephone 202–426–2872.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on November 18, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76–34742 Filed 11–24–76;8:45 am]

PETITIONS TO COMMENCE DEFECT PROCEEDINGS

Denials

This notice sets forth the reasons for the denial of petitions to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b). This notice is published in accordance with section 124 of the Act, 15 U.S.C. 1410a, which provides that the National Highway Traffic Safety Administration (NHTSA) must grant or deny such petitions within 120 days, and publish in the FEDERAL REGISTER the reasons for the denial.

1. On March 12, 1976, Mr. Steve McGregor of Farmington, Michigan, petitioned NHTSA to commence a defect proceeding with respect to an alleged catalytic converter flammability hazard in his 1975 Ford Granada. The petition alleged that the carpeting in front of the right front passenger seat caught fire because of the heat transmitted through the floorboards by the converter below. The NHTSA conducted a thorough review of all available information, including consumer letters, Parts Return Program records, accident investigation reports, recall campaign records, Ford Motor Company records, and records of other manufacturers. Based on this information, the NHTSA has determined that the incident that occurred to Mr. McGregor's Ford is similar to other incidents occurring on nearly all makes and models of vehicles equipped with catalytic converters, especially when there is ignition misfiring or other types of engine malfunctions. Heat-related incidents on the 1975 Ford Granada, however, are not significantly different than on other makes and models. Further, the carpeting of the Granada does not ignite when heated to temperatures nearly 50 percent higher than the maximum floorpan temperatures obtained during the converter temperature tests. As a result of the investigation it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, the petition is denied.

2. On March 12, 1976, Mr. Harold Remilong of West Branch, Michigan, petitioned that a defect proceeding be initiated with respect to an alleged power steering problem on 1974 Ford F–100 trucks. The petition alleged that the truck "will not steer below 10 degrees" fahrenheit, and is thus unsafe to drive at extremely low temperatures. The NHTSA conducted a thorough review of all available information including consumer letters, Parts Return Program records, accident investigation reports, recall campaign records, and Ford Motor Company records. Based on this information NHTSA learned that Mr. Remilong's problem was similar to that experienced by other Ford truck owners. Ford itself was aware of the problem and issued two Technical Service Bulletins describing the availability of a special cold weather power steering fluid and steering gear lubes to minimize or eliminate increased driver steering effort. Petitioner's dealer, however, appears to have been unaware of this remedy. As a result, Ford has offered to notify owners of power steering equipped four wheel drive F–100 and F–250 trucks of the availability of this cold weather preparation, and will revise its owner's manual advising owners of the effects of cold weather on those vehicles and action to be taken to prevent such occurrences. As a result of the investigation it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, the petition is denied. But the agency will monitor and evaluate Ford's remedy and in the event it is considered inadequate, consideration will be given to initiating a defect proceeding.

3. On January 20, 1976, Mr. Richard Gratiot of Lake Forest, Illinois, petitioned NHTSA to commence a defect proceeding with respect to an alleged safety-related defect in 1972 Volkswagen Super Beetle passenger cars which causes uneven tire wear and steering instability through rear-end swaying or fishtailing at speeds over 45 mph. The NHTSA conducted a thorough review of all available information, including consumer letters, Parts Return Program records, accident investigation reports, recall campaign records, and manufacturer's service manuals and bulletins. Based on this information NHTSA has determined that the condition complained of appears to be an isolated incident not occurring in other 1972 Super Beetles, and that it may be attributable to damage that could have occurred to the vehicle's suspension in its first 15,000 miles of road life before Mr. Gratiot purchased it. As a result of the investigation it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, the petition is denied.

4. On January 20, 1976, Mr. Harold Cooper of Oxford, Michigan, petitioned that a defect proceeding be commenced with respect to a possible safety-related defect in the steering gear box housing of 1971 Subaru FF1 vehicles. The NHTSA conducted a thorough review of all available information, including consumer letters, Parts Return Program records, accident investigation reports, recall campaign records, and manufacturers' service manuals and bulletins. Based on this information, NHTSA has discovered that there have apparently been no specific failures on warranty claims on the steering gear box housing on 1970–72 Subaru vehicles, indicating that the condition complained of is an isolated event attributable to factors other than vehicle design. As a result of the investigation it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, the petition is denied.

(Sec. 124, 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 19, 1976.

JAMES E. HOFFERBERTH,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.76–34854 Filed 11–24–76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, a meeting of the Commissioner's Advisory Group will be held on December 14 and 15, 1976, in Room 3315, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C., 20224. The meeting will begin at 10:00 a.m. on December 14 and 9:00 a.m. on December 15. The agenda will include various topics concerning the procedures and operations of the Internal Revenue Service.

The meeting will be open to the public. It is to be held in a room accommodating 50 people. In addition to discussion of agenda topics by Committee members, there will be time for statements by non-members. Persons wishing to make oral statements should so advise the Executive Secretary prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Committee by sending it to the Executive Secretary, Commissioner's Advisory Group, Room 3011, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

DONALD C. ALEXANDER,
Commissioner.

NOVEMBER 16, 1976.

[FR Doc.76–34897 Filed 11–24–76;8:45 am]