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federal register

MONDAY, APRIL 12, 1976

highlights

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

Rules Going Into Effect Today

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

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

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

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
	CSC			CSC
	LABOR			LABOR

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

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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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 I—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 304—PUBLIC AVAILABILITY OF DOCUMENTS AND RECORDS

Privacy Act Implementation

On March 3, 1976, a document was published in the FEDERAL REGISTER (41 FR 9188) proposing amendments to Subpart B—Privacy Act Implementation, §§ 304.20–304.25. These amendments were occasioned by the comments and suggestions offered by the Presidential Ad Hoc-Interagency Task Force on Privacy Act Implementation review of the Conference rules and were intended to implement further the provisions of the Act.

Interested persons were given until April 2, 1976, to submit written comments, suggestions, or objections concerning the proposed revisions. No comments having been received, the regulations are adopted without change and are set forth below in the completed text, incorporating the adopted amendments.

Subpart B—Privacy Act Implementation

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304.20 Purpose and scope.
304.21 Definitions.
304.22 Procedures for requests pertaining to individual records in a system of records.
304.23 Request for amendment or correction of a record.
304.24 Disclosure of a record to a person other than the individual to whom it pertains.
304.25 Schedule of fees.

AUTHORITY: 5 U.S.C. 552, 552a, 571–576.

Subpart B—Privacy Act Implementation

§ 304.20 Purpose and scope.

The purpose of this subpart is the implementation of the Privacy Act of 1974, 5 U.S.C. 552a, by establishing procedures whereby an individual can determine if a system of records maintained by the Administrative Conference contains a record pertaining to himself, and procedures for providing access to such a record for the purpose of review, amendment, or correction. Requests for assistance in interpreting or complying with these regulations should be addressed to the Executive Secretary, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

§ 304.21 Definitions.

As used in this subpart, the terms "individual," "maintain," "record," "system of records," and "routine use" shall have the meaning specified in 5 U.S.C. 552a(a).

§ 304.22 Procedures for requests pertaining to individual records in a system of records.

(a) An individual can determine if a particular system of records maintained by the Administrative Conference contains a record pertaining to himself by submitting a written request for such information to the Executive Secretary. The Executive Secretary shall respond to a written request under this subpart within a reasonable time by stating that a record on the individual either is or is not contained in the system.

(b) If an individual seeks access to a record pertaining to himself in a system of records, he shall submit a written request to the Executive Secretary. The Executive Secretary or his designee shall, within ten working days after its receipt, acknowledge the request and if possible decide if it should be granted. In any event, a decision shall be reached promptly and notification thereof provided to the individual seeking access. If the request is denied, the individual shall be informed of the reasons therefor and his right to seek judicial review.

(c) In cases where an individual has been granted access to his records, the Executive Secretary may, prior to releasing such records, require the submission of a signed notarized statement verifying the identity of the individual to assure that such records are disclosed to the proper person. No vertification of identity will be required when such records are available under the Freedom of Information Act, 5 U.S.C. 552, as amended.

§ 304.23 Request for amendment or correction of a record.

(a) An individual may file a request with the Executive Secretary for amendment or correction of a record pertaining to himself in a system of records. Such written request shall state the nature of the information in the record the individual believes to be inaccurate or incomplete, the amendment or correction desired and the reasons therefor. The individual should supply whatever information or documentation he can in support of his request for amendment or correction of a record.

(b) The Executive Secretary or his designee shall, within ten working days after its receipt, acknowledge a request for amendment or correction of a record. A decision shall be reached promptly and notification thereof provided to the individual seeking to amend or correct a record. The Executive Secretary may request such additional information or documentation as he may deem necessary to arrive at a decision upon the request. If the request is granted, the record as amended shall be called to the attention of all prior recipients of the individual's record.

(c) If the request is denied, the individual shall be informed of the reasons therefor and his right to appeal the denial in writing to the Chairman of the Conference. The Chairman shall render a decision on an appeal within thirty working days following the date on which the appeal is received. The individual shall be notified promptly of the Chairman's decision and, if the appeal is denied, the reasons therefor and the individual's right to seek judicial review and his right to file a concise statement of disagreement, which statement shall be noted in the records to which it pertains and supplied to all prior and subsequent recipients of the disputed record. If an appeal is granted, the record as amended shall be called to the attention of all prior recipients of the individual's record.

(d) Requests for amendment or correction of a record must be accompanied by a signed notarized statement verifying the identity of the requesting party.

§ 304.24 Disclosure of a record to a person other than the individual to whom it pertains.

Except in accordance with 5 U.S.C. 552a(b), or as required by the Freedom of Information Act, 5 U.S.C. 552, as amended, or other applicable statute, the Conference shall not disclose a record to any individual other than the individual to whom the record pertains without the written consent of such individual. An accounting of the date, nature, and purpose of each disclosure of a record as well as the name and address of the person or agency to whom the disclosure was made will be maintained. This accounting will be made available to the individual to whom the record pertains upon the submission of a written, notarized request to the Executive Secretary.

§ 304.25 Schedule of fees.

Copies of records supplied to any individual at his request shall be provided for $.10 per copy per page. Copying fees of less than $2 per request are waived.

Effective date. These regulations became effective April 6, 1976.

RICHARD K. BERG,
Executive Secretary.

APRIL 6, 1976.

[FR Doc.76–10478 Filed 4–9–76;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Research Relating to Marketing and Consumption of Agricultural Products

Part 2, Subtitle A of Title 7, Code of Federal Regulations is amended to revise the delegations of authority to the Director of Agricultural Economics, the Administrator, Economic Research Service, and the Administrator, Statistical Reporting Service relating to research with respect to marketing and consumption of agricultural products, as follows:

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Director of Agricultural Economics

1. Section 2.27 is amended by adding a new paragraph (b)(13), and by revoking and reserving paragraph (c)(3) as follows:

§ 2.27 Delegations of authority to the Director of Agricultural Economics.

* * * * *

(b) *Related to economic research.*

* * * * *

(13) Conduct research with respect to the influence of sensory perceptions, awareness, attitudes, opinions, behavior and other related factual data of households, industrial, and institutional consumers upon the marketing and consumption of agricultural products.

(c) *Related to statistical reporting.*

* * * * *

(3) [Reserved].

* * * * *

Subpart K—Delegations of Authority by the Director of Agricultural Economics

2. Section 2.86 is amended by adding a new paragraph (a)(13) to read as follows:

§ 2.86 Administrator, Economic Research Service.

(a) * * *

(13) Conduct research with respect to the influence of sensory perceptions, awareness, attitudes, opinions, behavior and other related factual data of households, industrial, and institutional consumers upon the marketing and consumption of agricultural products.

3. Section 2.87 is amended by revoking and reserving paragraph (a)(3) as follows:

§ 2.87 Administrator, Statistical Reporting Service.

(a) * * *

(3) [Reserved].

* * * * *

Effective Date: These amendments shall become effective April 12, 1976.

Dated: April 2, 1976.

For Subpart C:

EARL L. BUTZ,
Secretary of Agriculture.

Dated: April 2, 1976.

For Subpart K:

DON PAARLBERG,
Director of Agricultural Economics.

[FR Doc.76-10425 Filed 4-9-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program for Milk

INCREASE IN PRICES

The United States Department of Agriculture has announced an increase, effective April 1, 1976, in the price support level for manufacturing milk for the marketing year which ends March 31, 1977, through purchases by Commodity Credit Corporation (CCC) of dairy products under the price support program as provided herein. Accordingly, § 1430.282 is revised to read as follows:

§ 1430.282 Price support program for milk.

(a)(1) The general levels of prices to producers for milk will be supported from April 1, 1976, through March 31, 1977, at $8.13 per hundredweight for manufacturing milk.

(2) Price support for milk will be through purchases by CCC of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) Commodity Credit Corporation, may, by special announcements, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from:

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Commodity Operations Division, Washington, D.C. 20250.

or

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Prairie Village ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208.

(b)(1) CCC will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

[Cents per pound]

Commodity and location	Produced before Apr. 1, 1976	Produced on or after Apr. 1, 1976
Cheddar cheese, U.S. grade A or higher (standard moisture basis, 37.8 to 39.0 pct)[1]	85.00	90.50
Nonfat dry milk, spray process, U.S. extra grade[2]	62.40	62.10
Butter, U.S. grade A or higher, New York, N.Y., and Jersey City, Newark, and Secaucus, N.J.	81.25	87.75

[1] For cheese which is offered on a "dry" basis (less than 37.8 pct moisture) the price per pound shall be as indicated in form ASCS-150. Copies are available in offices listed in (a)(4).

[2] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.50 cent (½ cent) per pound of nonfat dry milk.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York City, less 80 percent of the lowest published domestic railroad carlot freight rate per pound gross weight for a 60,000 pound carlot, in effect at the beginning of the 1976–77 marketing year (April 1, 1976), from such other point to New York City. The minimum price at any location shall be the price at New York City minus three cents per pound. In the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey Pennsylvania, Delaware, Maryland, and Virginia, CCC will purchase only bulk butter produced in that area; butter produced in other areas is ineligible for offering to CCC in these States.

(c) The butter shall be U.S. Grade A or higher. The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent. The Cheddar cheese shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grades and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Secs. 201, 401, 63 Stat. 1052, 1054, as amended; sec. 4(d), 62 Stat. 1070, as amended; 7 U.S.C. 1446, 1421, 15 U.S.C. 714b (d))

Signed at Washington, D.C., on: April 5, 1976.

KENNETH E. FRICK,
Executive Vice President
Commodity Credit Corporation.

[FR Doc.76-10426 Filed 4-9-76;8:45 am]

[Amendment 2]

PART 1472—WOOL

Payment and Deduction Rates for 1975 Marketing Year

The regulations issued by Commodity Credit Corporation containing the requirements with respect to the payment program for shorn wool and unshorn lambs (pulled wool) for the 1974, 1975, 1976, and 1977 marketing years (39 FR 9446) are amended to include the payment and deduction rates applicable to shorn wool and unshorn lambs sold during the 1975 marketing year as follows:

1. Section 1472.1405 is amended by adding the following new paragraph (d):

§ 1472.1405 Price support payments.

* * * * *

(d) *1975 marketing year*. The national average price received by producers for shorn wool marketed during the 1975 marketing year was 44.7 cents a pound, grease basis, which was 27.3 cents a pound below the price support level of 72 cents for that year. Therefore, the rate of payment for the 1975 marketing year is 61.1 percent.

2. Section 1472.1421 is amended by adding the following new paragraph (d):

§ 1472.1421 Price support payments.

* * * * *

(d) *1975 marketing year*. The rate of payment on unshorn lambs sold during the 1975 marketing year is 109 cents per hundredweight of live lambs based on a difference of 27.3 cents a pound between the price support level of 72 cents and the national average price of 44.7 cents a pound received by producers for shorn wool during the 1975 marketing year (§ 1472.1405(d)).

3. Section 1472.1446 is amended by adding the following new paragraph (c):

§ 1472.1446 Deductions for promotion.

* * * * *

(c) For the 1975 marketing year, a deduction will be made from each shorn wool payment at the rate of 1.5 cents a pound of wool, grease basis, and from each unshorn lamb payment at the rate of 7.5 cents per hundredweight of live lambs. Those funds will be used to finance the advertising and sales promotion program approved by the Department of Agriculture pursuant to section 708 of the National Wool Act of 1965, as amended.

(Sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072, as amended; secs. 702-708, 68 Stat. 910-912, as amended; 15 U.S.C. 714b, 714c; 7 U.S.C. 1781-1787, as amended.)

Effective date. This amendment shall become effective April 5, 1976.

The payment rates announced by this amendment are in accordance with the formulas published March 11, 1974, in §§ 1472.1405(b) (39 FR 9447) and 1472.1421(b) (39 FR 9450). The deduction rates are specified in the agreement between the American Sheep Producers Council, Inc., and the Secretary of Agriculture approved by producers in a referendum held November 4 through 15, 1974. Since there is no latitude for varying rates, a delay in the effective date of this amendment would only delay payments to producers who completed marketings of shorn wool and unshorn lambs during 1975. It is, therefore, found that compliance with the notice of proposed rule making and public participation procedure is unnecessary and impracticable.

Signed at Washington, D.C., on April 5, 1976.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-10427 Filed 4-9-76;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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Pyrantel Tartrate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (43-290V) filed by Pfizer, Inc., New York, NY 10017 proposing the safe and effective use of a 17.6 percent pyrantel tartrate premix as an anthelmintic in the treatment of swine. The supplemental application is approved, effective April 12, 1976.

The Commissioner is amending § 558.485 (formerly § 135e.64 prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13989)) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 558.485 is amended by revising paragraph (a) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) *Approvals*. (1) Premix levels of 10.6 and 17.6 percent (48 and 80 grams per pound) granted to No. 000069 in 21 CFR 510.600(c). (2) Premix level of 10.6 percent (48 grams per pound) granted to No. 017800 in 21 CFR 510.600(c).

* * * * *

Effective date. This order shall be effective April 12, 1976.

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

Dated: April 5, 1976.

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

[FR Doc.76-10412 Filed 4-9-76;8:45 am]

[FRL 521-4; FAP6H5113/T12]

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

N'-(2,4-dimethylphenyl)-N-[[(2,4-dimethylphenyl)imino]methyl]-N-methylmethanimidamide

On January 20, 1976, the Environmental Protection Agency (EPA) announced (41 FR 2859) that the Upjohn Co., Kalamazoo MI 49001, had filed a food additive petition (FAP 6H5113) which proposes that 21 CFR 561.195 be amended to permit the experimental use of the insecticide N'-(2,4-dimethylphenyl) - N - [[(2,4 - dimethylphenyl) imino]methyl]-N - methylmethanimidamide on growing applies with a tolerance of 10 parts per million (ppm) for residues of the insecticide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in dried apple pomace, in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). No comments were received with regard to this notice of filing.

The scientific data provided in the petition and other relevant material have been evaluated. It has been determined that residues of the insecticide may result in apple pomace from the uses as provided for by the experimental use permits issued under FIFRA, and it has been further determined that the amendment to 21 CFR 561.195 requested by the petitioner will protect the public health and should be established as set forth below.

Any person adversely affected by this regulation may, on or before May 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective April 12, 1976, § 561.195 is amended as follows.

(Sec. 409(c) (1) and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(c) (1) and (4)))

Dated: April 6, 1976.

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

Section 561.195 is amended by designating the existing paragraph as paragraph (a) and by adding the new paragraph (b) containing a tolerance for residues of the insecticide and its metabolites containing the 2,4-dimethylaniline moiety in dried apple pomace at 10 ppm to read as follows:

* * * * *

§ 561.195 N'-(2,4 - dimethylphenyl) - N-[[(2,4 - dimethylphenyl) imino] methyl]-N-methylmethanimidamide.

(a) * * *

* * * * *

(b) (1) A tolerance of 10 parts per million is established for residues of the insecticide N'-(2,4-dimethylphenyl)-N-[[(2,4 - dimethylphenyl)imino]methyl]-N-methylmethanimidamide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in dried apple pomace resulting from application of the pesticide to growing apples. Such residues may be present therein only as a result of application of the insecticide in accordance with the provisions of two experimental use permits which expire April 5, 1977.

(2) Residues in dried apple pomace not in excess of 10 parts per million resulting from use as described in paragraph (b) (1) of this section remaining after expiration of the experimental use program will not be considered actionable if the insecticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and feed additive tolerance.

(3) Upjohn Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

* * * * *

[FR Doc.76-10402 Filed 4-9-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-060]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Illinois River, Illinois; Correction

In 41 FR 11289 dated March 18, 1976, reference was made to the use of channel 16 in the preamble to this regulation. The words, "on channel 16" on line 19 of paragraph 1 shall be deleted. The words, "Channel 16" on line 23 of paragraph 1 shall be deleted and the word, "Radiotelephones" inserted in its stead.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

APRIL 6, 1976.

[FR Doc.76-10450 Filed 4-9-76;8:45 am]

[CGD 75-213]

PART 159—MARINE SANITATION DEVICES

Certification Procedures and Design and Construction Requirements

FEBRUARY 2, 1976.

These amendments reflect the changes made to the Marine Sanitation Device Standard (40 CFR Part 140) by the Environmental Protection Agency, (hereafter EPA). The Coast Guard is replacing the original EPA standards of performance in the Coast Guard Marine Sanitation Device Regulations with the new EPA standards of performance (hereafter standards).

Under the Federal Water Pollution Control Act as amended, 33 USC 1322, the EPA promulgated its original standards for marine sanitation devices (37 FR 12392). The Coast Guard then promulgated marine sanitation device regulations (40 FR 4622), based on the original EPA standards, establishing certification procedures, design and construction requirements, and operating requirements.

The Coast Guard Marine Sanitation Device Regulations implement the EPA Standards and therefore use the EPA Standards. These amendments incorporate the new EPA standards (NPRM 40 FR 47972, Final Rule 41 FR 4452) into the Coast Guard Marine Sanitation Device Regulations.

The preamble to the U.S. Coast Guard Marine Sanitation Device Regulations (40 FR 4622) contained a table that set out the vessel operator requirements under the original EPA Standards. This table has helped vessel owners, operators, and manufacturers to comply with the regulations. Accordingly, a similar table is included here that describes the vessel operator requirements under the new EPA standards.

NOTE: The new EPA standards state that in freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. The EPA standards further state that this shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges. They also state that waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and interconnected waterways, freshwater lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation (40 CFR 140.3).

Vessel type	Must be equipped with a—	Unless equipped with—
Existing—a vessel whose construction was initiated [1] before Jan. 30, 1975.	Coast Guard certified Type [2] II or Type III MSD after Jan. 30, 1980.	On or before Jan. 30, 1978, with any USCG certified flow-through device, which may be used for its operable life. A USCG certified Type I device installed after Jan. 30, 1978, must be replaced by Jan. 31, 1980, with a USCG certified Type II or Type III device.
New—a vessel whose construction was initiated [1] on or after Jan. 30, 1975.	Coast Guard certified Type [2] I, Type II, or Type III MSD on and after Jan. 30, 1977.	
	Coast Guard certified Type II or Type III MSD after Jan. 30, 1980.	A Coast Guard certified Type I MSD installed on or before Jan. 30, 1980, which may be used for the operable life of the device.

[1] For many years the Coast Guard has considered the initiation of construction to be laying of a keel or similar stage of construction.

[2] Type references:

"Type I marine sanitation device" means a device that, under the test conditions described in §§ 159.123 and 159.125 produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids. This includes all flow-through devices certified under § 159.12 or § 159.16 before promulgation of this amendment.

"Type II marine sanitation device" means a device that, under the test conditions described in §§ 159.126 and 159.126a produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.

"Type III marine sanitation device" means a device that is designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage.

The following paragraphs describe the major changes to the U.S. Coast Guard Marine Sanitation Device Regulations (33 CFR, Part 159) implemented by this amendment.

Sections 159.5 and 159.7 have been rewritten to be consistent with the new EPA standards. A note has been included in § 159.7 to advise the vessel operator of the existence of certain EPA designated no-discharge zones.

The new EPA standards allow installation of flow-through devices aboard new vessels; therefore, the waiver to allow such installations is no longer necessary. Accordingly, § 159.13, Waiver for New Vessels Manufactured before January 30, 1976, is deleted.

Section 159.53 is amended by adding the higher flow-through performance standard in the new EPA standard and by using the Type I, II and III nomenclature.

Sections 159.55 and 159.57 are amended to require that the manufacturer specify the type of device as Type I, II, or III. Section 159.57 now requires that the manufacturer include a note advising the equipment purchaser of the existence of certain EPA specified no-discharge waters under 40 CFR 140.3(a)(1). This note is to assist the consumer in purchasing a device in compliance with the new EPA standards.

Section 159.97 is amended to state that it is the Commandant of the Coast Guard and not the recognized facility that determines compliance with the U.S. Coast Guard Marine Engineering Regulations (Subchapter F) and U.S. Coast Guard Electrical Engineering Regulations (Subchapter V), for devices to be installed aboard inspected vessels.

Sections 159.123, 159.125 and 159.127 are amended to require that test procedures be as specified in 40 CFR, Part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants," to be consistent with the new EPA standards.

A new § 159.126, "Coliform Test: Type II devices" provides for evaluation for Type II devices against the EPA coliform standards in 40 CFR 140.3(d). Similarly, a new § 159.126(a), "Suspended Solids Test: Type II devices," provides for evaluation of Type II devices against the EPA suspended solids standard in 40 CFR 140.3(d).

These amendments are promulgated without notice of proposed rulemaking. These amendments reflect EPA Standards with which, under the Federal Water Pollution Control Act, Coast Guard regulations must be consistent. In promulgating its new standards the EPA published a notice of proposed rulemaking and solicited comments before issuing its final rule. It is unnecessary for the Coast Guard to publish a notice of proposed rulemaking since the relevant issues have been considered by the EPA and the Coast Guard is required by law to use EPA Standards in its regulations.

Good cause is found to make these amendments effective in less than 30 days. These amendments provide for testing and evaluation of devices under the new EPA standards. To make these amendments effective immediately facilitates installation of certified devices aboard vessels.

In consideration of the foregoing, Part 159 of Title 33, Code of Federal Regulations is amended as follows:

1. By amending § 159.3 by revising paragraphs (c), (g), and (o) and adding new paragraphs (p), (q), (r), and (s) as follows:

§ 159.3 Definitions.

* * * * *

(c) "Existing vessel" includes any vessel, the construction of which was initiated before January 30, 1975.

* * * * *

(g) "New vessel" includes any vessel, the construction of which is initiated on or after January 30, 1975.

* * * * *

(o) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the United States.

(p) "Fecal coliform bacteria" are those organisms associated with the intestine of warm-blooded animals that are commonly used to indicate the presence of fecal material and the potential presence of organisms capable of causing human disease.

(q) "Type I marine sanitation device" means a device that, under the test conditions described in §§ 159.123 and 159.125, produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.

(r) "Type II marine sanitation device" means a device that, under the test conditions described in §§ 159.126 and 159.126a, produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.

(s) "Type III marine sanitation device" means a device that is designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage.

2. By revising § 159.5 to read as follows:

§ 159.5 Requirements for vessel manufacturers.

(a) On and after January 30, 1977, no manufacturer may manufacture for sale, offer for sale, or distribute for sale or resale any new vessel equipped with installed toilet facilities unless it is equipped with an operable Type I, II, or III device that has a label placed on it under § 159.16, or that is certified under § 159.12.

(b) After January 30, 1980, no manufacturer may manufacture for sale, or offer for sale, or distribute for sale or resale any new vessel equipped with installed toilet facilities unless it is equipped with—

(1) An operable Type II or III device that has a label placed on it under § 159.16 or that is certified under § 159.12; or

(2) An operable Type I device installed on the vessel before January 31, 1980, that has a label placed on it under § 159.16 or that is certified under § 159.12.

(c) After January 30, 1980, no manufacturer may sell, offer for sale, or distribute for sale or resale any existing vessel equipped with installed toilet facilities unless it is equipped with—

(1) An operable Type II or III device that has a label placed on it under § 159.16 or that is certified under § 159.12; or

(2) An operable Type I device installed on the vessel before January 31, 1978, that has a label placed on it under § 159.16 or that is certified under § 159.12.

3. By revising § 159.7 to read as follows:

§ 159.7 Requirements for vessel operators.

(a) On and after January 30, 1977, no person may operate any new vessel equipped with installed toilet facilities, unless it is equipped with an operable Type I, II or III device that has a label placed on it under § 159.16, or that is certified under § 159.12.

(b) After January 30, 1980, no person may operate any new vessel equipped with installed toilet facilities unless it is equipped with—

(1) An operable Type II or III device that has a label placed on it under § 159.16 or that is certified under § 159.12; or

(2) An operable Type I device installed on the vessel before January 31, 1980, that has a label placed on it under § 159.16 or that is certified under § 159.12;

(c) After January 30, 1980, no person may operate any existing vessel equipped with installed toilet facilities unless it is equipped with—

(1) An operable Type II or III device that has a label placed on it under § 159.16 or that is certified under § 159.12; or

(2) An operable Type I device installed on the vessel before January 31, 1978, that has a label placed on it under § 159.16 or that is certified under § 159.12.

NOTE: The EPA standards state that in freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. The EPA standards further state that this shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges. They also state that waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and interconnected waterways, freshwater lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation (40 CFR 140.3).

4. By amending § 159.12 by revising paragraph (b) as follows:

§ 159.12 Regulations for certification of existing devices.

* * * * *

(b) Any Type III device that was installed on an existing vessel before January 30, 1975, is considered certified.

* * * * *

§ 159.13 [Reserved]

5. By deleting § 159.13 in its entirety.

6. By amending § 159.14 by revising paragraph (a) as follows:

§ 159.14 Application for certification.

(a) Any manufacturer may apply to any recognized facility for certification of a marine sanitation device. The application for certification must indicate whether the device will be used aboard all vessels or only aboard uninspected vessels and to which standard in § 159.53

the manufacturer requests the device to be tested.

* * * * *

§ 159.15 [Amended]

7. By amending § 159.15(a) by striking out the section number 159.97 and replacing it with the section number 159.95.

* * * * *

8. By revising § 159.53 to read as follows:

§ 159.53 General requirements.

A device must:

(a) Under the test conditions described in §§ 159.123 and 159.125, produce an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids (Type I),

(b) Under the test conditions described in §§ 159.126 and 159.126a, produce an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter (Type II), or

(c) Be designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage (Type III).

9. By amending § 159.55(a) by adding a new paragraph (a)(6) as follows:

§ 159.55 Identification.

(a) * * *

(6) Whether the device is Type I, II, or III.

* * * * *

10. By amending § 159.57 by revising paragraphs (a)(2) and (b)(12) and by adding new paragraphs (b)(16) and (b)(17) as follows:

§ 159.57 Installation, operation and maintenance instructions.

(a) * * *

(2) Safe operation and servicing of the device so that any discharge meets the applicable requirements of § 159.53.

* * * * *

(b) * * *

(12) The maximum angles of pitch and roll at which the device operates in accordance with the applicable requirements of § 159.53.

* * * * *

(16) Whether the device is Type I, II, or III.

(17) A statement as follows:

NOTE: The EPA standards state that in freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. The EPA standards further state that this shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges. They also state that waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and interconnected waterways, freshwater lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation (40 CFR 140.3).

§ 159.89 [Amended]

11. By amending § 159.89 by revising the heading by striking the word "discharge" and inserting "Type I and II" in its place and striking out section numbers 159.123 and 159.125 and replacing them with the section number 159.53.

12. By revising § 159.97 as follows:

§ 159.97 Safety: inspected vessels.

The Commandant approves the design and construction of devices to be certified for installation and operation on board inspected vessels on the basis of tests and reports of inspection under the applicable marine engineering requirements in Subchapter F of Title 46, Code of Federal Regulations, and under the applicable electrical engineering requirements in Subchapter J of Title 46 Code of Federal Regulations.

§ 159.101 [Amended]

13. By amending § 159.101 by striking out the section number 159.125 and replacing it with the section number 159.131.

14. By amending § 159.123 by revising the heading by striking out the word "discharge" and inserting "Type I" in its place, and by revising paragraph (a) as follows:

§ 159.123 Coliform test: Type I devices.

(a) The arithmetic mean of the fecal coliform bacteria in 38 of 40 samples of effluent discharged from a Type I device during the test described in § 159.121 must be less than 1000 per 100 milliliters when tested in accordance with 40 CFR, Part 136.

* * * * *

15. By amending § 159.125 by revising the heading by striking out the word "discharge" and inserting "Type I" in its place and by revising the text before the note as follows:

§ 159.125 Visible floating solids: Type I devices.

During the sewage processing test (§ 159.121) 40 effluent samples of approximately 1 liter each shall be taken from a Type I device at the same time as samples taken in § 159.123 and passed expeditiously through a U.S. Sieve No. 12 as specified in ASTM E-11-70. The weight of the material retained on the screen after it has been dried to a constant weight in an oven at 103° C. must be divided by the volume of the sample and expressed as milligrams per liter. This value must be 10 percent or less of the total suspended solids as determined in accordance with 40 CFR, Part 136 of at least 38 of the 40 samples.

* * * * *

16. By adding new §§ 159.126 and 159.126a as follows:

§ 159.126 Coliform test: Type II devices.

(a) The arithmetic mean of the fecal coliform bacteria in 38 of 40 samples of effluent from a Type II device during the test described in § 159.121 must be 200 per 100 milliliters or less when tested in accordance with 40 CFR, Part 136.

(b) The 40 samples must be taken from the device as follows: During each of the 10 test days, one sample must be taken at the beginning, middle and end of an 8-consecutive hour period with one additional sample taken immediately following the peak capacity processing period.

§ 159.126a Suspended Solids Test: Type II devices.

During the sewage processing test (§ 159.121) 40 effluent samples must be taken at the same time as samples are taken for § 159.126 and they must be analyzed for total suspended solids in accordance with 40 CFR, Part 136. The arithmetic mean of the total suspended solids in 38 of 40 of these samples must be less than or equal to 150 milligrams per liter.

§ 159.127 [Amended]

17. By amending § 159.127 by striking out the citation 40 CFR 140.5 and replacing it with the citation 40 CFR, Part 136.

(Section 312(b)(1), 86 Stat. 861 (33 U.S.C. 1322(b)(1); 49 CFR 1.45(b) and 1.46(l) and (m)).)

Effective date. These amendments are effective on April 12, 1976.

Dated: April 6, 1976.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc.76-10451 Filed 4-9-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 521-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Emergency Plan for California

On December 16, 1975 (40 FR 58319), the Administrator issued a notice setting forth the California Air Pollution Emergency Plan (Plan) as proposed rulemaking. The Administrator invited public comments on whether the Plan should be approved or disapproved as required by Section 110 of the Clean Air Act.

After review of the comments received, the Administrator has determined that the California Plan is consistent with the requirements of section 110(a)(2)(F)(V) and 40 CFR Part 51.16, and is therefore promulgating approval of the California Air Pollution Emergency Plan as

part of the applicable State Implementation Plan (SIP) for California.

Background. National Ambient Air Quality Standard (NAAQS) for oxidants (O_x) is repeatedly exceeded in several areas of California. Levels of photochemical oxidants in the South Coast Air Basin (SCAB) have frequently exceeded air episode alert levels during the summer smog season. The Significant Harm Level (SHL) for oxidants (1200 $\mu g/m^3$—0.6ppm for one hour average) was exceeded twice in 1974, but not in 1975.

Historically, the SHLs of oxidants occur in limited areas (e.g., measured at only one monitoring station) and only last for several hours on a single day. The higher the concentration, the shorter the duration and the smaller the affected area. Because photochemical oxidants are not emitted directly to the atmosphere but occur as a result of interactions between hydrocarbons, oxides of nitrogen (NO_x), and sunlight, and are influenced by meteorological parameters and other pollutants, it is difficult to determine the effectiveness of short-term episode control actions. The State has revised its Air Pollution Emergency Plan nine times, primarily due to technical issues and questions on the effectiveness of control strategies for oxidants. The implementation process has consequently been delayed.

In addition to oxidants, the NAAQS's for carbon monoxide (CO) have been exceeded in several areas in California. Episode alert levels (but not SHLs) have been reached in the SCAB. The NAAQS's for sulfur dioxide (SO_2) have not been exceeded in California, but impending fuel switching (from natural gas to fuel oil) may result in increased SO_2 levels.

The NAAQS's for particulate matter (PM) have been exceeded in several areas of the State. However, the only episode levels reached have been due to uncontrollable fugitive dust blowing in arid regions. The NAAQS for nitrogen dioxide (NO_2) has been exceeded only in the SCAB, but episode levels have not been approached.

The original SIP submitted by the State of California on February 21, 1972 did not contain comprehensive air pollution emergency contingency plans. The State plan, as submitted, failed to meet the requirements of 40 CFR 51.16. The Administrator, therefore, on May 31, 1972 (37 FR 10851), disapproved the emergency plan portion of the California SIP (40 CFR 52.231). To correct this deficiency, the State of California adopted, on November 13, 1973, an Air Pollution Emergency Contingency Plan. This plan set forth requirements and guidelines for development of detailed plans by individual Air Pollution Control Districts (APCDs). On February 6, 1974, the State of California submitted its comprehensive Air Pollution Emergency Contingency Plan and the implementing regulations of the affected APCDs to the Administrator as Chapter 4 of Revision 4 to the California SIP.

After careful consideration, the Regional Administrator, on June 26, 1974 (39 FR 23069), proposed a conditional approval of part of California's comprehensive Air Pollution Emergency Plan. Because of the conditional approval, the State of California has significantly revised their plan. During the past eighteen months, the State has responded to the technical deficiencies and other conditions noted by EPA. A review of the State Plan and Program is available from EPA, at 100 California Street, San Francisco, CA 94111 or 401 M Street SW., Washington, D.C. 20460.

EPA and the Air Resources Board (ARB) have been on a compliance schedule since August 6, 1975, leading toward Federal approval of an air episode plan for the SCAB of California. The schedule is the result of the lawsuit brought against EPA and the ARB by California Lung Association, et al., in the U.S. District Court for the Central District of California, Civil No. CV 75 1044 WPG. The complaint requested the Court to order EPA to promulgate and enforce an episode plan for the SCAB until a State Plan is approved and to order the ARB to revise that portion of the SIP dealing with air episodes. The State ARB was dismissed from the lawsuit on January 12, 1976, the Court concluding that neither the Clean Air Act nor State law provided a cause of action against a State for failure to submit an approvable air episode plan.

In July of 1975, a new unified Air Pollution Control District, the Southern California APCD, was formed by Los Angeles, Orange, San Bernardino, and Riverside Counties. This unified district can provide effective air episode actions because it removes the possibility of coordination difficulties among the counties. The Southern California APCD (SCAPCD) adopted Emergency regulations of September 5, 1975 which were consistent with the State plan at that time. Minor changes will be made to the regulation so that it conforms to the new State Plan.

On December 5, 1975, the Executive Officer of the California Air Resources Board (ARB) submitted California's Air Pollution Emergency Plan as amended on October 21, 1975 to the Regional Administrator as a revision to the California SIP.

Discussion. The Plan provides the basis for taking action to prevent air pollution concentrations from reaching levels which could endanger or cause significant harm to the public health and to abate such concentrations should they occur. The Plan is primarily applicable in the areas of California which do not meet air quality standards and where the potential exists for air pollution to reach concentrations at which emergency actions are necessary.

The Plan provides for abatement action and specifies the minimum geographical areas of applicability and pollutants (sulfur dioxide, oxidants, carbon monoxide). If excessive concentrations of other pollutants occur or are predicted to occur, the Plan provides that similar abatement actions or other actions as appropriate shall be taken by the affected APCD after consultation with the ARB.

The Plan provides for three episode stages. Specific levels and abatement actions are given. The stages can be declared on either attained or predicted levels. A "4th Stage" (Air Pollution Disaster) can be declared by the Governor whenever medical authorities or local officials determine that a substantial number of persons are likely to suffer incapacitating effects from air pollution and analysis of the data indicates the condition is likely to continue or reoccur. This stage can be declared regardless of the measured concentrations.

The APCDs are responsible for declaring episodes, but the ARB can declare an episode after consultation with the APCD if the affected APCD fails to declare it immediately, and the ARB determines it is predicted to exist. The APCDs are required to adopt the necessary rules and regulations to implement the revised Plan. After notice and public hearing, the ARB can enforce the appropriate provisions of the APCD's regulations if the APCD does not take responsible action to abate the episode.

The State Plan and local regulations require abatement plans for both stationary and mobile sources. The stationary source abatement plans are required for an industrial business or commercial establishment emitting 100 tons per year or more of hydrocarbons or any other pollutant included in the Plan. Traffic abatement plans are directed toward reducing the causes for vehicular traffic but may include direct controls and must include specific actions to be taken at each episode stage. The abatement plans are reviewed and approved by the APCD according to the criteria established by the ARB. The individual abatement plans must be submitted within 45 days and reviewed by the APCD within an additional 45 days. If disapproved, the individual plan must be revised and resubmitted to the APCD within 30 days.

The State plan provides the basis for preventing pollutant concentrations from reaching levels which could cause significant harm. It provides for a process which includes rules and regulations, individual abatement plants, and administrative procedures. The APCDs have the responsibility for implementing control actions. Local regulations have been previously adopted and may require minor changes to be fully consistent with the new State Plan. Using review criteria equivalent to that subsequently ordered by the Executive Officer, ARB, as required by the Plan, three-fourths of the 2,500 individual abatement plans have been approved by the APCDs. The remaining individual plans are currently under review or revision. The Plan provides that if the required individual plan is not submitted within the specified time limit, the applicant will be considered in violation of the APCD's regulations.

Review of comments. A total of seventeen letters were received from local agencies, environmental groups, and Federal agencies. The major issues raised

by the comments in the letters to EPA and EPA's responses, are summarized below:

1. Because episode levels for oxidants occur in Banning, Palm Springs, and Indio, Table I of the Plan (showing areas of applicability) is deficient. It excludes areas outside the SCAB. The communities of Banning, Palm Springs, and Indio are located in the southeast Desert Air Basin. However, these communities are covered nevertheless in the event of an air episode because the regulations adopted by the SCAPCD (Southern California Air Pollution Control District) apply to all areas within the District. Consequently, although not included in the Plan, the areas are covered by declarations and public announcements in the event episode levels occur. Furthermore, these communities are receptor areas and receive photochemical oxidants which are primarily transported from other geographical areas in the SCAB. Hence, by curtailing sources and implementing traffic reduction plans within other areas of the SCAB, episodes in Banning, Palm Springs, and Indio should be alleviated. EPA believes it is not necessary that these areas be included in the Plan for it to be approved since the plan specifies that other areas can be added by the ARB or APCD having jurisdiction.

2. The California State law requiring a 24-hour notice and a public hearing before the ARB can step in and enforce APCD regulations would cause an unwarranted delay in an emergency.

The Plan itself provides that the APCDs will have primary responsibility and take initial action to prevent episode levels from occurring. Although under the State of California Health and Safety Code, there is a requirement for a 24-hour notice and public hearing before action may be taken by the State ARB, this is not of major concern as the Plan is designed to be implemented by the APCDs. Furthermore, EPA has confidence in the ability and willingness of the APCDs to act in the event of an episode. If, however, for some reason an APCD would not implement its plan, State law provides separate authority so that action may be immediately taken at the State level. Under State of California Emergency Services Act, the Governor of California can take appropriate action at the Air Disaster Stage without giving prior notice. The Governor would, of course, be advised by the ARB as well as the Office of Emergency Services should such action be necessary. Moreover, the Plan itself provides that if an APCD does not act once 24-hour notice is given by the ARB, the ARB may then assume continuing jurisdiction in future episodes without the need for further notice. Consequently, when these authorities are viewed together, it is EPA's conclusion that timely and effective action can be taken to implement the State Plan.

3. The minimum criteria for review of the abatement plans should be part of the Plan itself and not an Executive Order.

EPA does not require review criteria or abatement plans to be part of the State Plan. The ARB and EPA have overviewed the review process of the APCDs and used the same criteria for reviewing State and Federal Agency abatement plans, respectively. The ARB has concluded that establishing the review criteria by Executive Order and referencing it in the Plan is sufficient. The State Plan does specify in part what the individual abatement plans shall contain. This is acceptable to EPA since we have no requirement regarding review criteria.

The review criteria were issued January 23, 1976 and are available as a public document, ARB Executive Order G63. The Order expands on the items listed in the State Plan and requires sufficient data to allow a comprehensive evaluation of the effectiveness of control measures planned.

4. The Plan does not give a time frame for the APCDs to adopt the necessary rules and regulations. All APCDs likely to experience air pollution episodes presently have emergency rules and regulations. With the approval of the State Plan, there will be some need for revising these regulations to conform fully to the approved Plan. This process is presently ongoing, and EPA has no reason to believe that the needed revisions will not take place within a reasonable period of time. The most critical APCD, the Southern California Air Pollution Control District, responded to EPA during the comment period that: "* * * We are drafting revisions to our emergency regulations to bring them into agreement with the ARB Emergency Plan." Moreover, since the revision of the local regulations is a State and local administrative matter directed toward implementation of the Plan, EPA concludes that any time frame is best left to the discretion of the ARB. Finally, and most importantly, EPA notes that the State Board has sufficient legal authority under Sections 41500–41507, Part 4, Division 26 of the California Health and Safety Code, to require APCDs to adopt rules and regulations, or to adopt them for the APCDs, if required.

5. The effectiveness of the abatement actions for Air Pollution Disasters is questionable.

The technical difficulties associated with the efficacy of predicting abatement actions in a photochemical oxidant episode are highly complex. The abatement plans represent the best technical planning and judgment of the State and local authorities. EPA and ARB evaluated many possible direct and indirect means of reducing hydrocarbon emissions to prevent air pollution emergencies due to photochemical oxidants. EPA believes that the individual abatement plan approach, together with the other control actions in the State Plan, is the best practical approach currently available. Only future smog seasons can adequately test the effectiveness of this approach. An ongoing evaluation of the Plan's effectiveness will be made by EPA and ARB and if more effective abatement actions are found, the Plan can later be revised.

6. Why are "self help" measures listed only for oxidants? Appendix A was added to the Plan because of the extremely high oxidapt levels in the SCAB. It was never intended to imply oxidant pollution is the only pollutant where self-help is appropriate or that health warnings be issued only during oxidant episodes. The ARB plans to issue self-help measures for the other pollutants covered by the Plan. Self-help measures for CO were issued on January 22, 1976. Other self-help measures will be adopted upon the recommendation of the California State Health Department's Air Quality Advisory Committee. The Committee is currently evaluating measures for SO_2.

7. Nitrogen dioxide, particulate matter, and sulfur dioxide combined with particulates are not listed in the Plan.

The Plan is approved only for the pollutants specifically set out in the Plan (O_x, SO_2, CO). Historically, in addition to oxidants, only particulate matter concentrations have ever reached emergency levels in California, and these levels were due to uncontrollable, fugitive dust blowing in arid regions. There have not been any recorded occurrences of sulfur dioxide and nitrogen dioxide episodes in California.

Further, the California Health Department's Air Quality Advisory Committee believes there is insufficient information currently to recommend episode criteria for PM, NO_2 and SO_2 combined with PM. However, Committee continuously reviews additional information as it becomes available. In the unlikely event that health-endangering high levels of these or other pollutants are predicted to occur, the Plan and the California Emergency Services Act do provide authority for necessary actions (upon the declaration of an Air Pollution Disaster) to prevent their occurrence.

8. Federal Agencies expressed concern regarding the role EPA will play in the individual abatement plan approval process and in general how statutory requirements of Federal Agencies will be handled.

EPA will continue to serve as liaison between Federal Agencies and the APCDs and the ARB. EPA will review and approve the plans using the same criteria as the APCDs. Approved plans will be turned over to the Districts for implementation with EPA serving as the focal point for resolving any questions or difficulties.

Conclusion. The Administrator has weighed all the comments submitted to EPA, evaluated the Plan against the requirements of the CAA and 40 CFR 51.16 and concludes that the Plan and the State and local programs underway to implement the Plan will prevent the occurrence of SHLs in California. The Administrator thus hereby approves the California Air Pollution Emergency Plan making it a part of the approved SIP for California.

Since this Plan should have been in effect in 1972, and EPA has committed to a U.S. District Court to finalize this matter quickly, the Administrator hereby finds good cause for making this approval effective immediately.

(Sec. 110(c) of the Clean Air Act, as amended 42 U.S.C. 1857c–5(a))

Dated: April 2, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(19) as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(19) The California Air Pollution Emergency Plan as revised October 21, 1975 was submitted by the Air Resources Board on December 5, 1975.

2. Section 52.231 is revoked.

§ 52.231 [Reserved]

[FR Doc.76-10397 Filed 4-9-76;8:45 am]

[FRL 513-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New Jersey Implementation Plan

On October 21, 1975 (40 FR 49103) the Administrator of the United States Environmental Protection Agency published his proposed approval of numerous alternative and additional compliance schedules for stationary sources subject to the terms of 40 CFR §§ 52.1594, 52.1595 and 52.1598, parts of the New Jersey Transportation Control Plan ap-

proved on November 13, 1973 (38 FR 31388). These regulations deal, respectively, with the storage of volatile organic liquids, organic liquid loading and gasoline transfer vapor control.

Alternative compliance schedules are those which provide for a final compliance date no later than the one set out in the regulation, but embodying different incremental dates from those in the categorical compliance schedule covering each regulation. Additional compliance schedules, submitted as SIP revisions, provide for compliance "as expeditiously as possible," but later than the final compliance dates of the regulations.

The Notice of Proposed Rulemaking indicated that these schedules would be available for public viewing in Washington, D.C. and New York City. On December 11 (40 FR 57711) a Notice of Public Hearing was published, announcing two hearings, on January 15 and 16, 1976 in Camden, and Newark, New Jersey, respectively. No written comments were received, and no one spoke at the public hearings.

The purpose of this Notice is to approve the alternative and additional compliance schedules proposed in the October 21, 1975 FEDERAL REGISTER. For a listing of the schedules hereby approved, reference is directed to that issue. The New Jersey State Implementation Plan is revised accordingly.

Dated: April 5, 1976.

JOHN QUARLES,
Acting Administrator.

[FR Doc.76-10398 Filed 4-9-76;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 521-2; PP6F1676/R87]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Captafol

On March 12, 1976, the Environmental Protection Agency (EPA) announced (41 FR 10709) that Chevron Chemical Co., 940 Hensley St., Richmond CA 94804, had filed a pesticide petition (PP 6F1676). This petition proposes that 40 CFR 180.267 be amended by the establishment of tolerances for residues of the fungicide captafol (*cis* - *N* - [(1,1,2,2-tetrachloroethyl) - thio]) -4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodities peanuts (nutmeats after the removal of hulls) at 0.05 part per million (ppm) and peanut hulls at 2.0 ppm. No comments were received with regard to this notice.

The data submitted in the petition and other relevant material have been evaluated, and the fungicide is considered to be useful for the purpose for which the tolerances are sought. The data indicate that there is no reasonable expectation of residues in eggs, milk, meat, or poultry as delineated in 40 CFR 180.6(a)(3). The tolerances established by amending 40 CFR 180.267 will protect the public health, and it has been concluded, therefore, that the tolerances should be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the FEDERAL REGISTER, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective April 12, 1976, Part 180, Subpart C, § 180.267 is revised as set forth below.

Dated: April 6, 1976.

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

(Sec. 408(d)(2) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Section 180.267 is revised by adding tolerances for residues of captafol in or on peanuts and peanut hulls at 0.05 and 2.0 ppm respectively and by editorially restructuring the section into an alphabetized columnar format to read as follows:

* * * * *

§ 180.267 Captafol; tolerances for residues.

Tolerances are established for residues of the fungicide captafol (*cis*-*N*-[(1,1,2,2-tetrachloroethyl) thio] - 4 - cyclohexene-1,2-dicarboximide) in or on the following raw agricultural commodities:

Commodity:	Parts per million
Apples	0.25
Apricots	30
Cherries, sour	50
Cherries, sweet	2
Citrus fruits	0.5
Corn, fresh (including sweet) (K+CWHR)	0.1 (N)
Cranberries	8
Cucumbers	2
Macadamia nuts	0.1 (N)
Melons	5
Nectarines	2
Peanuts, hulls	2.0
Peanuts, meats (hulls removed)	0.05
Onions	0.1 (N)
Peaches	30
Pineapples	0.1 (N)
Plums (fresh prunes)	2
Potatoes	0.5
Taro (corm)	0.02
Tomatoes	15

* * * * *

[FR Doc.76-10399 Filed 4-9-76;8:45 am]

Title 45—Public Welfare

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

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Non-Expendable Personal Property

Notice of proposed regulations for the programs administered under Titles I, IV, VI, X, XIV, XVI, and XIX of the Social Security Act with respect to the capitalization and depreciation of non-expendable personal property was published in the FEDERAL REGISTER on March 20, 1975, (40 FR 12674).

A total of 11 comments was received from 9 State welfare agencies, 1 Governor and the President of the Conference of State Welfare Finance Officers.

1. Three States objected to the $300 limit for expensing property used for indirect cost functions while a $5000 limit applied for expensing property used for other purposes. They wanted the $5000 limit to apply uniformly to all property. The $5000 limit was set as a result of State's earlier complaints that a $300 limit on property to be expensed would impose severe financial hardships. Although a uniform dollar limit would be more desirable, the $5000 limit is too high for personal property not directly used in the administration of the programs. No change was made in the regulation.

2. Three States complained that the requirement to capitalize and depreciate personal property imposed undue financial burden on States and that such requirement was contrary to the Social Security Act which provides for Federal financial participation in amounts expended.

The above requirement is clearly within the Secretary's authority in the Act and is consistent with the purposes of 45 CFR 74, Appendix C. Although the requirements will temporarily increase the State's financial burden, in due time the Federal share for depreciation or use allowance would about equal the Federal share of replacement cost.

3. Two States complained that the $300 limit on property to be expended in purchase of service contracts is too low and makes it difficult to negotiate such contracts. One of these States asked why the $5000 limit wasn't acceptable where the State retained title to the property acquired under such contracts.

Changes have been made in 205.160 (a)(2) in response to these comments, by allowing the $5000 limit to apply in purchase of service contracts where title to the property is retained by the State and the contracts provide for the property, or its residual value, to be returned to the State agency upon completion of the contract. The regulation was also changed to include title XX.

The purpose of the regulations is to establish clear policy for compliance with the requirements of the Department's regulations concerning capital expenditures. The basis of the regulations is the Secretary's belief that specific policies are necessary to assure uniform application on a nationwide basis, and that a lower cost limit is necessary for expensing non-expendable personal property when it is not retained or used by the single State agency.

Accordingly, the proposed regulation, as modified, is hereby adopted.

Part 205 of Chapter II, of Title 45, Code of Federal Regulations is amended by adding a new § 205.160 as follows:

§ 205.160 Non-expendable personal property.

(a) *Conditions for Federal financial participation.* This section is applicable to titles IV-A and B, VI, XIX, (excluding medical assistance expenditures) and XX and, with respect to Puerto Rico, Virgin Islands and Guam, Titles I, X, XIV, and XVI. Federal financial participation is available in amounts expended by a single State agency for a unit of non-expendable personal property having a useful life of more than one year only to the extent of the depreciation expense (or annual use allowance of 6⅔ percent of acquisition cost) applicable to the period for which the property was used under a Federal program or activity; except that:

(1) Amounts expended for non-expendable personal property costing less than $5,000 may be subject to Federal financial participation in full at the time of acquisition at the option of the State agency, except as provided in paragraphs (a) (2) and (3) of this section.

(2) Non-expendable personal property acquired by providers under cost reimbursement contracts with the single State agency shall be capitalized and depreciated (or subject to a use allowance) when it has an acquisition cost of $300 or more. Where the State has title to the property and the contracts provide for return of such property or its residual value upon completion of the contract, the $5,000 limit applies.

(3) Non-expendable personal property acquired by a State and assigned for use to organizational elements of a single State agency, or of the Department in which such agency is located, which are treated as indirect cost centers or pools in an SRS cost allocation plan shall be capitalized and depreciated (or be subject to a use allowance) when it has an acquisition cost of $300 or more, except in the case of indirect costs negotiated by the HEW Office of the Regional Comptroller or by other Federal agencies.

(b) *Definitions.* (1) Acquisition cost is the amount expended by a single State agency for the property (excluding interest) plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade in) of the property traded in. Property which was expensed when acquired has a book value of zero when traded in.

(2) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property shall be divided by the number of years of estimated useful service life of the property to arrive at the depreciation expense per year. This method shall be used unless a State obtains approval from the Regional Commissioner to use another method, which must be demonstrated to be more consistent with the using up of the asset.

(3) The number of years of estimated useful service life of property shall be based on the Department of Treasury, Internal Revenue Service policies on depreciation for tax purposes. However, the Regional Commissioner will approve a shorter period if the State agency can document that such period is justified.

(c) *Other administrative requirements.*—(1) *Distribution of Costs.* Amounts expended by a single State agency for non-expendable personal property may be directly charged to a program, or to an activity within a program having a separate rate of Federal financial participation, if the property is being exclusively used for the program or activity at the time of the expenditures for the property. Amounts expended for such property not exclusively used for one program or activity shall be allocated to programs or activities by using one of the following methods:

(i) Using cost centers or pools and allocation bases which will distribute the costs consistent with program or activity usage of the property at the time of the expenditures. Any credits for property sold or retained for agency use in non-Federal programs (see § 74.134 of this title) shall be distributed to programs or activities consistent with the distribution methods used for such property expenditures at the time of acquisition; or

(ii) Using a common distribution factor for all property or for classifications of property (e.g. desks distributed based on number of staff employed in each program or activity). Credits for property sold or retained for use in non-Federal programs shall be distributed to programs or activities using the same distribution factors which are applied to expenditures for property acquired in the quarter in which such credits occurred.

(2) *Accountability and management of non-expendable property.* The provisions in paragraph (a) (1) of this section do not affect the requirements on the single State agency to account for and manage non-expendable personal property as defined in § 74.132 of this title, in accordance with the provisions in §§ 74.134 through 136 of this title.

(3) *Disposition of Certain Property.* A single State agency shall not request disposition instructions for property with an acquisition cost of over $1.000 per unit as specified in § 74.134(c) (2) of this title, but rather shall sell the property and account for it as specified in § 74.134 (c) (1) of this title.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date: These regulations shall be effective July 12, 1976, or earlier at State option.

(Catalog of Federal Domestic Assistance Program No. 13.707, Child Welfare Services; 13.714, Medical Assistance Programs; 13.724, Public Assistance-State and Local Training; 13.748, Work Incentive Program-Child Care-Employment related Supportive Services; 13.754, Public Assistance-Social Services; 13/761, Public Assistance-Maintenance Assistance (State Aid).)

Dated: January 23, 1976.

DON WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: February 23, 1976.

MARJORIE LYNCH,
Acting Secretary.

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Refiner Price Regulations—Order of Recoupment of Increased Costs

I. BACKGROUND

On January 7, 1976 the Federal Energy Administration ("FEA") gave notice of a proposed rulemaking and public hearing (41 FR 1680, January 9, 1976) to consider proposals to amend Part 212 of Title 10, Code of Federal Regulations, to implement the pricing policies of sections 401 and 402 of the Energy Policy and Conservation Act ("EPCA," Pub. L. 94-163). On February 1, 1976 (41 FR 5111, February 4, 1976) FEA issued amendments as a result of that rulemaking proceeding. One of the amendments added to the price regulations applicable to refiners a new § 212.85, Sequence of Recoupment of Costs. FEA stated in the preamble to the February 1 amendments:

> Many refiners commented on the necessary interaction of the permitted order of recoupment of the categories of increased costs with the EPCA provision that increased costs of crude oil incurred as of January 1976 and thereafter may only be recouped without limitation during the first two months after the month in which they were incurred. If FEA were not to distinguish the one-month-old-costs "bank" from other "banks," and simply required that month of measurement costs be recouped before one-month-old "banked" costs attributable to crude oil, the comments correctly expressed concern that the two-month limitation of the EPCA would be effectively converted to a one-month limit on recoupment of costs. FEA therefore has, in the amendments adopted today, distinguished among the various categories of unrecovered increased costs, and specified the required order of recoupment. (41 FR 5113)

The new § 212.85 provided, among other things, that increased non-product costs would be the last category of costs to be deemed to have been recouped, and FEA stated in this regard that:

> Except for the complexities introduced by the statutory two-month and ten percent limitations, the order specified in the new § 212.85 is the same as that under the regulations previously in effect. (41 FR 5113)

Although the EPCA required that the amendments be issued by February 1, 1976, FEA noted that it was considering the initiation of a separate rulemaking proceeding to consider, among other

things, modification of the rule stated in § 212.85 that increased non-product costs must be recouped last and the rule stated in § 212.83(e)(9) that such costs which are not recovered in the current month may not be carried forward ("banked") for recovery in a subsequent month.

On February 27, 1976 a notice of proposed rulemaking was issued to consider whether modifications in these regulations were needed and whether such modifications should be made retroactive to February 1, 1976 (41 FR 9199, March 3, 1976). On March 18, 1976 a public hearing was held concerning these issues. Over 75 written and oral comments were received by FEA from interested parties.

II. AMENDMENTS ADOPTED

On the basis of its careful evaluation of the comments received, FEA has concluded that there is a strong likelihood that undesirable consequences would result from the combined effects of the EPCA limitations on "banking" of increased crude oil costs and the requirement that non-product costs be recouped last and not "banked." The refiner price regulations are therefore amended, effective February 1, 1976, to delete the prohibition of § 212.83(e)(9) against the carry-forward of increased non-product costs which are not recovered on a current basis, and to revise the order in which the categories of increased costs shall be deemed to have been recouped.

Because of the increased flexibility for recovery of increased costs provided by deleting the prohibition on "banking" of unrecouped increased non-product costs, FEA has also decided to apply certain limitations on the use of both "banked" increased non-product and "banked" increased purchased product costs, although neither category of increased costs is subject to the limitations of the EPCA applicable to increased costs of crude oil. Pursuant to today's amendments, both increased costs of purchased product and increased non-product costs may be recovered, like increased crude oil costs, without limitation for two months after the month in which they are incurred. However, increased non-product and purchased product costs which are not recouped within that two month period will be subject to a limitation on use in each future month of either 10 percent of the total "bank" of such unrecouped costs or that amount of such unrecouped costs which, when applied to compute maximum allowable selling prices, results in a maximum allowable selling price in the current month that is no more than 10 percent higher than the highest price at which at least 25 percent of the sales of the product concerned in the prior month were priced, whichever is greater.

Although FEA does not consider such limitations to be necessary under current market conditions in which adequate supplies are exerting downward pressure on prices, it recognizes the desirability of providing a means in the price regulations that would prevent sharp price increases from occurring due to the possible application of excessive amounts of unrecouped costs in the event a period of supply shortages were to occur. The adoption of this new rule in conjunction with the removal of the restriction against "banking" of non-product costs should provide refiners the degree of flexibility essential to sound business practices while also protecting consumers from the possibility of excessive price increases.

Several reasons have convinced FEA of the need for these rules changes. FEA has determined that continuing the one-month restriction on the time of recoupment of increased non-product costs would tend to have undesirable inflationary effects on current market prices by imposing pressures on refiners to recover increased non-product costs by monthly price increases, because such increased non-product costs would be lost under existing regulations if not recouped in the month following the month in which they were incurred.

Prices would also tend to wide monthly fluctuations as refiners sought to set prices to recoup all increased non-product costs each month, rather than deferring price changes and seeking to recover increased non-product costs more in line with historic seasonal pricing and other market factors.

A one-month "use-or-lose" rule on recoupment of non-product costs, when combined with the EPCA-mandated limitations on use of "banked" crude oil costs, could further have operated as a disincentive for refiners to build up inventories, either to anticipate refinery shutdowns, to meet seasonal demands, or otherwise in accordance with standard business practices for products with comparatively constant demand patterns.

A refiner might avoid some loss of unrecouped increased non-product costs under such a rule (when refinery operations or other factors would not permit recovery on a current basis) by decreasing refinery production and increasing product purchases, including imports. Variable non-product costs (such as refinery fuel) could be diminished although fixed non-product cost (such as interest) would not be. The "use or lose" rule thus could have provided an incentive to decrease refinery production.

During the public hearing conducted as part of the rulemaking proceeding, refiners commented that refining operations have current earnings substantially below 1973 levels, with very small percentage returns on assets employed. Two refiners reported absolute losses, one for all of 1975 and one for the first ten months of 1975. At such low rates of return, which were further threatened by the February 1 rules limiting recovery of increased costs incurred, capital investments to expand refinery capacity might have been reconsidered and deferred or eliminated.

FEA received a number of estimates of the amounts of increased costs incurred during February 1976 (and future months) that would be irretrievably lost if the requirement that non-product costs be recouped last and not "banked" were to be retained in combination with the EPCA-mandated limits on the use of "banked" increased crude oil costs.

The undesirable consequences on refinery operations and prices outlined above would be similar to those which FEA concluded would have resulted from imposing on February 1 the unmodified two-month "use-or-lose" rule on recoupment of increased crude oil costs. Because of those likely consequences, FEA modified the two-month "use-or-lose" rule on recoupment of increased crude oil costs to the full extent permitted by the EPCA.

The rule on the order of recoupment of various categories of increased costs established in § 212.85 on February 1, 1976 is revised (and incorporated in § 212.83), consistent with the amendments adopted today, as follows: Of the three basic types of increased costs—crude oil, purchased product, and non-product—each is deemed to be recouped, according to the month in which incurred, as follows:

First, all categories of increased costs incurred in the month prior to the month of measurement, in the following order:

(a) Increased crude oil costs.
(b) Increased purchased product costs.
(c) Increased non-product costs.

Second, all categories of increased costs incurred in the month of measurement, in the following order:

(a) Increased crude oil costs.
(b) Increased purchased product costs.
(c) Increased non-product costs.

Third, unrecouped increased costs incurred two or more months prior to the month of measurement, in the following order:

(a) Increased crude oil costs, subject to the EPCA 10 percent restriction, and the January 31, 1976 "bank" of unrecouped increased product costs, subject to the EPCA 10 percent restriction.

(b) Increased purchased product or non-product costs, subject to the limitation adopted in this rulemaking.

FEA has concluded that these amendments should be made retroactive to February 1, 1976 in order to coordinate this action with the other EPCA-conforming amendments and to insure that no market distortions result from the adoption of the prior February 1, 1976 amendments. February 1 is also the beginning of the month in which the profit margin limitation was removed. Accordingly, increased non-product costs incurred in January 1976, and thereafter may be carried forward for future recoupment if not recovered in the month immediately following the month in which they were incurred.

Implementing these decisions makes possible a general revision and simplification of the refiners' price regulations, Subpart E of Part 212. The former distinction between base prices and prices in excess of base prices, for example, is no longer necessary due to this amendment and the previous removal of the profit margin limitation. Instead, maximum allowable prices can now be com-

puted by adding to May 15, 1973 prices, pursuant to the revised cost allocation formulae of § 212.83(c), increased crude oil costs, increased product costs and increased non-product costs. The order of recoupment rules appear as § 212.83(f).

III. SUMMARY OF AMENDMENTS

A. *Subpart E changes.* Subpart E is generally revised as follows:

§ 212.81 *Applicability.* Remains unchanged.

§ 212.82 *Definitions.* All definitions used in the subpart are now consolidated in this section, and the "price rule" which formerly appeared in § 212.82 now appears in revised form in § 212.83.

The definitions of "cost of crude oil," "firm," "import fees and duties incurred," "landed cost," and "transactions between affiliated entities" (all of which formerly appeared at § 212.83(b)) remain unchanged.

The term "cost of products purchased" is substituted for "cost of petroleum product" to conform to the term used to distinguish between costs of crude oil and purchased products in the February 1 amendments, but the definition remains otherwise unchanged.

The definition of "increased non-product costs" is revised in the section reference to reflect the redesignation of the section referred to.

The definition of "increased product costs" is revised to reflect the terminology adopted February 1 and today, but is not changed in substance.

New definitions of "increased costs," "increased costs of crude oil," "increased costs of products purchased," and "maximum allowable price" are added. Maximum allowable price means, in essence, the May 15, 1973 price, plus increased product costs, plus increased non-product costs.

The definition of "base price" is deleted.

§ 212.83 *Price rule.* Paragraph (a) now contains the "price rule" formerly found in § 212.82(a), revised to delete the concepts of "base price" and "allowable price in excess of base price" and to incorporate the concept of "maximum allowable price." (The former § 212.82(c) regarding "allowable price in excess of base price" is deleted.)

Paragraph (a) also includes the two computational instructions with respect to May 15, 1973 prices and the one modification to the price rule with respect to benzene and toluene; all were formerly in § 212.82(b) and are unchanged in substance.

Paragraph (b) incorporates the former § 212.83(f) regarding affiliated entities.

Paragraph (c) contains, as before, the formulae for computing and allocating increased costs among products, in order to determine a refiner's maximum allowable prices. The paragraph has been revised, however, to provide that both increased product costs and increased non-product costs are to be calculated pursuant to the formulae.

The requirement that aviation jet fuel be priced as a single covered product, formerly in § 212.82(b)(3), is incorporated into § 212.83(c)(1)(ii) (C) and (E). The substance is unchanged.

The special propane rule in § 212.83(c)(1)(iii)(A) is modified by redesignating paragraphs (c)(1)(iii)(A) (II) through (IV) as (III) through (V), by adding a new (c)(1)(iii)(A) and by revising paragraph (c)(1)(iii)(A)(V) to reflect the new rule that unrecovered increased non-product costs attributable to propane refined from crude oil may be carried forward, but are subject to the special annual rule for costs attributable to propane. The "banking" of increased non-product costs attributable to propane produced from natural gas was not a subject of this rulemaking proceeding, and paragraph (c)(1)(iii)(A)(IV) (formerly (III)) of the rule therefore remains unchanged.

The refiners' price formulae in § 212.83(c)(2) (i) and (ii) are revised to include new terms "A^i," to represent increased crude oil costs, and "N^i," to represent increased non-product costs.

The definitions in § 212.83(c)(2)(iii) are revised as follows:

The terms "d^{iu}" and "D^{iu}" are revised to be amounts that may be applied to May 15, 1973 prices to compute "maximum allowable prices" rather than "base prices" (the amounts computed pursuant to the formulae now include both increased product and increased non-product costs):

The term "A_i," referred to above, is defined, analogously to the term "B_i," for increased costs of covered products, to mean the total amount of increased crude oil costs attributable to the covered product or products of the type "i". "A_i," consists of three subcomponents related to the three time periods of recoupment established by FEA pursuant to the EPCA, "A_i^t" or increased crude oil costs incurred in the month of measurement, plus "A_i^s" or one-month-old-costs, plus "A_i^r" or two-or-more-months-old costs. The inclusion in the "A_i" factor of the formula for "banked" crude oil costs eliminates the necessity to use the factor "G_i^t" for this purpose and therefore this factor is now only used to reflect overrecoupment of increased costs resulting, for example, from variances between sales estimates and actual sales volumes.

"B_i," is redefined also to include the three subcomponents, "B_i^t" or increased costs of purchased product incurred in the month of measurement, plus "B_i^s" or one-month-old such costs, plus "B_i^r" or two-or-more-months-old such costs.

The term "N_i," referred to above as the increased non-product cost term, is defined, also analogously to the term "B_i," for increased costs of covered products, to mean the total amount of increased non-product costs attributable to the covered product or products of the type "i" incurred on or after January 1, 1976 and through the month of measurement "t," which has not been recovered in sales through the period "t."

"N_i" is defined to include "N_i^t," the increased non-product costs incurred in the month of measurement "t," plus "N_i^s" or one-month-old such costs, plus "N_i^r" or the two-or-more-months-old such costs.

"N_i^t," the increased non-product costs incurred in the month of measurement, is defined just as it formerly was in § 212.87, and is referred to by two terms within the "N_i^t" term, "E^t" and "F_i^t."

"E^t" consists of the seven types of increased non-product costs, except marketing cost increase, formerly defined in § 212.87(c) (1), (2), (3), and (5). The substance of those definitions is unchanged. The total amount of the increased non-product costs represented by "E^t" is allocated among the covered products of the type "i" by multiplying by "V_i^u/V^u," just as formerly required in section § 212.87(b)(1)(ii).

"F_i^t" is the marketing cost increase attributable to the covered product or products of the type "i," formerly defined in § 212.87(c)(4) and in the "L_i^t" factor of the formulae in § 212.83(c), which is computed separately according to product type, and is therefore not subject to the "$V_i^u/^u$" volumetric allocation factor.

"G_i^t" is redefined to be the correction for overrecoupment of increased costs.

Paragraphs (c)(1)(iv) and (e)(7) of § 212.83 on the reallocation of increased costs of crude oil and the reallocation of the banks among product categories are combined and redesignated as § 212.83 (d).

Paragraph (e) of § 212.83 is revised by adding a paragraph to reflect "banking" of increased non-product costs, by revising the provision for "banking" increased costs attributable to purchased products, and by adding a paragraph stating a limit on the use of the three-or-more-month-old unrecouped increased non-product and purchased product costs.

The provisions regarding equal application among classes of purchaser and corrections for overrecoupment are removed from paragraph (e) and redesignated as paragraphs (f) and (g). The former paragraph (f) is redesignated paragraph (b).

All paragraphs containing a reference to base prices are revised to refer to maximum allowable prices.

§ 212.84 *Disallowance of costs.* Remains unchanged.

§ 212.85 *Sequence of recoupment of costs.* The former § 212.85 is revised to reflect the "banking" of non-product costs and the new sequence of recoupment and is incorporated as § 212.83(f).

§ 212.87 *Increased non-product costs.* The former § 212.87 is deleted since the substance of that section has now been incorporated into § 212.83.

B. *Other changes.* Other clarifying or conforming changes are as follows:

§ 212.31 *Definitions.* The definition of "base price" is deleted.

The definition of "general refinery products" is revised to reflect the exclusion of aviation jet fuel from that category. This change was made to the Subpart E rules on February 1, 1976, but was inadvertently omitted from the § 212.31 definitions section.

§ 212.129 *Price and octane number information and posting.* A new § 212.129 (c) is added, incorporating the requirement formerly found in § 212.82(e).

§ 212.161 *Applicability and relationship to other Subparts.* The prior reference to § 212.87(b) in paragraph (b)(2) (iii) is revised to refer to the formulae in § 212.83(c).

V. ADDITIONAL ACTIONS REGARDING INCREASED NON-PRODUCT COSTS

FEA is considering conducting a rulemaking proceeding addressing the definition of increased non-product costs and the means by which particular sorts of non-product costs should be allocated to each covered product or category. FEA is also still considering appropriate action, including further regulation amendments pursuant to this rulemaking proceeding, regarding the rules on recoupment of increased non-product costs prior to February 1, 1976.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 Code of Federal Regulations is amended as set forth below, effective February 1, 1976.

Issued in Washington, D.C., April 6, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 212.31 is amended by deleting the definition of "base price" and by revising the definition of "general refinery products" to read as follows:

§ 212.31 Definitions.

* * * * *

"General refinery products" means all covered products other than No. 2 oils, aviation jet fuel, gasoline, and crude oil.

* * * * *

2. Section 212.82 is revised to read as follows:

§ 212.82 Definitions.

For purposes of this subpart—

"Cost of crude oil" means (1) for purposes of domestic crude oil, the first sale price or the purchase price if the transaction occurs after the first sale, provided that the first sale price or purchase price conforms with the requirements of Part 212, plus the cost of transportation. The cost of domestic crude oil also includes the cost of unfinished oils which are used in refining and are further refined and which are covered products; (2) for purposes of imported crude oil, the landed cost.

"Cost of products purchased" means (1) for purposes of domestic covered products other than crude oil, the purchase price including transportation costs; (2) for purposes of imported covered products other than crude oil, the landed cost.

"Firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Import fees and duties incurred" means only import fees and duties that are paid by or on behalf of the firm purchasing the product and that are in addition to the purchase price of the product, and does not include any import fees and duties paid by or on behalf of firms other than the purchasing firm, such as import fees and duties that are already reflected in the price charged for a product. Import fees and duties are "incurred" (for purposes of determining increased product costs) at the time the product is released from U.S. customs custody or entered into U.S. customs territory, or withdrawn from a bonded warehouse for consumption, whichever occurs first, even though payment of the fees or duties may be at a later date.

"Increased costs" means "increased product costs" plus "increased non-product costs."

"Increased costs of crude oil" means the amount computed pursuant to the "A" factor of the formulae in § 212.83(c).

"Increased costs of products purchased" means the amount computed pursuant to the "B" factor of the formulae in § 212.83(c).

"Increased non-product costs" means the amount computed pursuant to the "N" factor of the formulae in § 212.83(c).

"Increased product costs" means the "increased costs of crude oil" plus the "increased costs of products purchased" and is the sum of (1) the difference between the cost of crude oil during the month of measurement and the cost of crude oil during the month of May, 1973 plus (2) the difference between the cost of products purchased during the month of measurement and the cost of products purchased during the month of May, 1973. If a particular petroleum product was neither purchased nor landed during the month of May 1973, the cost of that petroleum product in May 1973 shall be imputed to be the lowest price at or above which at least 10 percent of that product was priced by the refiner in transactions during the month of May 1973.

"Landed cost" means: (1) For purposes of covered products purchased in complete arm's-length transactions, the purchase price at the point of origin, plus the actual transportation costs, plus import fees and duties incurred.

(2) For purposes of covered products purchased in arm's-length transactions and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin, plus the transportation cost computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned, plus import fees and duties incurred.

(3) For purposes of covered products other than crude oil purchased in a transaction between affiliated entities and shipped pursuant to an arm's-length transaction, the cost of the product computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned, plus the actual transportation cost, plus import fees and duties incurred.

(4) For purposes of covered products other than crude oil purchased and shipped pursuant to a transaction between affiliated entities, the costs of the product and the transportation both computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned, plus import fees and duties incurred.

(5) For purposes of crude oil purchased in a transaction between affiliated entities and shipped pursuant to an arm's-length transaction, the cost of the crude oil computed pursuant to § 212.84, plus the actual transportation cost, plus import fees and duties incurred.

(6) For purposes of crude oil purchased and shipped pursuant to a transaction between affiliated entities, the cost of the crude oil computed pursuant to § 212.84, plus the transportation cost computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned, plus import fees and duties incurred.

"Maximum allowable price" means the weighted average price at which the covered product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, computed in accordance with the provisions of § 212.83(a), plus increased product costs and increased non-product costs incurred between the month of measurement and the month of May 1973. Decreases in product costs and in non-product costs in successive months of measurement are reflected in reductions in the amount of increased product costs or non-product costs incurred in such months of measurement.

"Transactions between affiliated entities" means all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest.

3. Section 212.83 is revised to read as follows:

§ 212.83 Price rule.

(a) *General rule.* (1) *Rule.* A refiner may not charge to any class of purchaser a price for a covered product in excess of the maximum allowable price except as provided in subparagraph (4) of this paragraph.

(2) *Special sales on May 15, 1973.* In computing the maximum allowable price, a firm may not exclude any temporary special sale, deal, or allowance in effect on May 15, 1973.

(3) *Imputed prices.* If no transaction occurred with respect to a particular product on May 15, 1973, the most recent day preceding May 15, 1973 when a transaction occurred shall be used for purposes of computing the maximum allowable price. If a refiner first offered an item for sale after May 15, 1973 and prior to the effective date of this paragraph, the first day when the item was

offered for sale shall be used for purposes of computing the maximum allowable price.

(4) *Special rule for benzene and toluene.* A refiner may not charge to any class of purchaser a price for benzene and toluene in excess of the maximum allowable price as determined pursuant to paragraph (1) of this paragraph, plus a maximum of $.337 per gallon for benzene and $.288 per gallon for toluene.

(b) *Affiliated entities.* For purposes of this section, transactions between affiliated entities may be used to calculate increased costs. Whenever a firm uses a landed cost which is computed by used of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect actual costs of these entities or the FEA may disallow any costs which it determines to be in excess of the proper measurement of costs.

(c) *Allocation of increased costs.* Except as provided in Subpart F, this paragraph prescribes the requirements governing the inclusion of a refiner's increased product costs and increased non-product costs in the computation of its maximum allowable prices for covered products.

(1) *Allocation of increased costs incurred in the period "t."*—(i) *No. 2 oils, aviation jet fuel, and gasoline.* In computing maximum allowable prices for sales of No. 2 oils, aviation jet fuel, and gasoline, a refiner may increase its May 15, 1973 selling price to each class of purchaser each calendar month beginning with February 1976 by an amount to reflect the increased product costs plus the increased non-product costs attributable to sales of that covered product using the differential between the month of measurement and the month of May 1973, provided that the amount of increased costs used in computing a maximum allowable price is calculated in accordance with the provisions of paragraphs (d) through (h) of this section and by use of the formula set forth in paragraph (c) (2) (i) of this section, and that the formula of paragraph (c) (2) (i) of this section is computed separately for No. 2 oils, for aviation jet fuel, and for gasoline, and that the amount of increased costs included in computing maximum allowable prices of No. 2 oils, of aviation jet fuel, and of gasoline is equally applied to each class of purchaser.

(ii) *General refinery products.* (A) In computing maximum allowable prices for sales of a general refinery product, a refiner may increase its May 15, 1973 selling price to each class of purchaser each month beginning with February 1976 by an amount to reflect the increased product costs plus the increased non-product costs attributable to sales of general refinery products, using the differential between the month of measurement and the month of May 1973, provided that the amount of increased costs used in computing a maximum allowable price is calculated in accordance with the provisions of paragraphs (d) through (h) of this section and by use of the formula set forth in paragraph (c) (2) (ii) of this section, and provided that the amount of increased costs included in computing maximum allowable prices of a particular general refinery product must be equally applied to each class of purchaser. In apportioning the total amount of increased costs allocable to general refinery products among particular general refinery products, a refiner may apportion amounts of increased costs to a particular general refinery product in whatever amounts it deems appropriate.

(B) For purposes of this section, each of the following products or product categories shall constitute "a particular general refinery product": aviation gasoline, benzene, butane, gas, oil, greases, hexane, kerosene, lubricant base oil stocks, libricants, naphthas, natural gas liquids, natural gasoline, No. 1 heating oil and No. 1-D diesel fuel, No. 4 fuel oil and No. 4-D diesel fuel, propane, residual fuel oil, special naphthas (solvents), toluene, unfinished oils, xylene, and other finished products. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

(C) Notwithstanding the provisions of paragraph (c) (1) (ii) (B) of this section, and except as provided in paragraph (c) (1) (ii) (E), for purposes of this section, a refiner, upon notice to and unless disapproved by the FEA, may designate products or product categories to constitute "a particular general refinery product," if the products or product categories so designated by the refiner represent discrete, technical product differences that have been consistently and historically applied by that refiner. For purposes of this paragraph (c) (1) (ii) (C), marketing considerations do not represent "discrete, technical product differences."

(D) The notice required by paragraph (c) (1) (ii) (C) above shall include both a list of the products or product categories designated by the refiner as particular general refinery products, and a description of the discrete, technical product differences between such products or product categories. A refiner that provides the notice described herein shall, upon notice by the FEA, provide verification to the FEA that such discrete, technical product differences have been consistently and historically applied by the refiner.

(E) Notwithstanding the provisions of paragraph (c) (1) (ii) (C), for purposes of computing the maximum allowable price, aviation jet fuel shall be treated as a single covered product.

(iii) *Propane*—(A) *Special Propane Rule.* Notwithstanding the provisions of paragraph (c) (1) (ii) of this section and in addition to the requirements of paragraphs (d) through (h) of this section, a refiner in computing its maximum allowable prices of propane for each twelve-month period of August 1 through July 31:

(I) May not apportion to propane a greater percentage of increased cost of crude oil purchased or landed in the corresponding twelve-month period July 1 through June 30 than the percentage that the volume of propane sold during the twelve-month period August 1 through July 31 that was produced by that refiner from crude oil is of the total volume of all products (including other than covered products) sold by it during the same twelve-month period that were produced by that refiner from crude oil; and

(II) May not apportion to propane a greater percentage of increased non-product costs incurred in refining crude oil in the corresponding twelve-month period July 1 through June 30 than the volumetric percentage determined in subparagraph (I); and

(III) May apportion to propane the increased cost of propane purchased or landed in the corresponding twelve-month period of July 1 through June 30; and

(IV) May apportion to propane the increased costs attributable to propane produced from natural gas during the corresponding twelve-month period July 1 through June 30, as determined pursuant to the provisions of § 212.166; and

(V) May not apportion to propane any increased costs incurred prior to July 1 of any year and not recovered through July 31 of that year.

(B) *Exception to equal application rule for propane.* Notwithstanding the provisions of paragraph (c) (1) (ii) above, a refiner may comply with the provisions of that paragraph by applying unequal amounts of increased costs to the weighted average May 15, 1973 selling price of propane to classes of purchaser of propane, provided that the highest amount of increased costs applied to the weighted average May 15, 1973 selling price to any class of purchaser shall not exceed by more than 100 percent the amount of increased costs applied to the weighted average May 15, 1973 selling price to any other class of purchaser, and, provided further, that no greater amount of increased costs shall be applied to the weighted average May 15, 1973 selling price of propane in sales to any class of purchaser that includes either an independent marketer, as defined in § 211.51 of this Chapter, or a purchaser that uses the product for residential use, as defined in § 211.51 of this Chapter, than is applied to the weighted average May 15, 1973 selling price of propane in sales to any other class of purchaser.

(2) *Formulae*—(i) *No. 2 oils, aviation jet fuel, and gasoline.* For No. 2 oils, aviation jet fuel, and gasoline ($i=1$, $i=2$, and $i=3$):

$$d_i^s = \frac{A_i + B_i + N_i - G_i^t \pm H_i^s}{V_i^s}$$

(ii) *General refinery products.* For general refinery products ($i=4$):

$$D_i^s = A_i + B_i + N_i - G_i^t - H_i^s$$

(iii) *Definitions.* For purposes of paragraphs (c) (2) (i) and (c) (2) (ii) of this section:

(A) *Subscripts and superscripts.* The type of covered products is referenced by the subscript i:

$i=1$ represents No. 2 oils.
$i=2$ represents aviation jet fuel.
$i=3$ represents gasoline.
$i=4$ represents all general refinery products.

The time period for measurement is referenced by the superscript; where:

o=the month of May 1973.
u=the current month. Quantities calculated for current month will be estimates, which shall be based on the best available data.
t=the month of measurement (the month of measurement is the month preceding the current month).
measurement.
s=the month preceding the month of
r=all months two or more months before the month of measurement.

(B) *The "D" factors.* d_i^u = The dollar increase that may be applied in the period "u" to the May 15, 1973 selling price of the covered product or products of the type "i" to each class of purchaser to compute the maximum allowable price to each class of purchaser, except that the dollar increase that may be applied in the period "u" to the May 15, 1973 selling price of gasoline to compute the maximum allowable prices to the classes of purchaser that purchase gasoline at retail from a refiner at any service station operated by employees of the refiner may be "d_i^u" plus a maximum of $.03 per gallon of gasoline provided that in computing "d_i^u" for gasoline, the numerator of the formula in clause (i) of this subparagraph is reduced by an amount equal to the product of the actual amount of cents per gallon increase added to "d_i^u" above multiplied by the estimated number of gallons of gasoline to be sold during the period "u" at retail through service stations operated by employees of the refiner. The formula for "d_i^u" must be computed separately for $i=1$, for $i=2$, and for $i=3$.

D_i^u=The total dollar amount a refiner may apportion in the period "u" to general refinery products ($i=4$) in whatever amounts it deems appropriate to each particular general refinery product to compute the maximum allowable price provided that the total dollar amount for $i=4$ shall be reduced by an amount equal to the total number of gallons of benzene and toluene sold by the refiner during the month of May 1973 multiplied by $.20 and further multiplied by an amount equal to the total number of barrels of refinery input to crude oil distillation units processed during the month of measurement and measured in accordance with Bureau of Mines form 6-1300-M divided by the total number of such barrels processed during the month of May 1973. The formula for "D_i^u" must be computed only once for $i=4$ (all general refinery products).

(C) *The "A" factor.*

$$A_i = A_i^t + A_i^s + A_i^r$$

"A_i" is, for $i=1$, $i=2$, $i=3$, and $i=4$, the sum of the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t." "A_i" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t."

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)\left(\frac{V_i^u}{V^u}\right)$$

or

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)\left(\frac{R_i^t}{R^t}\right)$$

provided that the formula elected to be used, once elected, shall continue to be used.

"A_i^t" is the total increased cost of crude oil attributable to the specific covered product or products of the type "i" purchased or landed in the period "t" for refining by that refiner. The cost and quantity of crude oil that is consumed as refinery fuel or that is otherwise consumed or disposed of in the period "t" so as not to be available for that refiner's input to crude oil distillation units shall be excluded from this amount (except to the extent permitted with respect to crude oil sold under § 211.65 of this Chapter pursuant to the definitions of "Q^t" and "C^t").

Where:

Q^t=The total quantity or volume of crude oil purchased or landed in the period "t" for refining or for resale under § 211.65, provided, however, that this amount shall be reduced by the quantity of crude oil sold under § 211.65 in the period "t".

Q^o=The total quantity or volume of crude oil purchased or landed in the period "o" for refining.

C^o=The total cost of crude oil purchased or landed in the period "o" for refining.

C^t=The total cost of crude oil purchased or landed in the period "t" for refining or for resale under § 211.65, provided, however, that this amount shall be reduced by the revenues from sales of crude oil under § 211.65 made in the period "t", except for any transportation adjustment or the handling fee provided for by § 212.94(b).

V^u=The total volume of all covered products (other than propane, which shall may be included to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil than covered products estimated to be sold in the period "u."

V_i^u=The total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u."

R^t=The total volume of all covered products refined by the refiner from crude oil and all products refined by the refiner from crude oil other than covered products in the period "t."

R_i^t=The total volume of a specific covered product or products of the type "i" refined by the refiner from crude oil in the period "t."

"A_i^s" is the total increased cost of crude oil attributable to the specific covered product or products of the type "i" computed under "A_i^t" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t."

"A_i^r" is the total increased cost of crude oil attributable to the specific covered product or products of the type "i" computed under "A_i^t" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t." "A_i^r" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t."

(D) *The "B" factor.*

$$B_i = B_i^t + B_i^s + B_i^r$$

"B_i" is, for $i=1$, $i=2$, $i=3$, and $i=4$, the sum of the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t."

"B_i^t" is the total increased cost of the specific covered product or products of the type "i" purchased or landed in the period "t," provided such cost is not included in computing "A_i". The cost of a specific covered product or products of the type "i" shall include the costs of a specific covered product or products not of the type "i" that are purchased and refined or blended and that are attributable to the production of the covered products of the type "i". The cost and quantity of covered products purchased or landed that are consumed as refinery fuel shall be excluded from this amount.

Where:

c_i^o=The total cost of a covered product or products of the type "i" purchased or landed in the period "o".

c_i^t=The total cost of a covered product or products of the type "i" purchased or landed in the period "t".

q_i^o=The total quantity or volume of a covered product or products of the type "i" purchased or landed in the period "o".

q_i^t=The total quantity or volume of a covered product or products of the type "i" purchased or landed in the period "t".

Y_i=The lowest price at or above which at least 10 percent of the product or products of type "i" were priced in transactions during the month of May 1973 or, if none occurred in that month, the month next preceding May 1973 in which such transactions occurred. Alternatively, the cost of the covered product or products concerned during the month of May 1973 may be used if computed by the use of accounting procedures generally accepted and consistently and historically applied by the firm concerned, and provided that the FEA has approved in writing of the cost figures used.

"B_i^s" is the total increased costs of the specific covered product or products of the type "i" computed under "B_i^t" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t."

"B_i^r" is the total increased cost of the specific covered product or products of the type "i" computed under "B_i^t" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t."

(E) *The "N" factor.*

$$N_i = N_i^t + N_i^s + N_i^r$$

"N_i" is, for $i=1$, $i=2$, $i=3$, and $i=4$, the increased non-product costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased non-product costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 in the period "t."

$$N_i^t = E^t\left(\frac{V_i^u}{V^u}\right) + F_i^t$$

"N_i^t" is the total increased non-product costs attributable to the specific covered product or products of the type "i" incurred in the period "t."

Where E^t=the total increased non-product costs (excluding marketing cost increases, which are included in "F_i^t") incurred during the period "t"; provided that such costs are included only to the extent that such costs are attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs; and further provided that such costs are the sum of the following:

(I) *Refinery fuel cost increase.* Refinery fuel cost increase is the base refinery fuel usage multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average refinery fuel cost rate in the month of measurement and the average refinery fuel cost rate in the month of May, 1973, where:

"Average refinery fuel cost rate" means the weighted average cost of refinery fuel per unit of energy (e.g., dollars per million British Thermal Units (B.T.U.)). If the calculation of refinery fuel costs is not feasible in energy units, a refiner may substitute a method that is more reasonably consistent with the data available. In such case, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the average refinery fuel cost rate;

"Base refinery fuel usage" means the amount of refinery fuel, in units of energy (e.g., million B.T.U.'s) used per barrel of refinery throughput during the month of May 1973. If the calculation of refinery fuel costs is not feasible in energy units, the refiner may substitute a method that is more reasonably consistent with the data available. In such cases, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the base refinery fuel usage; and

"Throughput" means the volume of crude oil, unfinished oils, and natural gas liquids refined during the time period specified.

Refiners shall maintain records of the volume and cost of covered products purchased or landed that are consumed as refinery fuel.

(II) *Labor cost increase.* Labor cost increase is the base labor cost multiplied by an amount which represents the ratio of the average labor rate during the month of measurement minus the average labor rate during the month of May, 1973 to the average labor rate during the month of May, 1973; multiplied by the productivity offset factor of 0.934 where:

"Average labor rate" means the weighted average direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation (in dollars per man-hours) for those personnel employed at the refinery or those personnel directly involved with refinery operations, including that of the cost of any contract which is attributable to non-employees that perform such services pursuant to a contract between a refiner and an outside entity. To substantiate the average labor rate, a supporting document must be prepared which summarizes the personnel considered in the calculation and the date of any rate increases. Calculation of the average labor rate must be based on the historical accounting practices employed by the refiner; and

"Base labor cost" means the total cost of refinery labor incurred during May 1973 calculated in accordance with the procedures and personnel used in determining the average labor rate.

(III) *Additive cost increases.* Additive cost increase is the month of measurement additive usage (in supply units) multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average additive cost rate in the month of measurement and the average additive cost rate in May 1973, where:

"Additive" means those materials and compounds including catalysts and process chemicals, which are not covered products, and which are added to or blended with crude oil or covered products during the refining process;

"Month of measurement additive usage" means the amount of additive used in the refining process per barrel throughput during the month of measurement, measured in units per barrel of throughput (e.g., lbs/bbl); and

"Average additive cost rate" means the weighted average unit cost of the additives used in the refining process (e.g., dollars/lb). Such unit cost calculation must employ the same units as employed in the calculation of the "month of measurement additive usage"; and

"Throughput" means the volume of crude oil, unfinished oils, and natural gas liquids refined during the time period specified.

(IV) *Utility cost increase.* Utility cost increase is, for each utility, the utility usage for the month of measurement, and multiplied by the amount which represents the difference between the average utility cost rate in the month of measurement and the average utility cost rate in the month of May 15, 1973, where:

"Average utility cost rate" means the weighted average rate of utility cost per unit of such utility (e.g., cents per kilowatt or cents per gallon) used in the refinery process; and

"Utility usage" means the volume of the utility used in the refinery process (e.g., kilowatts or gallons); and

(V) *Pollution control cost increase.* Pollution control cost increase is the operating cost attributable to acquiring, installing and maintaining any equipment required for the firm to comply with rules and regulations issued by the Environmental Protection Agency, provided that such equipment has been acquired and installed since May 15, 1973, and provided that such costs are accounted for under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned as operating costs, but only to the extent that such costs are not otherwise covered by this section.

(VI) *Interest cost increase.* Interest cost increase is the difference between

the dollar amount of interest incurred for the use of capital in the month of measurement and the dollar amount of interest incurred for the use of capital in May, 1973.

(VII) *Container cost increase.* Container cost increase is, for each type of container, the base container usage multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average container cost in the month of measurement and the average container cost in the month of May 1973, where:

"Average container cost" means the weighted average cost of containers used by the refiner for packaging covered products;

"Base container usage" means the number of containers used per barrel of refinery throughput during the month of May 1973;

"Throughput" means the volume of crude oil, unfinished oil, and natural gas liquids refined during the time period specified; and

"Container" means any barrel, drum, can, tube, jar, or bottle used for the storing or packaging of covered products.

V_i^u=the total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u."

V^u=the total volume of all covered products (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil other than covered products estimated to be sold in the period "u."

F_i^t=the marketing cost increase and is the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May, 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs. A refiner must prepare a schedule itemizing the principal costs included in this category and describing the accounting procedures by which they are calculated. The amount of marketing cost increase which may be applied to compute maximum allowable prices for covered products is, however, limited to the extent that such marketing cost increases may:

(I) Allow an increase in the prices of gasoline, No. 2 heating oil, and No. 2–D diesel fuel above the prices otherwise permitted to be charged for such products pursuant to the provisions of this part by an amount not in excess of one cent per gallon with respect to retail sales and one-half cent per gallon with respect to all other sales; and

(II) (aa) Allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to this part (including paragraph (I) of this definition) by an amount not in excess of two cents per gallon with respect to all retail sales; and

(bb) Allow an increase in the price of gasoline, during the 150-day period commencing November 19, 1975, above the prices otherwise permitted to be charged for gasoline pursuant to this part (including paragraphs (I) and (II) (aa) of this definition) by an amount not in excess of two cents per gallon in retail sales in Alaska; and

(III) Allow an increase in the prices of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this part (including the foregoing paragraph (I) of this definition) by an amount not in excess of one-quarter cent per gallon with respect to all sales other than retail sales; and

(IV) Allow an increase in the prices of middle distillates above the prices otherwise permitted to be charged for middle distillates pursuant to the provisions of this part (including the foregoing paragraph (I) of this definition) by an amount not in excess of one cent per gallon with respect to retail sales and not in excess of one-quarter cent per gallon with respect to all other sales, except that, with respect to retail sales of aviation fuels by fixed base operators after November 30, 1975, allow an increase in the amount otherwise permitted to be charged for that item pursuant to the provisions of this part by an amount not to exceed four cents per gallon; and

(V) Allow an increase in the prices of residual fuel oil above the prices otherwise permitted to be charged for residual fuel oil pursuant to the provisions of this part by an amount not in excess of three-fourths cent per gallon with respect to retail sales and one-fourth cent per gallon with respect to all other sales; and

(VI) Allow an increase in the price of propane, in sales after September 30, 1975, above the prices otherwise permitted to be charged for propane pursuant to the provisions of this part by an amount not in excess of three cents per gallon with respect to all retail sales except those to the petrochemicals industry, to public utilities, and to synthetic natural gas plants; one cent per gallon with respect to retail sales to the petrochemicals industry, to public utilities, and to natural gas plants and one-half cent per gallon with respect to all other sales; and

(VII) Reflect the total dollar amount of non-product costs attributable to includable amounts of commissions incurred during the period "t" beginning with January 1, 1976 with respect to sales through consignee-agents of the covered product or products of the type "i". The includable amount of commission incurred with respect to each item sold through each consignee-agent is the dollar amount per unit of volume by which the commission in the period "t" exceeds the commission in effect on May 15, 1973, provided that the includable amount shall be an amount reasonably intended to cover increased non-product costs of the consignee-agent, and that it shall not exceed the amount of the non-product cost price increase that would be permitted if the consignee-agent took title to the product it distributes and were a seller subject to § 212.93(b).

N_i^s=the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i^t" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t".

N_i^r=the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i^t" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t."

(F) *The "G" factor.*

G_i^t=the total dollar amount by which increased costs attributable to the covered product or products of the type "i" to the period "t" have been overrecovered in sales of that product through the period "t," that must be subtracted pursuant to paragraph (g) of this section.

(G) *The "H" factor.*

H_i^u=For i=1, i=2, and i=4, the portion, if any, of the total dollar amount available in the period "u" for inclusion in price adjustment to the product of the type "i" that pursuant to paragraphs (d) or (e) of this section the refiner elects to include in prices of gasoline for the period "u" (in which case "H_i^u" shall be subtracted); for i=3, the portion, if any, of the total dollar amount available in the period "u" for inclusion in price adjustments to No. 2 oils, aviation jet fuel, or general refinery products that pursuant to paragraphs (d) or (e) of this section the refiner elects to include in the price of gasoline for the period "u" (in which case "H_i^u" shall be added).

(H) *The "V" factor.*

V_i^u=The total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u".

(d) *Reallocation of increased costs among product categories.* Increased costs incurred in the period "t" and allocable to No. 2 oils, aviation jet fuel, and gasoline pursuant to paragraph (c)(1)(i) of this section and to general refinery products pursuant to paragraph (c)(1)(ii) of this section or incurred in the periods "s" or "r" and carried forward pursuant to paragraph (e) of this section may be reallocated among product categories pursuant to the "H" factor in

the formulae in paragraph (c) (2) of this section each month only as follows:

(1) *General refinery products.* To the extent that a refiner does not allocate its increased costs for general refinery products to maximum allowable prices for such products, it may instead allocate that part of its increased costs for general refinery products only to maximum allowable prices for gasoline. No increased costs for general refinery products may be reallocated to maximum allowable prices for No. 2 oils or aviation jet fuel.

(2) *No. 2 oils.* To the extent that a refiner does not allocate its increased costs for No. 2 oils to maximum allowable prices for No. 2 oils, it may instead allocate that part of its increased costs for No. 2 oils only to maximum allowable prices for gasoline. No increased costs for No. 2 oils may be reallocated to maximum allowable prices for general refinery products or aviation jet fuel.

(3) *Aviation jet fuel.* To the extent that a refiner does not allocate its increased costs for aviation jet fuel to maximum allowable prices for aviation jet fuel, it may instead allocate that part of its increased costs for aviation jet fuel only to maximum allowable prices for gasoline. No increased costs for aviation jet fuel may be reallocated to maximum allowable prices for No. 2 oils or general refinery products.

(4) *Gasoline.* No increased costs for gasoline may be reallocated to maximum allowable prices for general refinery products, aviation jet fuel, or No. 2 oils.

(5) *No other use of reallocated increased costs.* The total amount of increased costs available for allocation to No. 2 oils, aviation jet fuel, or general refinery products may not include any amount represented by the factor "H" in the formulae in paragraph (c) (2) of this section that the refiner has elected to include in a prior month in the calculation of the maximum permissible amount that may be added to May 15, 1973 prices of gasoline pursuant to this paragraph.

(e) *Carryover and allocation of increased costs incurred in periods "s" and "r."*—(1) *Computation of amounts of increased product costs carried over as of January 31, 1976*—(i) *For No. 2 oils and gasoline.* For purposes of calculating the total amount of unrecouped increased product costs of No. 2 oils and gasoline that may be carried forward and added to May 15, 1973 selling prices under the "A_t^r" factor under the general formulae of paragraph (c) (2) of this section, subject to the limitations of paragraph (e) (5) of this section, as of January 31, 1976 (for t=January, 1976), each firm shall calculate the total amount of unrecouped increased product costs of covered products of the type i=1 and i=2 as defined in § 212.83 (c) as that section existed on January 31, 1976. The total amounts of unrecouped increased product costs so calculated shall be attributed to the product or products of the type i=1 and i=3, respectively, as defined in § 212.83(c) as amended, effective February 1, 1976.

(ii) *For general refinery products.* For purposes of calculating the total amount of unrecouped increased product costs of general refinery products that may be carried forward and added to May 15, 1973 selling prices under the "A_t^r" factor of the general formulae of paragraph (c) (2) of this section, subject to the limitations of paragraph (e) (5) of this section, as of January 31, 1976 (for t= January, 1976), each firm shall calculate the total amount of unrecouped increased product costs of covered products of the type i=3 as defined in § 212.83(c) as that section existed on January 31, 1976. The firm shall then substract that amount of unrecouped increased product costs attributed to aviation jet fuel (i=2) pursuant to paragraph (e) (1) (iii) of this section as amended effective February 1, 1976. The total amount of remaining unrecouped increased product costs so calculated shall be attributed to the product or products of the type i=4 as defined in § 212.83(c) as amended effective February 1, 1976.

(iii) *For aviation jet fuel.* For purposes of calculating the total amount of unrecouped increased product costs of aviation jet fuel that may be carried forward and added to May 15, 1973 selling prices under the "A_t^r" factor of the general formulae of paragraph (c) (2) of this section, subject to the limitations of paragraph (e) (5) of this section, as of January 31, 1976 (for t=January 1976), a firm shall (I) calculate the total amount of unrecouped increased product costs of covered products of the type i=3 pursuant to § 212.83(e) as that section existed on January 31, 1976 and then (II) multiply by a fraction, the numerator of which shall be the dollar volume of aviation jet fuel sold during 1975, and the denominator of which shall be the dollar volume of all general refinery products sold during 1975. Not more than tne total amount of unrecouped increased product costs so calculated may be attributed to the product of the type i=2 as defined in § 212.83(c) as amended effective February 1, 1976.

(2) *Computation of amounts of increased costs of crude oil carried over as of February 29, 1976 and thereafter.* Beginning with February 29, 1976 (for t= February 1976) and at the end of each month thereafter, each refiner shall calculate the total amount of unrecouped increased costs of crude oil incurred in January 1976 or any month thereafter attributable to the covered product or products of the type "i" that may be carried forward and added to May 15, 1973 selling prices for such products of the type "i" under the "A_t" factor of the general formulae of paragraph (c) (2) of this section as follows:

(i) If in any month a refiner charges prices for the covered product or products of the type "i" that result in the recoupment of less than the total dollar amount of increased costs of crude oil calculated for such products of the type "i" pursuant to the "A_t^t" factor under the general formulae of paragraph (c) (2) of this section, the unrecouped amount of increased costs of crude oil may be carried forward pursuant to the "A_t^s" factor under the general formulae of paragraph (c) (2) of this section and added to the May 15, 1973 selling prices for such products of the type "i" to compute maximum allowable prices for such products for the immediately subsequent month, and

(ii) Any amount of such unrecouped increased costs of crude oil still remaining two months after the month in which such costs were incurred may be carried forward pursuant to the "A_t^r" factor under the general formulae of paragraph (c) (2) of this section and added to May 15, 1973 selling prices to compute the maximum allowable prices for that covered product for any subsequent month, subject to the limitations of paragraph (e) (6) of this section.

(3) *Computation of amounts of increased costs of purchased products carried over as of February 29, 1976 and thereafter.* Beginning with February 29, 1976 (for t=February 1976) and at the end of each month thereafter, each refiner shall calculate the total amount of unrecouped increased costs of purchased products incurred in January 1976 or any month thereafter attributable to the covered product or products of the type "i" that may be carried forward and added to May 15, 1973 selling prices for such products of the type "i" under the "B_t" factor of the general formulae of paragraph (c) (2) of this section as follows:

(i) If in any month a refiner charges prices for the covered product or products of the type "i" that result in the recoupment of less than the total dollar amount of increased costs of purchased products calculated for such products of the type "i" pursuant to the "B_t^t" factor under general formulae of paragraph (c) (2) of this section, the unrecouped amount of increased costs of purchased products may be carried forward pursuant to the "B_t^s" factor under the general formulae of paragraph (c) (2) of this section and added to the May 15, 1973 selling prices for such products of the type "i" to compute maximum allowable prices for such products for the immediately subsequent month, and

(ii) Any amount of such unrecouped increased costs of purchased products still remaining two months after the month in which such costs were incurred may be carried forward pursuant to the "B_t^r" factor under the general formulae of paragraph (c) (2) of this section and added to May 15, 1973 selling prices to compute the prices for that covered product for any subsequent month, subject to the limitations of paragraph (e) (7) of this section.

(4) *Computation of amounts of increased non-product costs carried over as of February 29, 1976 and thereafter.* Beginning with February 29, 1976 (for t=February 1976) and at the end of each month thereafter, each refiner shall calculate the total amount of unrecouped increased non-product costs incurred in January 1976 or any month thereafter

attributable to the covered product or products of the type "*i*" that may be carried forward and added to May 15, 1973 selling prices for such products of the type "*i*" under the "N_i" factor of the general formulae of paragraph (c)(2) of this section as follows:

(i) If in any month a refiner charges prices for the covered product or products of the type "*i*" that result in the recoupment of less than the total dollar amount of increased non-product costs calculated for such products of the type "*i*" pursuant to the "N_i^t" factor under general formulae of paragraph (c)(2) of this section, the unrecouped amount of increased non-product costs may be carried forward pursuant to the "N_i^s" factor under the general formula of paragraph (c)(2) of this section and added to the May 15, 1973 selling prices for such products of the type "*i*" to compute maximum allowable prices for such products for the immediately subsequent month, and

(ii) Any amount of such unrecouped increased non-product costs still remaining two months after the month in which such costs were incurred may be carried forward pursuant to the "N_i^r" factor under the general formulae of paragraph (c)(2) of this section and added to May 15, 1973 selling prices to compute the maximum allowable prices for that covered product for any subsequent month, subject to the limitations of paragraph (e)(7) of this section.

(5) *Limitation on use of amounts carried over pursuant to paragraph (e)(1)*. Beginning February 1, 1976 the portion of the total amount of unrecouped increased product costs calculated as of January 31, 1976 pursuant to paragraph (e)(1) of this section and not recouped through the period "*t*" which may be added to the May 15, 1973 selling prices to compute the maximum allowable prices for the covered product or products of the type "*i*" for any month shall not exceed in any month, ten percent of the total such amount calculated as of January 31, 1976 for all covered products.

(6) *Limitation on use of amounts carried over pursuant to paragraph (e)(2)(ii)*. Beginning February 1, 1976 the total amount of unrecouped increased crude oil costs calculated pursuant to paragraph (e)(2)(ii) of this section which may be added to the May 15, 1973 selling prices to compute the maximum allowable prices for all covered products of the type "*i*" for any month shall not exceed in any month, ten percent of the highest amount calculated pursuant to paragraph (e)(2)(ii) of this section for all covered products as of the end of any month on or after March 31, 1976.

(7) *Limitation on use of amounts carried over pursuant to paragraphs (e)(3)(ii) and (e)(4)(ii)*. Beginning February 1, 1976 the total amount of unrecouped increased costs of purchased products and increased non-product costs calculated pursuant to paragraphs (e)(3)(ii) and (e)(4)(ii) of this section which may be added to the May 15, 1973 selling prices to compute the maximum allowable prices for all covered products of the type "*i*" for any month shall not exceed in any month,

(i) 10 percent of the highest amount of all unrecouped increased purchased product and non-product costs calculated pursuant to the "B_i" and "N_i" factors under the general formulae of paragraph (c)(2) of this section and carried forward pursuant to paragraphs (e)(3)(ii) and (e)(4)(ii) for all covered products as of the end of any month on or after March 31, 1976, or

(ii) An amount which, when added to compute maximum allowable prices results in maximum allowable prices for the current month which are no more than 10 percent higher than the highest prices computed pursuant to this Part at which at least 25 percent of the sales of the product concerned in the preceding month were priced, whichever of (i) or (ii) is greater.

(f) *Sequence of recoupment of costs*. For purposes of calculating recoupment of increased costs under the general formulae in paragraph (c) of this section, costs shall be deemed to have been recovered in prices charged in any current month "*u*" only in the following sequence:

(1) All increased costs incurred during the month two months before the current month ("*s*") and not passed through in the immediately preceding month ("*t*"), represented by the symbols "A_i^s," "B_i^s," and "N_i^s" under the general formulae in § 212.83(c), and considered to be recouped in that respective order,

(2) All increased costs incurred in the month of measurement ("*t*"), represented by the symbols "A_i^t," "B_i^t," and "N_i^t" under the general formulae in § 212.83(c), and considered to be recouped in that respective order,

(3) (i) Increased costs of crude oil and purchased product incurred through December 31, 1975 and not passed through as of January 31, 1976, and not passed through by the immediately preceding month ("*t*") included in the symbol "A_i^r" under the general formulae in § 212.83(c), provided that the portion of such amount deemed to have been recovered in the current month ("*u*") shall not exceed the limitation imposed by paragraph (e)(5) of this section, and

(ii) Increased costs of crude oil incurred on or after January 1, 1976 and three or more months before the current month and not passed through by the immediately preceding month included in the symbol "A_i^r" under the general formulae in § 212.83(c), provided that the portion of such amount deemed to have been recovered in the current month ("*u*") shall not exceed the limitation imposed by paragraph (e)(6) of this section,

(4) Increased costs of purchased products and increased non-product costs incurred on or after January 1, 1976 and three or more months before the current month ("*u*") and not recovered through the month of measurement ("*t*"), represented by the symbols "B_i^r" and "N_i^r" under the general formulae in § 212.83(c) and considered to be recouped in that respective order, provided that the portion of such amount deemed to have been recovered in the current month ("*u*") shall not exceed the limitation imposed by paragraph (e)(7) of this section.

(g) *Corrections for over-recoupment*. If in any month beginning with February 1976 a firm charges prices for No. 2 oils, aviation jet fuel, gasoline, or for general refinery products that result in the recoupment of more than the total dollar amount of increased costs calculated for that covered product pursuant to the general formulae and allowable under paragraphs (c)(1) and (c)(2) of this section, the excess revenues received must be subtracted from the May 15, 1973 selling prices pursuant to the "G" factor of the formulae in paragraphs (c)(1) and (c)(2) of this section, to compute maximum allowable prices for that covered product in a subsequent month.

(h) *Equal application among classes of purchaser*. With respect to each covered product other than crude oil, when a firm calculates the amount of increased costs not recouped that may be added to May 15, 1973 selling prices to compute maximum allowable prices in a subsequent month, it shall calculate its revenues as though the greatest amount of increased costs actually added to any May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling prices of such product and included in the price charged to each class of purchaser; except that, where an equal amount of increased costs is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product that was entered into on or before September 1, 1974, that portion of the increased costs not included in the price charged to such a purchaser need not be included in the calculation of revenues, and except to the extent that § 211.67(m) of this chapter specifically requires certain costs and revenues resulting from entitlements transactions to be applied exclusively to determine maximum allowable prices in sales in which purchasers do not receive entitlements for the importation of an eligible product.

§ 212.84 [Amended]

4. Section 212.84 is amended in paragraph (a) by deleting the reference to "§ 212.83(f)" and inserting in lieu thereof a reference to § 212.83(b).

§ 212.85 [Reserved]

5. Section 212.85 is deleted.

§ 212.87 [Reserved]

6. Section 212.87 is deleted.

7. Section 212.129 is amended by adding a new paragraph (c) to read as follows:

§ 212.129 Price and octane number information and posting.

* * * * *

(c) Each refiner of gasoline must, with respect to each sale of gasoline other than a retail sale, certify in writing to the pur-

chaser the octane number, as defined in §212.31, of the gasoline sold.

8. Section 212.132 is amended to read as follows:

§ 212.132 Records on Sequence of Cost Recoupments.

(a) *Refiners*. Refiners are required to calculate and keep records as of the last day of each calendar month for each product or group of products represented by the symbol "*i*" in the formulae contained in § 212.83(c) of what amount of each of the types of costs set forth in § 212.83(f) were used in computing prices for that month, and of the allocation of increased product costs to propane pursuant to § 212.83(c) (1) (iii) (A).

(b) *Refiners that are also processors of natural gas*. Refiner processors are required to calculate and keep records as of the last day of each calendar month of what amount of each of the types of costs set forth in § 212.83(f) were used in computing prices for that month, and of the allocation of increased product costs to propane pursuant to § 212.83(c) (1) (iii) (A).

§ 212.161 [Amended]

9. Section 212.161 is amended in paragraph (b) (2) (iii) by changing the reference to "§ 212.87(b)" to a reference to "the formulae in § 212.83(c)."

[FR Doc.76-10403 Filed 4-7-76;9:10 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-HE-10; Amdt. 39-2577]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky S-55 Series and S-62A Helicopters

Amendment 39-194 (31 FR 2681), AD 66-4-3, an amended by Amendment 39-1563 (37 FR 35021), established replacement times for Sikorsky S-55 and S-62 helicopter main rotor blades and authorized an increased replacement time if blades were modified, and inspected at the times and in the manner set forth in Sikorsky Service Bulletins No. 55810-7D and No. 62B10-5D, dated November 2, 1972.

After issuing Amendment 39-1563, the manufacturer obtained approval for an alternate pressure indicator and has improved the procedures for checking the blade internal pressure and testing the pressure indicator. The manufacturer has also revised the service bulletins to include the new indicator and incorporate these modified procedures. Experience with actuations of the pressure indicators in service has emphasized the importance of improved procedures for checking blade pressures and testing the pressure indicators.

The Agency has determined that compliance with these revised procedures is necessary to ensure the effectiveness of the blade inspection system. AD 66-4-3 in, therefore, being revised to require compliance with the revised procedures in the latest Sikorsky service bulletins or later FAA approved revisions.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-194 (31 FR 2681), AD 66-4-3, as amended by Amendment 39-1563, (37 FR 25021), is further amended as follows:

(1) By deleting "No. 55B10-7D dated November 2, 1972 or 62B10-6D dated November 2, 1972," from paragraph (e) and inserting in its place: No. 55B10-7E dated March 26, 1976 or No. 62B10-6E dated March 26, 1976 or later FAA approved revisions.

This amendment becomes effective March 27, 1976.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Massachusetts, on April 2, 1976.

W. E. CROSBY,
Acting Director,
New England Region.

[FR Doc.76-10410 Filed 4-9-76;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 981]

[Docket No. AO-214-A5]

RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS TO MARKETING AGREEMENT AND ORDER

Proposals for Further Amendments

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California.

Interested persons may file written exceptions to this decision with the Hearing Clerk, Untied States Department of Agriculture, Washington, D.C. 20250, by April 27, 1976. The exceptions should be filed in quadruplicate. 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 above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement. This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at Sacramento, California, November 18 and 19, 1975. Notice of the hearing was published in the October 29, 1975, issue of the FEDERAL REGISTER (40 FR 50289; 51646). The proposals contained in the notice of hearing were submitted by the Almond Control Board, Superior Farming Company, Valley Almond Growers Cooperative and the Fruit and Vegetable Division, Agricultural Marketing Service.

Material Issues. The material issues of record are as follows:

(1) Revising the definition of (a) "almonds", (b) "edible kernel", (c) "inedible kernel", (d) "handler", (e) "handler carryover", (f) "trade demand", and (g) "Control Board";

(2) Establishing quality controls by providing for (a) incoming determination of inedible almonds in grower deliveries to handlers and disposition of these almonds, and (b) the authority to prescribe outgoing minimum quality inspection requirements for almonds;

(3) Changing the bases for establishing salable and reserve percentages;

(4) Revising the provisions for a handler's disposition of almonds for reserve credit;

(5) Deleting the bonding provision for reserve almonds;

(6) Clarifying the treatment of collected assessments attributable to creditable advertising with respect to refunds and operating reserve;

(7) Revising the provision pertaining to the varietal shelling ratios for unshelled almonds;

(8) Changing the composition of the Board and the nomination procedures;

(9) Making such changes in the order as may be necessay to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

(1)(a) The definition of "almonds" as contained in § 981.4 of the marketing agreement and order (hereinafter, in this text of the *Findings and Conclusions*, collectively referred to as the "order") should be changed by redefining "almonds" to mean (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California, and for the purposes of research includes almond shells and hulls. Currently, production and marketing research is permitted under § 981.41 for activities which are designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of almonds. Research to find new and more profitable uses for, or better methods of, handling shells and hulls should be permitted under the order. Currently, hulls are used mainly for livestock feed, while shells have some use as roughage in livestock feed and for fireplace briquettes. Shells and hulls together weigh approximately three times the kernelweight of almonds. Since the annual production of almonds on a kernelweight basis is about 200 million pounds, a sizable quantity of shells and hulls is produced annually and represents a significant economic factor. The testimony is that grower returns could be improved if more profitable outlets or better methods of handling can be found for shells and hulls.

The proposal to revise the definition of almonds published in the Notice of Hearing contained the words "and for the purposes of § 981.41 includes almond shells and hulls". However, testimony indicated that the Board should not undertake any marketing promotion including advertising activity for shells and hulls, and therefore those words should not be included in § 981.4. Also, no testimony was given in support of the proposal to revise § 981.41 by adding, "For the purposes of this section, the term almonds includes almond shells and hulls". Therefore, the proposal should not be adopted.

(b) Section ?81.7 currently defines the term "edible kernel". The definition of this term should be revised to mean a kernel, piece, or particle of almond kernel that is not inedible. This change should be made in conjunction with the revision of the definition of the term "inedible kernel" in § 981.8.

(c) Section 981.8 currently defines the term "inedible kernel" to mean that which is not an edible kernel. As discussed in Material Issue 2, the order should provide for the control of inedible almonds and it is therefore necessary that the term "inedible kernel" be redefined so that handlers may know which defective almonds will be scored as inedible kernels. The term "inedible kernel" should mean a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the U.S. Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing. Section 981.8 should also authorize the Board, with the approval of the Secretary, to modify the definition of "inedible kernel". However, the Board should submit any recommendation for modification to the Secretary not later than August 1 of any crop year.

This definition would be consistent with widely accepted industry practice. Handlers have been picking out certain almonds with defects which would be scored as damaged under the U.S. Standards. These defects include (1) gum, covering one-eighth of the surface or more, (2) brown spot in an aggregate greater than a one-eighth inch circle, and (3) shrivel where the pellicle is less than three-fourths filled. Testimony was also presented that handlers have been scoring embedded dirt not easily removed as a defect. The scoring of these defects in receipts from growers has become common and the almonds affected with these defects have been excluded from handlers' redetermination weights by the Board. Under the U.S. Standards, mold is included in the scoring for damage, but this defect was not included in the listing of the defects comprising damage published in the Notice of Hear-

ing. Testimony was presented that this defect should be included.

During the blanching process, the skin, or pellicle, covering the kernel is removed. A question was raised at the hearing whether these skins would be considered kernels and hence were within the proposed definition. The proponents indicated that it was not the intent of the testimony to consider skins as edible or inedible almonds. In order to clarify the matter, proponents proposed a sentence to be included in the definition of "inedible kernel" indicating that when the skin is removed from the kernel, it shall not be considered as a piece or particle of almond kernel. However, this sentence is unnecessary. It is clear from the testimony that detached skins are not kernels and do not fall within the meaning of edible or inedible kernels.

In order to permit the industry to update the definition of "inedible kernel" on the basis of operating experience, or to cope with marketing problems which the industry may encounter in the future, the Board, with the approval of the Secretary, should be authorized to modify that definition. Any modification would be by rulemaking procedure. So that any modification may be applied uniformly throughout a crop year, and to avoid any inequities that may result if changes are made during a crop year, the Board should submit its recommendation on modification to the Secretary not later than August 1 of any crop year. This would provide time to make the modification effective before almonds are received by handlers from growers in volume, and should afford the industry ample time to make any necessary preparations. August 1 should be used as the deadline date because, not later than that date, the Board must furnish the Secretary with certain estimates and recommendations to aid the Secretary in fixing the salable and reserve percentages for the crop year. The Board generally meets the latter part of July to formulate these estimates and recommendations. Any recommendation to modify the definition of "inedible kernel" should be made at this meeting. However, this limitation should not preclude the Secretary from making any necessary modification during a crop year. For example, in the event the applicable definitions in the U.S. Standards are changed after August 1, it may be desirable to retain the definitions applicable at the beginning of the season in order to achieve the equity and uniformity testified to at the hearing.

(d) The definition of "handler" in § 981.13 should be revised to exclude from the definition any person receiving almonds from growers and other persons and delivering these almonds to a handler. The persons to be excluded from the definition are referred to in the industry as accumulators. Currently, these persons are regulated under the order as handlers. However, when they transfer their receipts to another handler by means of interhandler transfers pursuant to § 981.55 they are relieved of all order requirements except those relating to reporting receipts and interhandler transfers. The evidence is that this reporting is not essential for compilation of industry data because that data also appear in the reports of the handler who receives the almonds, processes them, and places them into trade channels. Moreover, under another proposal, discussed in Material Issue 2, handlers would remove and dispose of inedible kernels in excess of a given percentage in the incoming receipts. Accumulators do not process almonds nor do they have facilities to remove inedible kernels.

An accumulator buys almonds in small lots from spare-time growers or gleaners. He accumulates these receipts and delivers them to a processing handler. Gleaners are persons, other than growers, who gather almonds from such sources as backyard or roadside trees, or from orchards after normal harvesting has been completed. The term "gleaners" was included in the proposed definition appearing in the Notice of Hearing, although the term itself was not defined. The term "other persons" should be used in lieu of "gleaners".

Accumulators and gleaners should not be excluded from the definition of "handlers" on any almonds which they do not deliver to a handler. If they place any almonds into the current of commerce within the meaning of § 981.16, they should be handlers for those almonds and subject to order requirements.

As proposed in the Notice of Hearing, the exclusion would have been applicable to almonds delivered to "a handler of record with the Board". However, the evidence is that the exclusion would extend to almonds delivered to any handler, whether or not the handler was then on record with the Board. The order applies to all almond handlers and regulates their activities, whether or not they are on record with the Board at any given time, and it is the obligation of the Board to know at all times who is handling almonds. Therefore, the term "on record with the Board" is unnecessary and should not be included in the definition.

(e) The definition of "handler carryover" in § 981.20 should be revised by deleting the words "(except those held as certified reserve)" to conform with the 1970 amendment of the order (35 FR 11372). These words no longer are applicable. After that amendment, physical setaside, including inspection and certification, of reserve almonds upon withholding was unnecessary. The Notice of Hearing included one proposal to delete the words "for their own accounts" in § 981.20. However, no testimony was presented to support this deletion, and therefore these words should be retained.

(f) The definition of "trade demand" in § 981.21 should be revised so that in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds. The term "trade demand" is used in computing salable and reserve percentages for any crop year. Currently, trade demand means the quantity of almonds which will be acquired by the domestic trade in the United States, Puerto Rico and the Canal Zone. For the reasons discussed in Material Issue 3, the Board should be authorized to include export outlets when estimating trade demand for certain crop years, when arriving at its estimates and recommendations required in § 981.49.

(g) The name of the "Almond Control Board" should be changed to the "Almond Board of California." Section 981.22 should provide that "Board" means the "Almond Board of California" which is the administrative agency established by the order. Also, the center caption preceding § 981.30 should be revised to read "ALMOND BOARD OF CALIFORNIA", and "Control" should be deleted wherever it appears before "Board" in the order.

The word "Control" is objectionable to some, and this change should enhance the value of the Board's name in public relations and consumer education activity. The Board and the industry should be permitted to use previously printed stationery and forms bearing the name "Almond Control Board". This would avoid loss and permit a phasing out of the name "Almond Control Board".

(2) A new § 981.42 should be included in the order to authorize certain methods of quality control. Until now, this authority was deemed unnecessary to ensure a quality product to consumers. Most almond sales have been to industrial users who buy on specifications and, in turn, must market a product acceptable to consumers. However, as a result of increased production, it was testified that handlers will have to sell more of the almond crop directly to consumers. These sales will not be according to specification buying of industrial users. Also, the percentage of defective kernels in the crop has increased in recent years, and scrutiny by regulatory agencies of the quality of food offered consumers is increasing.

Therefore, § 981.42 should require handlers to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety received by him, and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernelweight received should constitute a weight obligation to be accumulated in the course of processing and should be delivered to the Board, or to Board accepted crushers, feed manufacturers, or feeders. In order to achieve uniform determinations, each handler should be required to use the inspection agency defined in § 981.17 to sample, analyze, and report, either directly or through handler personnel working under inspection agency guidance, the percentage of inedible kernels in each variety delivered by each grower. Inedible kernels would be those defined in § 981.8, as discussed in Material Issue 1(c).

The sampling and inspection requirements should be applicable to all al-

monds received by a handler, including the deliveries of a handler's own production. A person engaged in the commercial production of almonds generally will make several deliveries, and each delivery may be made up of more than one variety. Each of these deliveries should be sampled, and the inedible kernel content of each variety determined by, or under the supervision of, a third party. Testimony was presented that this determination is not new because most handlers now sample each delivery to provide the basis for payments to growers. However, handlers should be permitted to accumulate small quantities received as door lots until there is a quantity large enough to permit sampling and a determination of the inedible kernel content in the accumulated receipts.

Inedible kernels accumulated in the course of processing should be delivered to the Board, or to Board accepted oil crushers, feed manufacturers, or feeders. This change from wording proposed in the Notice of Hearing should be made to recognize that, in a handler's plant, inedible kernels are accumulated from blanching, manufacturing processes, and other processes. The two percent level should provide a practical means of requiring inedible kernels to be accumulated by each handler to satisfy his weight obligation. Requiring handlers to meet this obligation should ensure that each handler's outgoing shipments of almonds are relatively free of almonds with serious damage, and the number of kernels with minor damage should be minimal.

The inedible kernel content of receipts should be determined by variety so that those varieties that normally have an inedible kernel content of less than two percent cannot be used to cancel out the obligation of the higher testing varieties. For example, 100,000 pounds of variety X with one percent inedible kernels should not be added to 100,000 pounds of variety Y with three percent inedible kernels to produce an average of two percent, and hence no disposition obligation. On the other hand, the evidence is that it would not be practical or necessary to require a varietal or qualitative determination of the material disposed of in satisfaction of an obligation. The objective is to remove inedible kernels from the pack and this would be achieved by totalling all of a handler's obligations and allowing him to satisfy the total from pickouts, rejects, and any other material unsuitable for human consumption. While it is conceivable that some edible almonds could be included in material delivered in satisfaction of an obligation, it was testified that the economics of delivering $1.00 per pound material to a $.10 per pound outlet would keep this to a minimum. However, a handler may receive a lot which is so poor that the entire lot must be dumped. In that case, the weight of the entire lot should be credited to the handler.

Since disposition would be to crushers, feed manufacturers, or feeders acceptable to the Board, the word "approved" appearing in the Notice of Hearing should be changed to "accepted". This would be consistent with current procedures providing for establishment of a list of users acceptable to the Board.

Section 981.42 should also authorize the Board, with the approval of the Secretary, to change the two percent exemption for any crop year, to authorize additional outlets, and to establish rules and regulations as may be necessary or incidental to the administration of the provision. This would include, but not be limited to, the method of determining inedible kernel content and satisfaction of the disposition obligation. This would permit timely adjustment of the provision to changing conditions, improvement in the procedures, or correction of any deficiencies or errors that may develop in its application.

It is possible that some small-sized handlers may not, in the course of processing beyond the removal of inedible kernels, generate sufficient material to meet the computed obligation. For example, some handlers may not blanch almonds or process them into manufactured items. Thus, § 981.42 should authorize the Board, for good cause, to waive portions of the obligation for handlers not generating inedible kernels from such sources as blanching or manufacturing. "Good cause" should be proof that the handler attempted to meet his obligation but was unable to because of nonrecoverable losses in shelling or for some other reason. Also, many accumulations of inedible kernels will have varying amounts of shell or other foreign material comingled with the almond meat. In order to give credit for the weight of almond meat in each disposition, the meat content should be determined by procedures prescribed by the Board, and this weight reported to the Board. The quantity disposed of should be deducted from the handlers receipts.

Section 981.42 should also provide authority for outgoing quality inspection. The evidence is that this is intended as a contingency for use only if the incoming regulation should prove inadequate for industry needs. For example, other regulatory agencies may establish regulations which would apply to packed almonds or almond products. This authority should provide that for any crop year the Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to almonds to be handled or to be processed into manufactured products, as will contribute to orderly marketing or be in the public interest. Section 981.42 should also provide that in a crop year when these requirements are in effect, no handler shall handle or process almonds unless they meet the applicable requirements as evidenced by certifications acceptable to the Board.

Testimony was presented that the Board's interest would be only in setting a minimum level of quality for almonds to be handled as almonds or processed into almond products. Handlers should be permitted to sell almonds which equal or exceed the minimum quality. It was also testified that the minimum quality could apply to a quality factor, such as the level of aflatoxin, which the inspection agency defined in § 981.17 ordinarily does not test. In that case, the determination would have to be made by the Department or a laboratory approved by the Department. On the other hand, if the outgoing regulation would require a determination of such factors as the inedible kernel content, this determination should be made by the inspection agency.

In connection with any outgoing regulation, the Board, with the approval of the Secretary, should be authorized to establish rules and regulations necessary and incidental to the administration of that regulation.

(3) Section 981.47 provides the method for establishing salable and reserve percentages by the Secretary. In order to aid the Secretary in fixing these percentages, § 981.49 requires the Board to submit certain estimates and recommendations to the Secretary not later than August 1. In computing prior percentages, estimates of total production were used. However, data show that the marketable quantities packed out by handlers are as much as five percent less than the quantities delivered by growers. About 40 percent of the weight loss is due to the removal of defective (i.e., inedible) kernels, which are disposed of in oil or feed outlets. The balance is due to moisture loss during storage and to processing losses, such as shelling and conversion into cut forms. The evidence is that an estimate of the marketable quantity should be used by the Board and the Secretary in computing salable and reserve percentages. Therefore, "marketable" should be inserted before "almonds" in the third sentence of § 981.47 and in § 981.49(a). The term "marketable" should exclude that portion of the production which is received by a handler but is not handled by him or any other handler. However, in some crop years, almonds diverted to oil or feed may be eligible for reserve satisfaction, as discussed in Material Issue 4. For the purpose of computing salable and reserve percentages in those crop years, an estimate of the quantity to be diverted to those outlets should be included with the marketable quantity in the total quantity allocated to trade demand and other outlets. This total quantity should be referred to as the allocation quantity.

As discussed in Material Issue 1(f), the term "trade demand" should be revised so that in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds in its estimate of trade demand. As indicated in that issue, trade demand currently means the quantity of almonds which will be acquired by the domestic

trade. This meaning was satisfactory so long as the salable quantity (i.e., domestic shipments) constituted the major portion of the annual movement, and f.o.b. prices, point of origin, for salable almonds were higher than for almonds exported for reserve credit. However, in four of the six crop years beginning with the 1969–70 crop year, the quantity sold in export exceeded domestic sales. No reserve percentages have been in effect for the last three crop years, including the 1975–76 crop year, and there have been no established differences between domestic and export (f.a.s.) prices. During these years, it was unnecessary to establish a reserve percentage to allocate part of the supply to the export market.

However, production of almonds, both in California and worldwide, is increasing, and some form of volume regulation will be necessary to achieve price stability and develop new uses and outlets, including new geographical areas. Testimony was that a reserve percentage of five to 10 percent may be enough to accomplish this. However, the formula for computing the salable and reserve percentages does not permit this because domestic needs (i.e., salable almonds) constitute about 50 percent or less of the supply subject to regulation, and thereby resulting in a reserve percentage of about 50 percent or more. So that the industry can establish a modest reserve percentage, the order should permit exports to be included in the trade demand estimate.

Testimony was also presented that exports should not be removed as a reserve outlet permanently because the marketing outlook for California almonds in unclear. It may be necessary again for the California almond industry to compute the percentages under the current provisions of the order if marketing conditions in export necessitate resumption of the use of minimum export prices.

To conform with the recommendation to permit the trade demand estimate to include domestic and export sales, the last sentence in § 981.66(d) should provide that the Board may dispose of or authorize the disposition of, reserve almonds in noncompetitive outlets in any crop year in which the quantity exceeds that needed for export or the export quantity is included in salable almonds. Also, the title of paragraph (c) of § 981.66 should be revised by substituting the word "salable" instead of "domestic". When exports are part of the salable supply, there would be no export portion in the reserve.

The third sentence in § 981.47 should be revised so that the correct quantity of carryover on June 30 of a crop year available to satisfy trade demand in the succeeding crop year would be used to compute the salable (and hence, also the reserve) percentage for that year. As discussed in Material Issue 1(e), certification of reserve no longer was necessary after the 1970 amendment of the order. Since then, all carryover has been construed as meeting the definition of "handler carryover". However, if part of the carryover as of June 30 represents unexported reserve obligation, this quantity is not available to satisfy domestic trade demand in the succeeding crop year. Or, as discussed in this Material Issue, if export tonnage is included in trade demand for a crop year, the unexported reserve obligation, from the previous year, would satisfy part of that trade demand. Consequently, there should be flexibility in applying the formula for computation of the salable percentage so that all, or a portion, of the handler carryover, is used.

Under the proposal, four situations are possible when computing the salable percentage: (1) There is a carryover of unexported reserve tonnage and trade demand of the new crop year is to be domestic only; (2) there is a carryover of unexported reserve tonnage and the trade demand of the new crop year is to be both domestic and export; (3) there was no reserve in the prior crop year, the carryover is all salable but a large quantity is committed to export, and the trade demand of the new crop year is to be domestic only; and (4) the carryover situation is the same as (3), except that trade demand is to be both domestic and export.

It was testified that when trade demand of the new crop year is to be domestic only, the unexported reserve or commitments to export would not be available to satisfy trade demand and hence should be subtracted from the carryover. However, all carryover should be available for trade demand when both domestic and export requirements are included in trade demand.

The third sentence of § 981.47 should therefore be modified, in part, to provide, that in establishing the salable and reserve percentages, the Secretary shall over at the end of the crop year, to the estimated trade demand, either domestic or domestic plus export, less the handler carryover available to satisfy trade demand plus the desirable handler carryover at the end of the crop year, to the estimated production of marketable almonds, or the allocation quantity, whichever is applicable.

(4) Section 981.51 prescribes certain requirements for reserve. The provisions of that section are based on the marketing and regulatory conditions of 1956 when each handler was required to meet his reserve obligation by physically setting aside lots meeting grade requirements prescribed in paragraphs (a), (b), and (c), of that section. The necessity for physical setaside of reserve almonds was deleted by the 1970 amendment, and the grade requirements therefore are obsolete and should be deleted.

Section 981.51 also limits the weight that may be certified and credited as reserve to the kernel weight less any inedible kernel weight in excess of three percent of its edible kernel content. This tolerance would lose its significance if the incoming quality regulation necessitates the removal of inedible kernels in excess of two percent in a lot and disposition in non-human consumption outlets. It was testified that most packs for human consumption would have very few, if any inedible kernels. Therefore, inspection of almonds disposed of as reserve almonds in non-human consumption outlets would be unnecessary. In view of this, the requirements for outgoing inspection of reserve almonds should be deleted except in those crop years when the agency agreement authorized in § 981.67 provides that all export sales must be made at minimum prices. In that event, the inspection would be necessary in order to establish the grade and size of each lot, thereby determining whether the sales price is equal to or better than the minimum price for the grade and size being shipped. Inspection and certification of reserve almonds for human consumption should also be required if outgoing quality requirements are established pursuant to proposed § 981.42(b).

As discussed in Material Issue 3, in some crop years almonds diverted to oil or feed should be eligible for reserve satisfaction, and an estimate of this quantity should be included in the total quantity allocated to trade demand and other outlets (i.e., the allocation quantity). This estimate should be included with the estimates and recommendations furnished by the Board to the Secretary pursuant to § 981.49. In connection with the proposed revision of § 981.51, it was testified that in those years when a reserve is established and a portion of the reserve obligation may be satisfied by diversion of almonds in oil or feed outlets, the quantity diverted should be credited against the handler's reserve obligation and, as currently provided, deducted from his receipts. This should include any inedible kernels disposed of by the handler in satisfaction of any disposition obligation incurred pursuant to § 981.42(a). Handlers should be afforded this as an incentive to keep low quality material out of normal trade channels.

The provisions of § 981.51 should be deleted except for the modification and grade authority in the last sentence. The new provisions of § 981.51 should provide that each handler may satisfy his reserve obligation with such almonds specified in the terms of the agency agreement authorized in § 981.67, including all applicable inspection and certification requirements. Disposition of reserve almonds by handlers is pursuant to § 981.67 of the order. Section 981.67 provides, in part, for the Board to authorize handlers to act as its agents by means of an agency agreement. In the event a handler does not become an agent of the Board, § 981.51 should provide that this handler may receive credit by similarly delivering almonds to the Board or its designees. It was testified that the incoming quality control would require a handler to process his receipts and remove inedible kernels to meet any disposition obligation incurred pursuant to § 981.42 (a), and thus, a non-agent would have about the same grade of almonds as an agent to satisfy his reserve obligation.

Revision of § 981.51 would necessitate conforming changes in other sections of

the order. The third sentence in § 981.-61 should be revised so that the redetermined kernelweight of each handler's receipts, as of any date during the crop year, shall be his carryover as of that date plus the weight of almonds delivered or used in products minus the carryover at the beginning of the crop year, the weight on which another handler has assumed the obligations, and the weight delivered to exempt outlets. Since the order no longer requires a physical set-aside of a handler's reserve obligation, the undisposed portion of reserve can no longer be readily separated from the total carryover as of December 31, March 31, or June 30, and determining the portion of the carryover that is reserve should not be done until the redetermined weight is known. Consequently, redetermination should be computed on the basis of the total inventory plus the total deliveries and usage in products.

Since the quantity of reserve almonds disposed of in oil or feed outlets would be deducted from a handler's receipts, the words "and which are not reserve almonds" appearing in the first sentence of § 981.50 should be deleted as a conforming change. In that same provision, the words "disposed of in" should be changed to "delivered to" to conform with the third sentence of § 981.61. Thus, upon delivery to an accepted user, the handler should be able to claim the applicable credit. It should be the Board's responsibility to maintain surveillance over users to assure that they dispose of the almonds through crushing or feeding.

(5) Section 981.53 should be deleted. Section 981.53 authorizes a handler to defer withholding reserve to any date desired by the handler, but not later than May 15 of the crop year, by means of a written undertaking secured by a bond or bonds. This provision has not been used since the 1970 amendment.

The purpose of the deferment was to permit handlers to use early receipts to meet market needs. With larger crops and the need to hold inventories to service year-round customers, it is no longer necessary for most handlers to defer withholding to meet their reserve obligations. For those handlers who do not sell the year-round, the withholding requirement must be met by them while they still have almonds. These handlers cannot be permitted to defer the withholding until May 15.

As a conforming change, item (a) in § 981.52 reading: "Any quantity for which he has a temporary deferment pursuant to § 981.53," should be deleted and items (b) and (c) should be redesignated as (a) and (b) respectively. Also, the words "the time for withholding has been deferred pursuant to § 981.53 or" in the second sentence of the same section should be deleted.

(6) Section 981.80 authorizes the Board to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the Board, including the accumulation and maintenance of an operating reserve fund, and for such purposes as the Secretary may, pursuant to the provisions of the order, determine to be appropriate. Section 981.81(a) requires handlers to pay to the Board, by way of assessments, such sum, less any amounts credited pursuant to § 981.41, as the Secretary finds is necessary to provide funds to meet the authorized Board expenses and the operating reserve requirements, and establishes for the crop year. Section 981.41(c) authorizes the Board, with the approval of the Secretary, to provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of almonds, almond products or their uses. That paragraph also provides that no handler shall receive credit for any allowable direct expenditures that would exceed the total of his assessment obligation which is attributable to that portion of his assessment designated for marketing promotion including paid advertising. The provisions of §§ 981.80 and 981.81 on establishment and maintenance of an operating reserve fund, and of § 981.41 on marketing promotion including paid advertising were included in the order in the 1972 amendment.

Testimony was presented that paragraphs (b) and (c) of § 981.81 should be modified. The modification should establish that advertising assessments carried into a new crop year do not become a part of the operating reserve fund immediately. The operating reserve should be a pool of funds available to pay the costs of authorized activities of the Board during any part of the crop year when assessment income permits. Furthermore, withdrawals from the operating reserve should be replaced so that an adequate reserve is available to service the needs of the next crop year.

It should also be clear that the Board may spend any money collected from handlers as the uncredited portion of the assessment rate attributable to marketing promotion and paid advertising. Since this money generally is not available until a crop year has ended, the only time the Board can spend this money is in the succeeding crop year. Moreover, that money should not be available for spending by the Board and simultaneously used to create a reserve.

Based on the Board's experience with the provision included in the order in 1972, its fiscal affairs may be broken down into four accounts; administrative, research, creditable advertising, and consumer education. For the purpose of preparing budgets, determining assessments, and establishing limits in the operating reserve fund, the Board should be able to use two major classifications; "administrative-research" and "marketing promotion". The latter classification would include creditable advertising and consumer education.

Therefore, paragraph (b) of § 981.81 should provide that any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's administrative-research expenses of the first four months of the succeeding crop year. No later than the fifth month the amount not expended in the previous crop year for administrative-research shall be retained in the operating reserve fund. Paragraph (b) should also provide that any amounts not credited pursuant to § 981.41 for a crop year may be used by the Board for its marketing promotion expenses of the succeeding crop year, and any unexpended portion of those amounts at the end of that crop year shall be retained in the marketing promotion portion of the operating reserve fund. The Board should not accumulate money in excess of its needs. Therefore, any money in each portion of the operating reserve fund in excess of the level authorized to paragraph (c) shall be refunded to handlers or used to reduce the assessment rate of the subsequent crop year, as the Board may determine. Each handler's share of a refund shall be the amount by which his payment of assessments exceeds his pro rata share of the two major classifications of Board expenses. For the purpose of computing any refund from the marketing promotion portion, each handler's payment of assessments shall include any amount credited to the handler pursuant to § 981.41. In lieu of a refund, each handler may have the amount due him credited to his assessment obligation of the crop year in which the amount would be refunded.

Consistent with the revision of paragraph (b), paragraph (c) of § 981.81 should provide that the Board may maintain an operating reserve fund consisting of an administrative-research portion and a marketing promotion portion. The amount in each portion shall not exceed approximately six-months budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary. However, this limitation shall not restrict the temporary retention of excess funds for the purpose of stabilizing or reducing the assessment rate of a crop year. To the extent that funds from current crop year assessments are inadequate, funds in the operating reserve may be used for the authorized activities of the crop year. Funds so used, and not exceeding the six-month limitation, shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

(7) In § 981.62(a), the designation of "major varieties" and "minor varieties" should be deleted, and the list of almond varieties and their corresponding percentages should be rearranged in a unified list in descending order according to the varietal shelling ratio. The ratios are used to compute the kernel weight of almonds which are handled unshelled.

In the notice of hearing the proposal was to redesignate five almond varieties as either "major varieties" or "minor

varieties." It was testified, however, that the "major" and "minor" designations can be confusing, and there is no useful purpose in continuing these designations.

(8) Testimony on several proposals pertaining to the Board, including establishment, membership representation, and nominations, was presented at the hearing. These included Proposals 19, 20, 21, and 22 in the Notice of Hearing, and one introduced at the hearing. For the reason stated in this Material Issue, all of these proposals should be denied.

Proposal 19 would divide the production area into two districts and assign an independent grower member and alternate member to each district so that growers and their representatives would be closer to each other. The proponent indicated that, currently, growers in the southern San Joaquin Valley are about 400 miles from their representative on the Board.

Another proponent submitted Proposals 20, 21, and 22. The proponent stated that the proposals are necessary for several reasons. Since the promulgation of the order in 1950, the composition of the Board, nomination of its members, or the groups they represent, have not been changed, even though the almond industry has changed in the past 25 years and more changes can be expected in the future. Under the proposal, each segment of the industry would have an opportunity to be represented on the Board by a direct vote and, to be as "democratic" as possible, it was further proposed that the cooperative and other than cooperative designated Board positions would be removed. It was contended that such a division encourages members of the Board to act on a personal rather than an industry-wide basis. Proposal 20 would establish a Board of 12 members (instead of 10, as currently provided), with an alternate for each member. Six members and their alternates would represent growers and six members and alternates would represent handlers. It would divide the production area into three districts and assign two grower members and their alternates to each district. Proposal 21 would prescribe qualifications for members and their alternates to serve on the Board. Each grower member and alternate member, at the time of his selection and during his term of office would have to be a grower within the district for which selected. Each grower member and alternate member would be prohibited from handling almonds either in a proprietary capacity or as a director, officer, or employer; each handler member and alternate member would have to be a director, officer, or employee of a handler. Proposal 22 would revise the nomination procedures for membership on the Board. Each grower could vote only in one district. Each grower would be able to vote for two candidates. The person receiving the greatest number of votes, by number, and the person receiving the greatest number of votes, by tonnage, would be the member nominees. Handlers would vote for members and alternate members separately, and each handler's vote would be weighted by the quantity of almonds handled during a designated period. A handler would be able to divide his vote among candidates in each category assigning to each vote the portion of the weighting available to him as he may choose. The member nominees would be those six persons receiving the highest weighted vote.

A fourth proposal submitted at the hearing was not included in the Notice of Hearing. It would increase the membership of the Board to 11 members and their alternates. This additional member would be assigned to cooperative and independent handlers, none of which individually handled more than three percent of the almonds delivered by growers. The proponent offered this proposal to give small handlers representation on the Board.

Opposition to all of these proposals was presented at the hearing, with emphasis on Proposals 20, 21, and 22. In summation, the opponent stated that the success of the order and the Board's administration of it cannot be equalled in any other industry, and this history is the strongest recommendation for maintaining the current makeup of the Board.

That the success of the order and its administration by the Board over the years has proven successful appears evident to many in the industry. However, acceptance alone should not necessarily justify the status quo. As testified, the almond industry has changed considerably since the order was promulgated. Since then, almond production increased from about 40 million pounds, kernel weight basis, to 217.7 million pounds, kernel weight basis, in 1974. Almond acreage increased from about 90,500 bearing acres and about 18,000 nonbearing acres in 1950, to about 230,000 bearing acres and about 74,000 nonbearing acres in 1974. In 1950, almond production in California was confined largely to the Sacramento Valley and adjacent counties. Today, California's almond production extends from the southern part of the San Joaquin Valley to the Sacramento Valley.

Although these changes may lend credence to the two proposals for a division of the area into districts, at least for the purpose of obtaining producer nominees who do not market their production through cooperative handlers, the testimony presented on both was insufficient to enable recommending one over the other. The same applies to the proposals for the creation of an 11-member and a 12-member committee, and the proposals on division of membership between five producer members and six handler members, or six producer members and six handler members. In addition, serious potential difficulties in Proposals 21 and 22 were uncovered by the opposition testimony which should preclude their adoption.

However, for the purposes of this recommended decision, any further analysis of the relative strength and weaknesses of the four proposals is unnecessary. It is clear from all of the testimony presented on the four proposals that the industry is not in agreement on the appropriate provisions covering Board composition, representation, and nominations. It is essential that there be substantial agreement within all segments of any industry on matters of this sort. The diversity of testimony presented on these matters indicate a need for further study by the almond industry and agreement on any changes to be presented at an amendatory hearing.

(9) Some of the amendatory actions included in this recommended decision cause the need to make certain conforming changes so that the order, as amended, will be in conformity with those actions. Any such changes are discussed with the issues to which they are pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed December 29, 1975, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. On December 23, 1975, the time for filing such documents was extended to January 9, 1976.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

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

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

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

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

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

Recommended amendment of the marketing agreement and order.

The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Revise § 981.4 to read as follows:

§ 981.4 Almonds.

"Almonds" means (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California, and for the purposes of research includes almond shells and hulls.

2. Revise § 981.7 to read as follows:

§ 981.7 Edible kernel.

"Edible kernel" means a kernel, piece, or particle of almond kernel that is not inedible.

3. Revise § 981.8 to read as follows:

§ 981.8 Inedible kernel.

"Inedible kernel" means a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing. This definition may be modified by the Board with the approval of the Secretary: *Provided*, That the Board shall submit any recommendation for modification to the Secretary not later than August 1.

4. Revise § 981.13 to read as follows:

§ 981.13 Handler.

"Handler" means any person handling almonds during any crop year, except that such term shall not include either a grower who sells only almonds of his own production at retail at a roadside stand operated by him, or a person receiving almonds from growers and other persons and delivering these almonds to a handler.

5. Revise § 981.20 to read as follows:

§ 981.20 Handler carryover.

"Handler carryover" as of any given date means all almonds, wherever located, then held by handlers for their own accounts (whether or not sold) but not including any almond products.

6. Revise § 981.21 to read as follows:

§ 981.21 Trade demand.

"Trade demand" means the quantity of almonds (kernel weight basis (which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution in the United States, Puerto Rico, and the Canal Zone: *Provided*, That in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds.

7. Amend § 981.22 by changing "Control Board" to "Board" and revising the definition to read as follows:

§ 981.22 Board.

"Board" means the Almond Board of California which is the administrative agency established by this subpart.

§ 981.30 [Amended]

8. Revise the center caption preceding § 981.30 to read "ALMOND BOARD OF CALIFORNIA" and delete "Control" wherever it appears in the order.

9. Add § 981.42 to read as follows:

§ 981.42 Quality control.

(a) *Incoming*. Each handler shall cause to be determined, through the inspection agency, and at handler expense, the percent of inedible kernels in each variety received by him, and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, shall constitute a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The Board, with the approval of the Secretary, may change this percentage for any crop year, may authorize additional outlets, and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. The Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

(b) *Outgoing*. For any crop year the Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to almonds to be handled or to be processed into manufactured products, as will contribute to orderly marketing or be in the public interest. In such crop year, no handler shall handle or process almonds into manufactured items or products unless they meet the applicable requirements as evidenced by certification acceptable to the Board. The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this provision.

10. Revise § 981.47 to read as follows:

§ 981.47 Method of establishing salable and reserve percentages.

Whenever the Secretary finds, from the recommendations and supporting information supplied by the Board or from any other available information, that to designate the percentages of almonds during any crop year which shall be salable almonds and reserve almonds would tend to effectuate the declared policy of the act, he shall designate such percentages. Except as provided in § 981.50 the salable and reserve percentages shall each be applied to the kernel weight of almonds received by a handler for his own account during the crop year. In establishing such salable and reserve percentages, the Secretary shall give consideration to the ratio of estimated trade demand (either domestic or domestic plus export, less the handler carryover available to satisfy trade demand plus the desirable handler carryover at the end of the crop year) to the estimated production of marketable almonds (all expressed in terms of kernel weight) or the allocation quantity (marketable production plus almonds diverted to oil or feed when eligible for reserve satisfaction) whichever is applicable; the recommendation submitted to him by the Board; and such other information as he deems appropriate. The total of the salable and reserve percentages established each crop year shall equal 100 percent.

§ 981.49 [Amended]

11. Revise § 981.49(a) by inserting the word "marketable" before "almonds".

12. Revise § 981.50 to read as follows:

§ 981.50 Reserve obligation.

Whenever salable and reserve percentages are in effect for a crop year, each handler shall withhold from handling a quantity of almonds having a kernel weight equal to the reserve percentage of the kernel weight of all almonds such handler receives for his own account during the crop year: *Provided*, That any quantity of almonds delivered to outlets such as poultry or animal feed or crushing into oil, in a manner permitting accountability to the Board, shall not be included in such receipts. The quantity of almonds hereby required to be withheld from handling shall constitute, and may be referred to as the "reserve" or "reserve obligation" of a handler. The almonds handled as salable almonds by any handler, in accordance with the provisions of this part, shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

13. Revise § 981.51 to read as follows:

§ 981.51 Requirements for reserve.

Each handler may satisfy his reserve obligation with such almonds specified in the terms of the agency agreement authorized in § 981.67, including all applicable inspection and certification requirements. Any handler who does not become an agent may receive credit by similarly delivering almonds to the Board or its designees. These requirements may be established by the Board, with the approval of the Secretary, and from time to time so modified, and may include grade requirements for reserve almonds delivered to human consumption outlets.

§ 981.53 [Reserved]

14. Delete § 981.53 and make conforming changes in § 981.52. As so revised, § 981.52 reads as follows:

§ 981.52 Holding requirement and delivery.

Each handler shall, at all times, hold in his possession or under his control, in proper storage for the account of the Board, the quantity of almonds necessary to meet his reserve obligation less: (a) Any quantity which was disposed of by him pursuant to §981.67; and (b) any quantity for which he is otherwise relieved by the Board of responsibility to so hold almonds. Upon demand of the Board reserve almonds shall be delivered to the Board f.o.b. handler's warehouse or point of storage, except that the Board shall not make such demand upon a handler with respect to reserve almonds for which he has agreed to undertake disposition pursuant to § 981.67. Any handler who does not act as agent for the Board in the disposition of reserve almonds shall be subject to the applicable inspection and certification requirements prescribed by the Board pursuant to § 981.67.

15. Revise § 981.61 to read as follows:

§ 981.61 Redetermination of kernel weight.

The Board, on the basis of reports by handlers, shall redetermine the kernel weight of almonds received by each handler for his own account during each crop year through each of the following dates: December 31, March 31, and June 30. Such redetermined kernel weight for each handler shall be the basis for computing his reserve obligation for the crop year through such dates, except that adjustment shall be made for almonds on which the obligation has been assumed by another handler. The redetermined kernel weight of each handler's receipts, as of any date during the crop year, shall be his carryover as of that date plus the weight of almonds delivered or used in products minus the carryover at the beginning of the crop year, the weight on which another handler has assumed the obligations, and the weight delivered to exempt outlets. Weights used in such computations for various classifications of almonds shall be: (a) For unshelled almonds, the kernel weight computed by application of shelling ratios authorized pursuant to § 981.62; (b) for shelled almonds, the net weight; and (c) for shelled almonds used in production of almond products, the net weight of such almonds.

16. Revise § 981.62 (a) to read as follows:

§ 981.62 Varietal shelling ratios for unshelled almonds.

(a) The varietal shelling ratios applicable to unshelled almonds for determination of kernel weight are as follows:

Varieties:	*Percent*
Jordanolo	60
Kaperlal	60
Merced	60
Nonparell	60
Thompson	60
Bigelow	55
Harparell	55
Eureka	54
Baker	53
Trembath	53
Ballico	50
Davey	50
IXL	50
Long IXL	50
Ne Plus Ultra	50
Ruby	50
Smith (Smith's XL)	48
Lewelling (Lewelling's Prolific)	47
Walton	41
Drake	40
Emerald	40
Mission	40
Ripon	40
Standard	38
Sultana	36
Peerless	35
Tarragona	33
Hardshell	30
Bidwell	30

* * * * *

§ 981.66 [Amended]

17. Revise § 981.66 by substituting the word "salable" for the word "domestic" in the title of § 981.66(c), and by revising the last sentence of § 981.66(d) to read as follows: "The Board may dispose of reserve almonds in non-competitive outlets in any crop year in which the quantity exceeds that needed for export or the export quantity is included in salable almonds".

18. Revise § 981.81 (b) and (c) to read as follows:

§ 981.81 Assessment.

(a) * * *

(b) *Refunds.* Any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's administrative-research expenses of the first four months of the succeeding crop year. No later than the fifth month, the amount not expended in the previous crop year for administrative-research shall be retained in the operating reserve fund. Any amounts not credited pursuant to § 981.41 for a crop year may be used by the Board for its marketing promotion expenses of the succeeding crop year, and any unexpended portion of those amounts at the end of that crop year shall be retained in the marketing promotion portion of the operating reserve fund. Any funds in each portion of the operating reserve fund in excess of the level authorized pursuant to paragraph (c) of this section shall be refunded to handlers or used to reduce the assessment rate of the subsequent crop year, as the Board may determine. Each handler's share of a refund shall be the amount by which his payment of assessments exceeds his pro rata share of the two major classifications of Board expenses. For the purpose of computing any refund from the marketing promotion portion, each handler's payment of assessments shall include any amount credited to the handler pursuant to § 981.41. In lieu of a refund, each handler may have the amount due him credited to his assessment obligation of the crop year in which the amount would be refunded.

(c) *Reserves.* The Board may maintain an operating reserve fund consisting of an administrative-research portion and a marketing promotion portion. The amount in each portion shall not exceed approximately six-months' budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary: *Provided,* That this limitation shall not restrict the temporary retention of excess funds for the purpose of stabilizing or reducing the assessment rate of a crop year. To the extent that funds from current crop year assessments are inadequate, funds in the operating reserve may be used for the authorized activities of the crop year. Funds so used, and not exceeding the six-month limitation, shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

* * * * *

Signed at Washington, D.C. on April 6, 1976.

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

[FR Doc.76-10422 Filed 4-9-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit

[24 CFR Part 203]

[Docket Nos. R-72-197; R-72-198]

MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Proposed Regulations Establishing Maximum Settlement Charges Withdrawn

Notices of Proposed Rule Making were published on July 4, 1972, (37 FR 13185 and 37 FR 13186) to amend Title 24 of the Code of Federal Regulations to establish standards governing the amounts of settlement costs allowable in connection with HUD insured mortgage transactions.

Interested persons were given the opportunity to participate in the rule making through submission of written comments. Approximately 800 responses were received. These comments surfaced basic

problems requiring resolution which delayed publishing the rules for final effect. Subsequently, Congress passed the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93–533) which was implemented by HUD's Regulation X (24 CFR, Part 82) on May 22, 1975 (40 FR 22448) rendering these proposals unnecessary at this time. For this reason the Department has determined that rule making action on the proposed amendment is not appropriate at the present time, that the proposal should, therefore, be withdrawn, and the proceedings in Docket Nos. R–72–197 and R–72–198 terminated. The termination of these proceedings, however, is without prejudice to any further rule making by the Department with respect to the subject of these proceedings nor does it commit the Department to any course of action.

Issued at Washington, D.C., April 7, 1976.

DAVID S. COOK,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.76-10469 Filed 4-9-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Ch. I]

[CGD 76–018]

TOWING VESSEL STABILITY STUDY

Advance Notice of Proposed Rulemaking

The Coast Guard is considering proposing rules based upon a research study by Hydronautics, Inc., on towing vessel stability. Copies of the report of this study are available to the public.

Interested persons are invited to participate in determination of whether or not the study should be used as a basis for proposed rules and comment on the study by submitting written data, views, or arguments. Communications should identify the docket number (CGD 76–018) and be submitted to the Commandant (G–CMC/81), U.S. Coast Guard, Washington, D.C. 20590. All communications received before July 1, 1976 will be considered by the Coast Guard before proposing any rules. All comments submitted will be available before and after the closing date for comments for examination by interested persons in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. If it is determined to be in the public interest to propose rules after consideration of the available data and comments, a notice of proposed rulemaking will be issued.

Any rulemaking action would probably address the standards for the determination of load lines on those towing vessels that are subject to the "International Voyage Load Line Act of 1973" (46 U.S.C. 86, et seq.) and the "Coastwise Load Line Act, 1935" (46 U.S.C. 88, et seq.).

The report is in three parts. The first part includes a literature study of existing towing vessel stability criteria, a census and naval architectural categorization of the U.S. towing vessel fleet, detailed stability calculations for a number of vessels, and the selection of models and testing programs. The second part describes the model testing program of selected models in which emphasis was placed upon pulling against a hawser at various angles in a simulated seaway. The third part is the analysis of the results of the model testing program and the researchers' proposed intact stability criteria based upon that analysis. The third part also includes an assessment of the impact of the proposed stability criteria on the U.S. fleet and recommendations for additional research. The proposals in the third part are not current Coast Guard regulation, policy, opinions, or recommendation, but are only the recommendation of the study's researchers.

Copies of the report may be obtained by writing to: National Technical Information Service, Springfield, Virginia 22161, telephone 703–321–8521. Please identify the report, "Evaluation of Current Towing Vessel Stability Criterion and Proposed Fishing Vessel Stability Criteria," and accession numbers and include remittance. The accession numbers and prices are:

Part One, volume one, AD A006815, $6.25.

Part One, volume two, AD A007138, $15.25.

Part Two, AD A019830, $5.00.

Part Three, AD A019831, $6.75.

This advance notice of proposed rulemaking is issued under the authority of 46 U.S.C. 86, 88a, 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.46(b) and (n)(6).

Dated: April 7, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-10452 Filed 4-9-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15581]

BRITISH AIRCRAFT CORPORATION BAC 1–11 200 AND 400 SERIES AIRPLANES

Proposal To Require Replacement of Light Alloy Stop

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to BAC 1–11 200 and 400 series airplanes. There have been reports of failures of the light alloy stop on the cabin pressure discharge valve manual control on BAC 1–11 200 and 400 series airplanes that could result in a loss of cabin pressurization. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require the replacement of the light alloy stop with a stop of improved strength and require the replacement of the mounting screws on BAC 1–11 200 and 400 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received or on before May 12, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Model BAC 1–11 200 and 400 series airplanes, certificated in all categories.

Compliance is required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To prevent the inadvertent loss of cabin pressure due to failure of the light alloy stop on the cabin pressure discharge valve manual control, accomplish the following:

Replace the light alloy stop, P/N AB55–2301, on the gear wheel and drum assembly of the air conditioning discharge valve manual control (P/N AB55A2435 or ED55A779) with an improved strength stop, P/N AB55–3433, or an FAA-approved equivalent. Replace the original mounting base mounting screws, P/N VGS6720–C16, with longer screws P/N VGS6720–C20, or an FAA-approved equivalent.

(British Aircraft Corporation Service Bulletin No. 21–PM 5139, Revision 2 dated September 5, 1973, applies to this same subject).

Issued in Washington, D.C. on April 5, 1976.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.76-10407 Filed 4-9-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76–SO–37]

EVERGREEN ALA.

Proposed Designation of Transition Area

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Evergreen, Ala., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal

Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 12, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Evergreen transition area would be designated as:

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Middleton Field Airport (Lat. 31°24'52" N., Long. 87°02'29" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Middleton Field. A prescribed instrument approach procedure to this airport, utilizing the Monroeville VORTAC, is proposed in conjunction with the designation of this transition area. If the proposed designation is acceptable, the airport operating authorization will be changed from VFR to IFR.

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

Issued in East Point, Ga., on April 2, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-10408 Filed 4-9-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-39]

HATTIESBURG, MISS.

Proposed Designation of Control Zone

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Hattiesburg, Miss., control zone.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 12, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Hattiesburg control zone would be designated as:

Within a 5-mile radius of Pine Belt Regional Airport (latitude 31°28'03" N., longitude 89°20'11.6" W.). This control zone is effective from 0530 to 1430 hours and from 1600 to 0100 hours, local time, daily.

The proposed control zone is required to provide controlled airspace protection for IFR operations at the Pine Belt Regional Airport during the periods that air carrier flights are being conducted.

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

Issued in East Point, Ga., on April 2, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-10409 Filed 4-9-76;8:45 am]

[14 CFR Part 152]

[Docket No. 15551; Notice No. 76-11]

ELIGIBILITY OF VISUAL APPROACH SLOPE INDICATOR (VASI)

Notice of Proposed Rule Making

The FAA is considering amending Part 152 of the Federal Aviation Regulations to eliminate the requirement in § 152.103 (h)(2) that installation of two-box VASI (VASI-2) is mandatory with new construction of medium intensity runway lights (MIRL) on runways at airports serving small aircraft (other than turbojet powered aircraft).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Ave. SW, Washington, D.C. 20591. All communications received on or before May 12, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Airport aid program experience has shown that the mandatory requirement for installation of VASI-2 with MIRL has, because of the additional installation costs, impeded the installation of MIRL's at airports eligible under the program. Numerous comments to this effect have been received from airport sponsors and airport industry groups.

In addition, the installation of the VASI offers no operational advantage, in terms of lower landing minimums, under the criteria (U.S. Standard for Terminal Instrument Approach Procedures) applicable to instrument approach procedures developed and issued under Part 97 of the FARs (Standard Instrument Approach Procedures).

Accordingly, the FAA believes that the VASI should be eliminated as a mandatory item of airport development for installation with MIRL, but retained as an installation eligible for funding under the Airport Aid Program.

This proposal is made under the authority of Sections 11 through 27 of the Airport and Airway Development Act of 1970 (84 Stat. 220-233), Section 1.47(g)(1) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(g)(1)).

In consideration of the foregoing, it is proposed to amend § 152.103(h)(2) of the Federal Aviation Regulations to read as follows:

§ 152.103 Lighting and electrical work; specific.

* * * * *

(h) *Economy approach lighting aids.*

* * * * *

(2) A two-box Visual Approach Slope Indicator (VASI-2) is eligible on lighted runways not served by turbojet powered aircraft. The VASI-2 is also eligible for installation on runways with an approach slope deficiency and for retrofitting existing runways on such of those airports that have MIRL installed.

* * * * *

Issued in Washington, D.C., on April 2, 1976.

WILLIAM V. VITALE,
Director, Airports Service.

[FR Doc.76-10406 Filed 4-9-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 521-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Approval of Arkansas Regulations and Strategy for Control of Particulate Matter

On May 31, 1972 (37 FR 10850), pursuant to section 110 of the Clean Air Act, 42 USC 1857c-5, the Administrator approved with some exceptions, the plan submitted by the State of Arkansas for the implementation of the National Ambient Air Quality Standards (NAAQS). The Administrator's approval included the strategy and regulations controlling particulate matter as submitted to the Environmental Protection Agency on

January 28, 1972. Later actions regarding the Arkansas State Implementation Plan as it related to control of particulate matter, appeared on March 8, 1973, and February 25, 1974, when the Administrator disapproved the plan for maintenance of standards under FEDERAL REGISTER publications 38 FR 6280 and 39 FR 7276.

The plan as submitted by Arkansas on January 28, 1972, addressed the control of particulate matter through ambient air concentration measurements rather than through emission limitations on individual sources. Regulations were developed which restricted the level of particulate matter at the property line, and the source was held responsible for meeting the ambient air quality value. Such boundary line control regulations may allow dispersion techniques, such as increased stack height, to be employed in achieving reductions in ground level concentrations. This type of regulation is considered difficult to enforce and does not offer positive emission reductions. For this reason, the State of Arkansas reevaluated individual source requirements and imposed limitations on source emissions. Consequently, on June 27, 1975, the Governor of Arkansas submitted a revision to the particulate matter control strategy and regulations which incorporated emission limitations on individual sources, a process weight rate limitation and additional requirements relating to review of new or modified sources. In demonstrating attainment, the revision included an analysis of all significant sources, however, source emission regulations were presented for only those necessary to satisfy the reduction requirements. Upon review of all submitted material, it was determined that the Arkansas plan exhibited adequate emission control to assure attainment of the annual NAAQS for particulate matter. The submittal also corrects the disapproved portion of the plan as published under § 52.173 in the FEDERAL REGISTER, May 31, 1972 (37 FR 10851). This latter part referred to the submittal of compliance schedules which are now corrected.

Therefore, notice is hereby given that the Administrator of the Environmental Protection Agency intends to approve the supplementary information including the strategy and regulations for control of particulate matter and attainment of the annual NAAQS. Notice is also given that the Administrator intends to revoke the disapproval for compliance schedules required under § 51.15(a)(2) of this chapter.

The actions proposed today are not intended to correct the plan regarding maintenance of particulate matter standards, but rather to recognize supplementary information submitted by the State and incorporate the new information and regulations in the approved portion of the State Implementation Plan. The disapproval notice published on February 25, 1974, 40 CFR 52.22 (39 FR 7276) for maintenance of standards remains in effect. Additional analyses being conducted with regard to maintenance of standards and designations of air quality maintenance areas which affect the strategy for particulate matter in Arkansas will be published in the future. Also, future evaluations will be made regarding the attainment and maintenance of the twenty-four hour, short term NAAQS. As stated above, the Administrator is addressing only the long term, annual geometric mean, and the intention is to propose approval of only the attainment of the annual standard at this time. The short term particulate matter standard in Arkansas as well as other states will be considered under separate publication at a later date.

While the Administrator recognizes the submittal of section 1 through section 10 of the State Implementation Plan, it should be pointed out that the proposed approval does not cover the delegation of authority to enforce Federal requirements. Any reference to the delegation of authority of new source performance standards or other Federal enforcement requirements should be deleted. In particular, section 2 speaks of qualification for delegation to the Arkansas Department of Pollution Control and Ecology by the United States Environmental Protection Agency of authority to enforce Federal requirements as one of the purposes of the plan revision. The proposed approval does not include delegations of authority and any such delegations, if warranted, will be handled under separate evaluations and publications at a later date.

The strategy and regulations as submitted by the Arkansas Department of Pollution Control and Ecology are available for public inspection during normal business hours at the offices of:

Environmental Protection Agency, Region VI, 1600 Patterson Street, Dallas, Texas 75201.

Environmental Protection Agency, Public Information Reference Unit, Room 2932, EPA Library, 401 "M" Street SW., Washington, D.C. 20460.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209.

On May 2, 1975 the Arkansas plan revision was subjected to public hearings in accordance with 40 CFR 51.4. While the Administrator does not plan on further hearings regarding the Arkansas proposed revisions to the State Implementation Plan, interested persons may still participate in this rulemaking by submitting written comments to:

Regional Administrator, Environmental Protection Agency, Region VI, 1600 Patterson Street, Dallas, Texas 75201.

Relevant comments received on or before May 12, 1976 will be considered.

This notice of proposed rulemaking is issued under the authority of section 110 (a) of the Clean Air Act, as amended, 42 USC 1857c-5.

JOHN C. WHITE,
Regional Administrator,
Environmental Protection Agency.

Subpart E—Arkansas

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 52.170, paragraph (c) is amended by adding a paragraph (3) as follows:

§ 52.170 Identification of Plan.

* * * * *

(c) * * *

(4) June 27, 1975, Sections 1 through 10 of the Regulations and Strategy of the Arkansas Plan of Implementation for Air Pollution Control.

§ 52.173 [Reserved]

2. Section 52.173 is revoked.

[FR Doc.76-10483 Filed 4-9-76;8:45 am]

notices

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

DEPARTMENT OF JUSTICE

IMPORTER OF TETRAHYDROCANNABINOLS

Application; Correction

On March 4, 1976, Notice was published in the FEDERAL REGISTER (Vol. 41, No. 44) that on September 9, 1975, B. David Halpern, Polysciences, Inc., Paul Valley Industrial Park, Warrington, PA 18976, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class controlled substance in schedule I, for the importation of unique isomers and semi-synthetic manufactures for supply to researchers and analytical laboratories as standards. That Notice should read tetrahydrocannabinols instead of marihuana.

Comments, objections and requests for a hearing are extended to May 17, 1976.

Dated: April 6, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-10461 Filed 4-9-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states: "The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substances in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;"

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on March 10, 1976, Regis Chemical Company, 8210 N. Austin Avenue, Morton Grove, Illinois 60053, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of mescaline, a basic class of controlled substance in schedule I.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with Section 1301.43 (a) of Title 21 of the CFR, notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such firm, and any existing registered bulk manufacturer of mescaline, may file written comments on or objections to the issuance of such registration and may, at the same time, file written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than May 17, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dated: April 6, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-10463 Filed 4-9-76;8:45 am]

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 19, 1976, Sandoz, Inc., Sandoz Pharmaceuticals, 59 Route 10, East Hanover, New Jersey 07936, made application to the Drug Enforcement Administration to be registered as an importer of codeine, a basic class of controlled substance in schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than May 17, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 6, 1976.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.76-10462 Filed 4-9-76;8:45 am]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the National Advisory Committee on Criminal Justice Standards and Goals.

The National Advisory Committee will be meeting at the Nassau Inn, Princeton, New Jersey on May 1, 2, and 3, 1976. The meeting will be open to the public.

Discussion will focus on the progress and review of the individual task forces, which are: (1) Disorders and Terrorism; (2) Juvenile Justice and Delinquency Prevention; (3) Organized Crime; (4) Private Security; (5) Research and Development.

Meeting Times: May 1—10 a.m.-6 p.m., May 2—9 a.m.-6 p.m., May 3—9 a.m.-5 p.m.

For further information, contact William T. Archey, Director, Policy Analysis

Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.76-10446 Filed 4-9-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the Organized Crime Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Organized Crime Task Force will be meeting at the Rossyln Hotel, 1500 Wilson Blvd., Arlington, Virginia on May 4, 1976. The meeting will be open to the public.

Discussion will focus on the review and final development of the entire report on organized crime with specific emphasis on Section 1 (Organized Crime in America); Chapter 9, Executive and Legislative Responsibilities; and Section 3, Recommendations.

Meeting Times: May 4—9 a.m.–9p.m., May 5—9 a.m.–5 p.m.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.76-10447 Filed 4-9-76;8:45 am]

DEPARTMENT OF THE INTERIOR

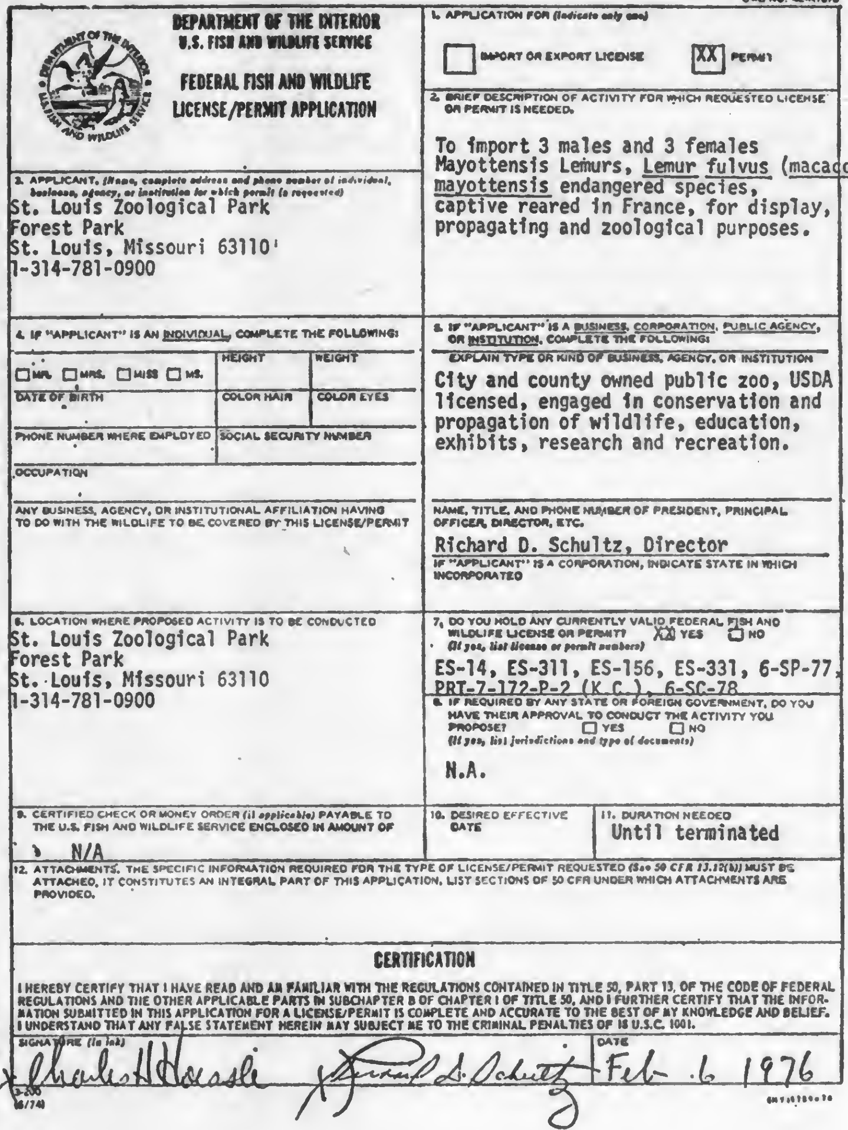
Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110, Richard D. Schultz, Director.



OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*indicate only one*)
☐ IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To import 3 males and 3 females Mayottensis Lemurs, Lemur fulvus (macaco) mayottensis endangered species, captive reared in France, for display, propagating and zoological purposes.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
City and county owned public zoo, USDA licensed, engaged in conservation and propagation of wildlife, education, exhibits, research and recreation.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Richard D. Schultz, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [XX] YES ☐ NO
(*If yes, list license or permit numbers*)
ES-14, ES-311, ES-156, ES-331, 6-SP-77, PRT-7-172-P-2 (K.C.), 6-SC-78

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
N.A.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE

11. DURATION NEEDED
Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*in ink*) Charles H Hoessle   Richard D. Schultz | DATE Feb. 6 1976

3-200
(6/74)

FEBRUARY 6, 1976.

Mr. LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service, Law Enforcement Division, U.S. Department of the Interior, Washington, D.C.

DEAR MR. GREENWALT: The St. Louis Zoological Park hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. We submit the following information pursuant to Sections 13.12 of Volume 39, No. 3 and 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

1. The request is for permit to import three (3) males and three (3) females Mayottensis Lemurs, *Lemur fulvus (macaco) mayottensis*, captive born 1973 to 1975.

2. As documented in the correspondence (see 7) from Simon de Bendern the specimens were captive born and *will not* be a drain on the wild population.

3. Not applicable.

4. Captive born at "Les Cypris", Cap Martin, France.

5. The lemurs will be maintained at the St. Louis Zoological Park, St. Louis, Missouri 63110. A current zoo album, an annual reports and other appropriate materials are on file with U.S. Fish and Wildlife Service, Law Enforcement Division. (Please consult Endangered Species application and materials submitted June 18, 1975.)

6. (i.) Photos and diagrams enclosed.

(ii.) The curatorial staff and keepers of the Primate Unit have been recognized by their peers as experts in lemur biology, propagation and management. See enclosed material.

(iii.) The St. Louis Zoo is currently involved in cooperative breeding programs, studbook maintenance, as well as I.S.I.S. in an effort to enhance captive propagation of *all* zoo species, *especially* those of rare and endangered status.

(iv.) The lemurs will be shipped in crates exceeding the minimum standards of the I.A.T.A. live animal regulations (see enclosure).

(v.) See enclosure. As is obvious in the summary enclosed loss of new born top the list. More seclusion for pregnant females during birth times has corrected this problem.

7. See enclosure.

8. (i.) The lemurs will be maintained for propagation, educational and behavioral study purposes (see enclosure).

(ii.) By applying the same standard of excellence in animal management achieved with our successful black lemur colony.

(iii.) Studies of reproductive behavior will be conducted. Progeny resulting from propagational efforts will be available to cooperating institutions to insure future captive populations, thus relieving pressures on wild populations.

(iv.) Autopsies will be performed on deceased specimens and, if desirable, their remains will be made available to appropriate public educational facilities (see enclosure).

A completed form 3-200 as well as other documents regarding this request are enclosed. We sincerely hope that we can receive your consideration on our request at your earliest convenience.

Sincerely yours,

CHARLES H. HOESSLE,
*General Curator,
Deputy Director.*

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received within 30 days of the date of publication will be considered.

Dated: April 4, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement,
U.S. Fish and Wildlife Service.*

[FR Doc.76-10432 Filed 4-9-76;8:45 am]

Geological Survey

SAFETY DEVICE INVENTORY REPORTING

Gulf of Mexico Area

Notice is herby given that the U.S. Geological Survey intends to publish a Notice to Lessees and Operators requiring them to furnish certain data on a Safety Device Inventory Reporting form.

This is the first phase of a three part program designed to obtain information relative to safety devices used in offshore operations.

The User's Instruction Booklet and form which is referenced in the proposed Notice may be obtained by writing to:

Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Comments relative to material contained in the proposed Notice to Lessees and Operators and/or the proposed form are solicited. Interested parties may submit written comments to the Conservation Division at the aforementioned address on or before May 24, 1976.

W. A. RADLINSKY,
Acting Director.

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF, GULF OF MEXICO AREA

SAFETY DEVICE INVENTORY REPORTING SYSTEM

As a part of its total effort to ensure reduction in the probability of accidents and pollution during oil and gas operations in the Outer Continental Shelf (OCS), the U.S. Geological Survey is implementing an OCS Safety and Pollution Control Device Failure Reporting and Information Exchange Program. The program consists of three phases: The Safety Device Inventory Reporting System, the Failure and Activity Reporting System, and the Generation of Statistical Reports. This Notice sets forth requirements for the operator's input to the Safety Device Inventory phase.

The enclosed inventory package contains the OCS Safety Device Inventory Reporting form and the User's Instruction Booklet. The data which is requested on the form is to be provided by the operator for each of the following active devices:

DEVICE--NAME

Burner Flame Detector
Check Valve
Combustible Gas Detector
Emergency Shutdown Valve
Flow Sensor—High, Low, Hi/Lo
Fusible Material
Level Sensor—High, Low, Hi/Lo
Pressure Sensor—High, Low, Hi/Lo
Relief Valve
Rupture Disk
Shutdown Valve
Subsurface Safety Valve
Surface Safety Valve
Temperature Sensor—High, Low, Hi/Lo
Valve Actuator

This information is being collected under the authority of the safety device information and history requirements of OCS Orders 5 and 8. Submittal as requested will provide a computerized format for the compilation of a safety device inventory for all OCS production platforms, and when failures occur, it will facilitate the maintenance of safety device histories. A computerized output of statistical reports will be possible using this bank of information.

By drawing upon the experiences of operators of OCS leases, the U.S. Geological Survey will be able to provide certain information, in the form of periodic reports, on the survivability of common makes and models of safety devices, on the common causes of failures, on problem areas experiencing high failure rates, and on a variety of other failure-related subjects. These summaries will be available to the operators, to the equipment manufacturers, and to interested outside parties. In addition, a variety of cumulative device failure history reports will be printed for numerous applications. These data can be utilized to (1) identify failure-prone equipment even though failures have not yet occurred, (2) inspect installed equipment to determine whether or not conditions exist which have resulted in failures of like items at other locations, (3) improve design of equipment and related testing, operational and preventive maintenance procedures, and (4) identify the more reliable safety devices.

The data which is requested herein is to be provided by the operator on the inventory reporting forms by either field or home office personnel. The inventory can be conducted by any means which produces, for every platform, the results stipulated in the instructions. The completed forms for each platform are to be submitted by the operator to the Oil and Gas Supervisor, Field Operations, no later than January 3, 1977. Updates of the initial inventory shall be submitted every six months.

For periodic updates of the information contained on the forms, the U.S. Geological Survey will provide computer printouts of the information which the operator previously provided so that he can revalidate any data which is not current. Subsequent major equipment changes or new platform installations are to be inventoried on the OCS Safety Device Inventory Reporting form in the same manner as the original existing platform inventories.

In summary, the information which is requested on the OCS Safety Device Inventory Reporting form will be utilized in a program to improve safety and pollution prevention in OCS operations. This inventory is the first step in the implementation of the system. The failure and activity reporting system will follow. Ultimately, the reports produced from the inventory and failure data will aid the operators in improving the quality and service life of their safety devices.

D. W. SOLANAS,
Oil and Gas Supervisor.

[FR Doc.76-10431 Filed 4-9-76;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of Routine Uses

By notice published in the FEDERAL REGISTER on February 18, 1976 (41 FR 7437), the Department proposed adoption of an additional routine use for the Health Unit Medical Records System (Interior/Office of the Secretary—23). Notices published in the FEDERAL REGISTER for February 24, 1976 (41 FR 8087) proposed adoption of an additional routine for another system of records, the Bureau of Indian Affairs Payroll System (Interior/BIA—17), and the modification of one of the routine uses for the Emergency Defense Mobilization Files System (Interior/Office of the Secretary—51).

No comments on these proposals have been received. Accordingly, pursuant to 5 U.S.C. 301 and 552a and 43 U.S.C. 1461, the proposals are adopted without change.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 6, 1976.

[FR Doc.76-10476 Filed 4-9-76;8.45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETINGS

Public Meetings

Pursuant to the provisions of § 10(a) (2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Meetings of the committee will be held on (1) April 27, 1976, at 10:30 a.m. in the A.B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, and (2) May 6, 1976, at 10:30 a.m. in the Driftwood Inn, 3150 Ocean Drive, Vero Beach, Florida.

The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: April 7, 1976.

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

[FR Doc.76-10482 Filed 4-9-76;8:45 am]

Forest Service

OFF-ROAD VEHICLE POLICY ALLEGHENY NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement on the Off-Road Vehicle Policy for the Allegheny National Forest, USDA-FS-R9-DES-ADM-76-04.

The environmental statement concerns the proposed management policy for off-road vehicle use on National Forest lands in Elk, Forest, McKean, and Warren counties in northwestern Pennsylvania.

This draft environmental statement was transmitted to CEQ on April 5, 1976.

Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
USDA, Forest Service, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365.

A limited number of single copies are available upon request to Forest Supervisor, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Written comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Written comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365. Written comments must be received by June 4, 1976, in order to be considered in the preparation of the final environmental statement.

CURTIS L. SMITH,
Acting Regional Forester.

APRIL 5, 1976.

[FR Doc.76-10445 Filed 4-9-76;8:45 am]

Soil Conservation Service

MILL BROOK WATERSHED PROJECT, NEW YORK

Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Mill Brook Watershed Project, Chenango County, New York, USDA-SCS-EIS-WS-(ADM)-75-1(F)-NY.

The EIS concerns a plan for watershed protection, flood prevention, and fish and wildlife development in Chenango County, New York.

The planned works of improvement provide for conservation land treatment measures on 923 acres, one floodwater retarding structure, one multiple-purpose structure, one public fish and wildlife development, and approximately 0.25 mile of channel work.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 700 East Water Street, Room 400, Syracuse, New York 13210.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: April 5, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-10419 Filed 4-9-76;8:45 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

Second Quarterly Estimates

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would

equal or exceed 110 percent of the estimated quantity of such articles prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following second quarterly estimates for 1976 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1976 is 1,120.9 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1976 is 1,223 million pounds.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1976 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 88-482 at this time.

This estimate is based on information furnished by the Department of State that participating countries have agreed on essential elements of the export restraint program which will limit imports to 1,223 million pounds. Formal agreements with participating countries are expected to be concluded shortly. Were it not for the expected voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C., this 6th day of April 1976.

EARL L. BUTZ,
Secretary.

[FR Doc.76-10424 Filed 4-9-76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

BRIDGEWATER SHOE CORP.

Petition for a Determination Under the Trade Act of 1974

A petition by Bridgewater Shoe Corporation, 42 Spring Street, Bridgewater, Massachusetts 02324, a producer of men's welt shoes, was accepted for filing on April 5, 1976, under Section 251 of the Trade Act of 1974 (P.L. 93-618). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business April 22, 1976.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-10411 Filed 4-9-76;8:45 am]

National Bureau of Standards

FIVE COMMERCIAL STANDARDS FOR JEWELRY MARKING

Voluntary Product Standards

This is notice that the following five Commercial Standards are being republished in the current Voluntary Product Standard format, under the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970):

CS 47-34, "Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases" (PS 67-76).

CS 51-35, "Marking Articles Made of Silver in Combination with Gold" (PS 68-76).

CS 66-38, "Marking of Articles Made Wholly or in Part of Platinum" (PS 69-76).

CS 67-38, "Marking Articles Made of Karat Gold" (PS 70-76).

CS 118-44, "Marking of Jewelry and Novelties of Silver" (PS 71-76).

The new Voluntary Product Standard designations are given in parentheses. Titles remain unchanged.

Dated: April 6, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76 10414 Filed 4-9-76;8:45 am]

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 9:00 a.m. to 1:00 p.m. on Thursday, June 3, 1976, in Dining Rooms A & B, Administration Building, of the National Bureau of Standards, in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal Information Processing Standards.

The public will be permitted to attend, to file written statements, and, to the extent time permits, to present oral statements. Persons planning to attend should notify Robert E. Rountree, Jr., Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (phone 301-921-3157).

Dated: April 6, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76-10415 Filed 4-9-76;8:45 am]

National Oceanic and Atmospheric Administration

NORTHWEST FISHERIES CENTER

Notice of Receipt of Application for a Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington 98112; to conduct scientific research on pinnipeds in the North Pacific Ocean and the Bering, Chukchi and Beaufort Seas.

The proposed research will involve the following activities to be conducted throughout the above mentioned areas over a period of five years:

1. Take, by killing, 100 ice-breeding harbor seals (*Phoca vitulina largha*), 100 Pacific harbor seals (*Phoca vitulina richardii*), 100 ringed seals (*Pusa hispida*), 100 ribbon seals (*Histriophoca fasciata*), 100 bearded seals (*Erignathus barbatus*) and 250 northern sea lions (*Eumetopias jubatus*);

2. Tag and/or mark 2500 Pacific harbor seals (*Phoca vitulina richardii*) and 2500 northern sea lions (*Eumetopias jubatus*);

3. Conduct aerial, vessel and land surveys of pinniped populations, breeding rookeries and hauling grounds; and

4. Collect dead marine mammals of any species which are found dead at sea, washed ashore, or entangled in fishing gear.

The proposed research is directed towards obtaining data on predator-prey relationships, reproductive condition, food habits, sex and age, and population distributions, in order to: (1) identify the species of marine mammals in the eastern North Pacific Ocean, Bering Sea, Chukchi Sea and Beaufort Sea; (2) determine seasonal distribution patterns; (3) identify breeding and pupping rookeries, and hauling grounds and feeding areas where oil spills may be critical to survival of species; and (4) obtain information on numbers and seasonal abundance of animals.

Documents submitted in connection with this application are available in the following Offices: Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on these applications should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. The holding of such hearing is at the discretion of the Director.

Dated: April 6, 1976.

HARVEY M. HUTCHINGS,
Acting Associate, Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-10416 Filed 4-9-76;8:45 am]

National Fire Prevention and Control Administration

NATIONAL FIRE SAFETY AND RESEARCH OFFICE

Open Meeting

The Federal Fire Prevention and Control Act of 1974 established the National Fire Prevention and Control Administration. Included in the mandated responsibilities of this Administration was the responsibility of conducting a continuing program of development, testing and evaluation of equipment for use by the Nation's fire, rescue, and civil defense services. It was further mandated that those activities include the development of purchase specifications, standards, and acceptance and validation test procedures for all such equipment. In carrying out this responsibility the National Fire Prevention and Control Administration, in conjunction with the National Bureau of Standards has conducted a program aimed at improving the performance criteria of fire fighters' helmets. As a result, the National Fire Safety and Research Office of the National Fire Prevention and Control Administration will hold an open meeting to discuss the final draft report of a study entitled: "Performance Criteria For Fire Fighters' Helmets".

The first draft of this report was distributed widely, upon request, to members of the fire fighting community, including the fire services, relevant manufacturers and materials suppliers, associations, and regulatory and standards making bodies for comments. The object of this meeting will be to present an analysis of the comments received by National Fire Prevention and Control Administration and the National Bureau of Standards as a result of the wide distribution of the report.

The meeting will be held in conjunction with the 80th Annual Meeting of the National Fire Protection Association at Houston, Texas.

Date and Place: May 18, 1976, Live Oaks Room, Hyatt Regency Hotel, Houston, Texas. Time: 2:00 p.m.

Attendance and participation shall be on a first-come first-served basis. Attendance and participation at the open meeting is not limited to those attendees of the NFPA's Annual Meeting. Oral presentations shall be limited to 10 minutes per comment with additional time being allowed by the Chairman as time permits.

Dated: April 5, 1976.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc.76-10472 Filed 4-9-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION AND STATE ADVISORY COUNCILS ON VOCATIONAL EDUCATION

Meeting

Notice of Public Meeting of the National Advisory Council on Vocational Education and a joint meeting with the State Advisory Councils on Vocational Education.

Notice is hereby given, pursuant to PL-92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on May 4, 1976 from 7:00 P.M. to 9:00 P.M., local time and on May 5, 1976 from 9:00 A.M. to 5:00 P.M., local time; and the joint meeting with the State Advisory Councils on Vocational Education will be held on May 5, 1976 from 7:30 P.M. to 8:30 P.M., local time; on May 6, 1976 from 9:00 A.M. to 5:00 P.M., local time and on May 7, 1976 from 8:00 A.M. to 12:00 Noon, local time at the Hyatt Regency, 400 New Jersey Avenue, N.W., Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the National Advisory Council on Vocational Education and the joint meeting with the State Advisory Councils on Vocational Education shall be open to the public. The proposed agenda includes:

MAY 4, 1976

7 P.M.–9 P.M.

NACVE Committee Meetings:
- Interagency Committee
- Program Review and Evaluation Research Committee
- Legislation and Appropriations

Each Committee will be briefed by staff on current activities and will discuss items to be presented at May 5, 1976 Council meeting.

MAY 5, 1976

9 A.M.–5 P.M.

Report of the Executive Director/NACVE
Report of the Chairperson
Report from Office of Education
Report from NIE
Discussion of Legislation
Presentation on Military Vocational Education
Committee Reports
Report on Articulation Study

7:30 P.M.–8:30 P.M.

Meeting with SACVE Chairpersons and Executive Directors

MAY 6, 1976

9 A.M.–5 P.M.

NACVE/SACVE Meeting:
- Keynote Address—Dr. T. H. Bell
- Congressional briefing on status of Vocational Education Legislation
- NACVE Report
- View of SACVE role from eyes of other agencies
- Discussion groups on the effectiveness of SACVE's

MAY 7, 1976

8 A.M.–12 NOON

Public Information Project presentation
Discussion groups on the effectiveness of SACVE's
Briefing and discussion of planning for Fall Joint Meeting—National Bicentennial Conference on Vocational Education

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425—13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on March 7, 1976.

REGINALD PETTY,
Executive Director.

[FR Doc.76-10417 Filed 4-9-76;8:45 am]

Food and Drug Administration

[Docket No. 76G-0086]

THE CLARID CO.

Notice of Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72

Stat. 1784–1786 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (21 CFR 121.-40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 6G0066) has been filed by The Clarid Co., 9251 Burdine St. Houston, TX 77035 and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that naturally occurring silica glass for use as a filter aid for cooking oils is generally recognized as safe (GRAS).

Any petition which meets the format requirements outlined in 21 CFR 121.40 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before June 11, 1976, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: April 5, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76–10413 Filed 4–9–76;8:45 am]

Office of the Secretary

OFFICE OF REGIONAL DIRECTOR, REGION IX

Statement of Organization, Function, and Delegations of Authority

Part 1, Chapter 1E89, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 F.R. 16120–16123; 4/9/75) is hereby amended to delete 1.K.3. b., c., d., and 1.K.4. a., b., and c., and to add:

(1) an amended 1.C. "Executive Secretariat"

(2) a new 1.K.3.b. "Administrative Services Division"

(3) a new 1.K.3.c. "Management Analysis and Systems Division"

(4) a new 1.K.4.a. "Division of Regional Operations for Facilities Engineering and Construction"

(5) a new 1.K.4.b. "Regional Environmental Office"

(6) a new section 1.M. "Office of Federal Property Assistance"

(7) "Office of Federal Property Assistance" at the end of Sec. 1E89.10. The amended statement reads as follows:

SEC. 1E89.10 ORGANIZATION

The Office of the Regional Director, Region IX, is under the direction and control of the Regional Director who reports directly to the Secretary and Under Secretary, and consists of the following: Deputy Regional Director; Office of the Regional Attorney; Office of Equal Employment Oportunity; Executive Secretariat; Office for Civil Rights; Office of Audit; Office of ARD for Public Affairs; Office of ARD for Planning and Evaluation; Office of ARD for Intergovernmental Affairs; Office of ARD for Financial Management; Office of ARD for Administration and Management; Office of ARD for Human Development; Office of Long Term Care Standards Enforcement; and Office of Federal Property Assistance.

The amended Section 1.C. should read as follows:

C. Executive Secretariat (1E8905). 1. Serves as the principal staff office for the control of all official matters for the Regional Director.

2. Manages the Regional Director's correspondence control system. Determines the assignment of responsibility on action correspondence. Reviews prepared correspondence for timeliness, technical accuracy, responsiveness, appropriate clearances, and consistency with Regional Director's and Department's objectives.

3. Controls all official matters requiring the attention or approval of the Regional Director. Assigns responsibility for necessary staff work on action requests. Reviews and analyzes memoranda and other documents for adequacy of coordination and clearances, clarity and conciseness of presentation, timeliness, necessary followthrough, and other elements of completed staff action.

4. Operates a comprehensive system for tracking action items to ensure timely and quality responses from all regional components. Monitors the document flow and Department activities to analyze, evaluate, advise, and promote management improvements, and to anticipate potential problems or inconsistencies with the views of the Regional Director and the Department. Works with all appropriate offices to improve the quality of decision papers, correspondences and documents, and to meet Department standards for timeliness and responsiveness.

5. Facilitates the internal processes of coordination and communication. Assesses document control and flow to identify problem areas for communication systems improvement. Ensures timely dissemination of key Departmental policy documents. Advises regional components on the information requirements of the Regional Director.

6. Communicates Regional Director decisions and clarifies related provisions. Monitors their implementation by obtaining periodic status reports on selected key issues and projects, ensures proper compliance with past decisions, and highlights problem areas for renewed Regional Director attention. Attends significant Regional Director meetings and follows up on decisions and requests to assure expeditious implementation and response.

7. Directs the activities of the Regional Management Council. Identifies issues of region-wide interest and concern for Council attention and discussion, prepares or coordinates the preparation of position papers, establishes agenda, and assures necessary follow-through on Council decisions and requests.

The new Section 1.K. should read as follows:

K. Office of the Assistant Regional Director for Administration and Management (1E8911). 1. Serves as the principal adviser to the Regional Director on and directs or participates actively in all aspects of administrative management.

2. Plans, develops, coordinates and implements internal regional policy regarding administrative services and management practices with the POCs in the Regional Office. These include policies in the following areas: Office space allocation, travel, personnel actions, management surveys, organization, management information, security travel, natural disaster, procurement, duplicating services, and a variety of other key administration and management policies.

3. Administers the following operations related to provision of regional administration and management services to the agencies: (a) Regional Personnel Division; (b) Administrative Services Division; (c) Management Analysis and Systems Division.

4. Administers the following operations which provide support to Regional agencies: (a) Division of Regional Operations for Facilities Engineering and Construction; (b) Regional Environmental Division.

5. Represents the Regional Director in labor-management relations including contract negotiations and consultation with regional labor union representatives.

6. Provides advice and counsel to all regional managers on administration and management concerns in the region.

The new Section 1.M. should read as follows:

M. Office of Federal Property Assistance (1E8906). 1. Serves as principal adviser in the region on all matters relating to Federal surplus property, real and personal.

2. Allocates Federal surplus personal property to State agencies for distribution to eligible institutions and organizations.

3. Transfers Federal surplus real property to eligible education and health organizations.

4. Exercises compliance responsibility of the donee for both personal and real property transfers.

5. Provides technical assistance and direction to State agencies under the Federal Property Assistance Program, including the approval of State plans of operation.

Dated: April 2, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76–10448 Filed 4–9–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-514]

DESERT VISTA TRAILS

Hearing

In the matter of Desert Vista Trails, OILSR No. 0-4217-02-794, Doc. No. 76-37-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Desert Vita Trails, Dynamite Partnership and Howard Lavitt, Authorized Agent, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued February 10, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Desert Vista Trails, Dynamite Partnership located in Maricopa County which became effective August 18, 1975 contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 3, 1976, in response to the Suspension Order.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the povisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), It is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on May 12, 1976.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 2, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: March 12, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-10470 Filed 4-9-76;8:45 am]

[Docket No. N-76-515]

DESERT FOOTHILLS ESTATES AND THE FOOTHILLS COUNTRY CLUB ESTATES

Hearing

In the matter of Desert Foothills Estates and the Foothills Country Club Estates, OILSR No. 0-2468-02-500, Doc. No. 76-40-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Desert Foothills Estate, the Foothills Country Club Estates, H. & S. Developers, Inc. and Henry H. Schechert, President, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued February 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 17.10.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Desert Foothills Estates and the Foothills Country Club Estates, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 24, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on May 11, 1976.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before April 28, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: March 12, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-10471 Filed 4-9-76;8:45 am]

[Docket No. D-76-414]

ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

Delegation of Authority

Title I of the Housing and Community Development Act of 1974 establishes the Community Development Block Grant Program. Section 109 provides that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds on the grounds of race, color, national origin or sex and authorizes the Secretary to take action whenever a determination is made that a recipient has failed to comply with the nondiscrimination provisions.

With certain exceptions, the authority to administer and enforce the nondiscrimination requirements of Title I is being delegated to the Assistant Secretary for Fair Housing and Equal Opportunity.

Section A. *Authority Delegated.* The Assistant Secretary for Fair Housing and Equal Opportunity is authorized to exercise the power and authority of the Secretary under Title I of the Housing and Community Development Act of 1974 with respect to the administration and enforcement of the nondiscrimination provisions contained in Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) and any applicable regulations issued thereunder. No procedure for effecting compliance where there appears to be noncompliance, shall be initiated under Section 109(b)(3) by the Assistant Secretary for Fair House and Equal Opportunity without the concurrence of the Secretary, and provided no decision to terminate, reduce or limit the availability of payments under Section 111(a) (1), (2) or (3) shall be final until approved by the Secretary.

Section B. *Authority Excepted.* There is excepted from the authority delegated under Section A: (1) The power and authority of the Secretary with respect to Section 111 of the Housing and Community Development Act of 1974 (42 U.S.C. 5311) as it relates to actions other than those described in Section 109 of the Act; (2) The power to sue and be sued.

(Sec. 7(d), Department of HUD Act, 42 USC 3535(d).)

Effective date. This delegation of authority is effective April 12, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-10433 Filed 4-9-76;8:45 am]

Office of the Secretary

[Docket No. D-76-421]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

Delegation of Authority

The delegation of authority of February 5, 1975, published at 40 FR 5385, did

not delegate to any Department official the power and authority of the Secretary under Section 109 of the Housing and Community Development Act of 1974. It has been determined that the Assistant Secretary for Fair Housing and Equal Opportunity with certain exceptions should have such authority. Accordingly, the delegation of authority of February 5, 1975, published at 40 FR 5385, is amended by deleting the word "such" in the eleventh (11) line of Section B.4. and by adding after the word "sections" in the same line the phrase "104(d) with respect to the power to make audits and 111 with respect to remedies for noncompliance * * *"

Effective date: This delegation of authority is effective April 12, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-10436 Filed 4-9-76;8:45 am]

[Docket No. D-76-420]

ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH AND THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

Delegation of Authority

The delegation of authority of July 18, 1975, published at 40 FR 30306, did not delegate to any Department official the power and authority of the Secretary under Section 109 of the Housing and Community Development Act of 1974. It has been determined that the Assistant Secretary for Fair Housing and Equal Opportunity with certain exceptions should have such authority. Accordingly, the delegation of authority of July 18, 1975, published at 40 FR 30306, is amended by deleting the word "such" in the eleventh (11) line of Section B.3. and by adding after the word "sections" in the same line the phrase "104(d) with respect to the power to make audits and 111 with respect to remedies for noncompliance * * *"

Effective date: This delegation of authority is effective April 12, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-10435 Filed 4-9-76;8:45 am]

[Docket No. D-76-419]

NEW COMMUNITY DEVELOPMENT CORPORATION: ADMINISTRATOR, NEW COMMUNITIES ADMINISTRATION; AND ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

Delegation of Authority

The delegation af authority of June 27, 1975, published at 40 FR 27286, did not delegate to any Department official the power and authority of the Secretary under Section 109 of the Housing and Community Development Act of 1974. It has been determined that the Assistant Secretary for Fair Housing and Equal Opportunity with certain exceptions should have such authority. Accordingly, the delegation of authority of June 27, 1975, published at 40 FR 27286, is amended by deleting the word "such" in the eleventh (11) line of Section B.3. and by adding after the word "sections" in the same line the phrase "104(d) with respect to the power to make audits and 111 with respect to remedies for noncompliance * * *"

Effective date: This delegation of authority is effective April 12, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-10434 Filed 4-9-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-066]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Open Meeting

The Chemical Transportation Industry Advisory Committee Task Group on Liquefied Gas Facilities will conduct an open meeting on 28 and 29 April 1976, in Room 8440 of the Nassif Building, 400 7th Street S.W., Washington, D.C. The meeting is scheduled to begin at 9:30 a.m.

The purpose of the meeting is to discuss and review the Task Group's working paper on liquefied gas facilities and other appropriate matters that may be brought before the task group.

The Coast Guard Chemical Transportation Industry Advisory Committee was established to provide the Commandant of the Coast Guard advice and consultation with respect to safe water transportation of hazardous materials.

Members of this committee serve voluntarily without compensation from the Federal Government for either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to:

Mr. W. E. McConnaughey, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590.

or by calling (202) 426-2306.

This notice is issued under section 10 (a) of the Federal Advisory Committee Act (P.L. 92-463, 96 Stat. 70, 5 U.S.C. App. I).

Dated: April 6, 1976.

W. M. BENKERT,
RAdm, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-10453 Filed 4-9-76;8:45 am]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Cancellation of Meeting

Notice is hereby given that the meeting of Radio Technical Commission for Aeronautics (RTCA), Special Committee 126, scheduled for April 13, 1976, by the RTCA Executive Committee at its public meeting on March 19, 1976, "in the event it was needed," is cancelled as not needed. Resolving the inconsistencies noted by the Executive Committee in the SC-126 Final Draft Report were found not to involve substantive changes. Notice of the April 13, 1976, meeting appeared in the FEDERAL REGISTER on March 25, 1976 (41 FR 12332).

Issued in Washington on April 1, 1976.

EDGAR A. POST,
Designated Officer.

[FR Doc.76-10405 Filed 4-9-76;8:45 am]

Federal Railroad Administration

TRACK SAFETY STANDARDS

Notice of Granting of Waivers

Pursuant to 45 U.S.C. 431(c), notice is hereby given that the following railroads have been granted waivers from compliance with certain requirements imposed by the Federal Railroad Administration regulations which establish Track Safety Standards (49 CFR Part 213) and Freight Car Safety Standards (49 CFR Part 215).

Prior to evaluating these waiver petitions, the Federal Railroad Administration provided public notice and opportunities for public comment. Investigations were also conducted in each proceeding, to ascertain the effect of granting the requested exemption. The results of those investigations and any comments which had been submitted were considered in the decision making process.

In reaching a decision to grant each of these waivers from compliance, the Federal Railroad Administration found that good cause to grant the relief had been established and, that the exemption was in the public interest and consistent with railroad safety.

Waivers were granted to the following railroads:

Long Island Railroad Company (LIRR), Waiver Petition RST-74-1. Public notice concerning this proceeding was published in the FEDERAL REGISTER (39 FR 43100). The exemption will allow the LIRR to substitute a quarterly inspection by a track geometry measuring car for one of the weekly track inspections.

State of Vermont, Waiver Petition RST-75-2. Public notice concerning the proceeding was published in the FEDERAL REGISTER (40 FR 8983). The waiver was requested on behalf of the Saint Johnsbury & Lamoille County Railroad, Inc., a private corporation under contract with the State to provide freight service and to maintain facilities. It exempts petitioner from certain requirements prescribed by the Track Safety Standards relating to track geometry, to permit operations to continue over this trackage until a track restoration program is completed.

Burlington Northern (BN), Waiver Petition RSFC-74-12. Public notice concerning this proceeding was published

in the FEDERAL REGISTER (39 FR 39592). The waiver will apply to approximately 400 flat cars used exclusively for hauling logs. The cars are equipped with cast iron wheels, a prohibited component, which could not be immediately replaced due to a shortage of replacement wheels.

Butte, Anaconda and Pacific Railway Company (BA&P), Waiver Petition RSFC-74-20. Public notice concerning this proceeding was published in the FEDERAL REGISTER (40 FR 3488). The waiver will apply to a group of approximately 250 hopper cars which are equipped with prohibited roller bearings. The waiver was granted on terms and conditions which restrict the operation of these cars to the lines of the BA&P, and require certain unique maintenance procedures to ensure the safe operation of the equipment.

Texas, Oklahoma and Eastern Railroad Company (TO&E), Waiver Petition RSFC-74-24. Public notice concerning this proceeding was published in the FEDERAL REGISTER (40 FR 30734). The waiver will apply to approximately 200 freight cars equipped with one or more pairs of cast iron wheels, a prohibited component. The cars are used in low speed lumber operations, over short distances, and the waiver is conditioned upon the cars remaining in this service.

Chehalis Western Railroad Company, Waiver Petition RSFC-74-27. Public notice concerning this proceeding was published in the FEDERAL REGISTER (40 FR 30734). The waiver will apply to approximately 300 freight cars, which are equipped with one or more prohibited components. These cars are used exclusively in low speed logging operations, over short distances. A program to replace either the cars or the prohibited components is to be completed by December 31, 1976, when the waiver will expire.

Persons interested in obtaining detailed or technical information concerning these decisions should write to the Federal Railroad Administration. All communications concerning these petitions should identify the appropriate docket number and should be submitted to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on April 6, 1976.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.76-10438 Filed 4-9-76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provisions of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93-580), as amended, that hearings related to its proceedings will be held in conjunction with Commission Task Forces, #2, #3, and #4's investigation of Tribal Government, Federal Administration, and Federal, State, and Tribal Jurisdiction.

These hearings are concerning issues relating to tribes and others in the states of Montana and Idaho and are scheduled on April 19, 1976 from 9:30 a.m. to 6:00 p.m., at the Edgewater, 100 Madison, Missoula, Montana.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. These hearings will focus on issues related to the studies of Task Force #2, #3, and #4's investigations of Tribal Government, Federal Administration, and Federal, State, and Tribal Jurisdiction.

Dated: April 8, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76-10947 Filed 4-9-76;8:45 am]

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provisions of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93-580), as amended, that hearings related to its proceedings will be held in conjunction with Commission Task Forces, #2, #3, and #4's investigations of Tribal Government, Federal Administration, and Federal, State, and Tribal Jurisdiction.

These hearings are concerning issues relating to tribes and others in the states of North Dakota, South Dakota, Nebraska, Kansas and Wyoming and are scheduled on April 15 and 16, from 9:30 a.m. to 6:00 p.m., at the Sheraton Inn, 1400 8th Avenue NW, Aberdeen, South Dakota.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. These hearings will focus on issues related to the studies of Task Force #2, #3, and #4's investigations of Tribal Government, Federal Administration, and Federal, State, and Tribal Jurisdiction.

Dated: April 6, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76-10548 Filed 4-9-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76-4-25; Docket 20826 et al; Docket 20826 et al.]

ALASKA AIRLINES, INC. AND WIEN AIR ALASKA, INC.

Amendment of Certificate of Public Convenience

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of April 1976.

Motion of Alaska Airlines, Inc. for amendment of its certificate of public convenience and necessity for Route 124.

Motion of Wien Air Alaska, Inc. for amendment of its certificate of public convenience and necessity for Route 126.

By Order 74-6-21, June 4, 1974, the Board directed Alaska Airlines and Wien Air Alaska to file motions for issuance of an order to show cause why their authority at points no longer receiving certificated service, either directly or through subcontracting arrangements, should not be permanently deleted from the carriers' certificates, pursuant to section 401(g) of the Act. Motions in response to that order were filed by the carriers and, by Order 75-11-54, November 14, 1975, the Board directed all interested persons to show cause why it should not amend the certificates of Alaska and Wien so as to delete a number of points from Alaska's Route 124 and Wien's Route 126. Order 76-2-79, February 23, 1976, made final the tentative findings and conclusions of Order 75-11-54 and amended the carriers' certificates in line with those findings and conclusions,[1] effective April 8, 1976.

It has now come to our attention that, through inadvertence, the order to show cause, Order 75-11-54, was not served upon the Alaskan communities involved, even though ordering paragraph (5) of the order directed that it be served upon all parties of record in the Alaska Service Investigation, Docket 20826. Consequently, in the interests of procedural fairness, we have decided to (a) rescind Order 76-2-79, as amended, which made final the findings and conclusions of Order 75-11-54, (b) cancel the certificates, the issuance of which was directed by Order 76-2-79,[2] and (c) give all interested persons who were not served with Order 75-11-54 and have not already filed objections thereto, 60 days, to run from the date of adoption of this order, to file such responses.

[1] Order 76-2-79 was amended by Order 76-3-73, March 11, 1976.

[2] Thus, the presently effective certificates of Wien and Alaska, issued pursuant to Orders 75-10-35 and 74-11-91, respectively, will remain in effect.

Accordingly, it is ordered, That:

1. Order 76-2-79, February 23, 1976, as amended by Order 76-3-73, March 11, 1976, be and it hereby is rescinded;

2. The certificates of public convenience and necessity issued pursuant to Order 76-2-79 to Alaska Airlines, Inc., and Wien Air Alaska, Inc., be and they hereby are canceled;

3. Any interested person having objections to the issuance of an order making final the tentative findings and conclusions contained in Order 75-11-54, November 14, 1975, and amending the certificates of Alaska Airlines and Wien Air Alaska for Routes 124 and 126, respectively, who was not served with a copy of Order 75-11-54, and has not previously filed such objections, shall, within 60 days of the date of adoption of this order, file with the Board and serve on Alaska Airlines, Wien Air Alaska and the Alaska Transportation Commission a statement of objections;

4. In the event no further objections are filed to Order 75-11-54, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions therein; and

5. This order shall be served upon all parties of record of the Alaska Service Investigation, Docket 20826, and those same parties will also be served with copies of Order 75-11-54 if they have not previously been so served.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-10468 Filed 4-9-76;8:45 am]

[Docket 28194]

EASTERN AIR LINES, INC. AND PIEDMONT AVIATION, INC.

Reassignment of Proceeding of Route Exchange Agreement

This proceeding is hereby reassigned from Adminstrative Law Judge Ronnie A. Yoder to Administrative Law Judge Arthur S. Present. Future communications should be addressed to Judge Present.

The prehearing conference heretofore set for 9:30 a.m., May 18, 1976, in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., (41 F.R. 14575, April 6, 1976), will be conducted by Judge Present and proceed as scheduled.

Dated at Washington, D.C., April 6, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-10466 Filed 4-9-76;8:45 am]

[Docket 28738]

EUGENE HORBACH AND GAC CORP.

Modern Air Transport Purchase Agreement Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 25, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on March 22, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 7, 1976.

[SEAL] RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.76-10465 Filed 4-9-76;8:45 am]

[Docket 27631]

FOREMOST INTERNATIONAL TOURS, INC. AND QANTAS AIRWAYS LTD.

Enforcement Proceeding Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on May 17, 1976, at 10:00 a.m. (local time) in the hearing room of the Hawaii Public Employees' Relations Board located at 550 Halekauwila Street (2nd floor), Honolulu, Hawaii 96813, before the undersigned.

Dated at Washington, D.C., April 7, 1976.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.76-10467 Filed 4-9-76;8:45 am]

[Docket 28970]

TRANS WORLD AIRLINES, INC.

Enforcement Proceeding Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on May 18, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., April 6, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-10464 Filed 4-9-76;8:45 am]

COMPTROLLER OF THE CURRENCY

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document issuing a "Joint Call for Report of Condition of Insured Banks" see FR Doc. 76-10480, Federal Deposit Insurance Corporation appearing in the notices section of this issue of the FEDERAL REGISTER.

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON DEFINITION AND REGULATION OF MARKET INSTRUMENTS

Advisory Committee Meeting

Notice is hereby given, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I., § 10(a), that the Commodity Futures Trading Commission Advisory Committee on Definition and Regulation of Market Instruments ("Advisory Committee on Market Instruments") will conduct an advisory commitee meeting on April 27 and 28, 1976, at the New Executive Office Building, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C., in Room 2008, beginning at 9:30 a.m. each day. The Advisory Committee on Market Instruments was chartered to consider and submit reports and recommendations to the Commission on the following subjects:

(1) Appropriate standards to be utilized by the Commission in regulating forms of transactions that are subject to the Commodity Exchange Act, as amended, including consideration of such matters as: (i) Appropriate standards to be utilized by the Commodity Futures Trading Commission regarding the definition of commodity futures contracts; and (ii) Appropriate restrictions or prohibitions for options relating to commodity transactions and margin or leverage transactions subject to Section 217 of the CFTC Act.

(2) Responsibilities of the Commission over cash commodity markets. This will include consideration of such matters as: (i) Contracts for forward delivery; (ii) Cash market manipulations; and (iii) Data and reporting needs for cash markets.

The summarized agenda for the meeting is as follows: The Committee will seek to approve its recommendations to the Commission will respect to commodity options trading.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to Mrs. Harrison, The Advisory Committee on Market Instruments, Commodity Futures Trading Commis-

sion, 2033 K Street, N.W., Washington, D.C. 20581, by April 20, 1976.

The Commission is maintaining a list of persons interested in the operations of this advisory committee and will mail notice of the meetings to those persons. Interested persons may have their names placed on this list by writing DeVan L. Shumway, Director, Office of Public Information, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Dated: April 7, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-10442 Filed 4-9-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 521-8]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Notice of Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on March 22, 1976, the Environmental Protection Agency received an application from Monitor Labs, Incorporated, San Diego, California, to determine if its Model 8410A Ozone Analyzer should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

APRIL 6, 1976.

[FR Doc.76-10484 Filed 4-9-76;8:45 am]

[FRL 521-7]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Correction

In a Notice of Equivalent Method Designation published in the FEDERAL REGISTER (Vol. 41, page 8531, February 27, 1976), the method identification number given was incorrect. The method designation should have read as follows:

EQSA-0276-009, "Thermo Electron Model 43 Pulsed Fluorescent SO_2 Analyzer," operated on the 0-0.5 range, with or without any of the following options:

001—Rack Mounting for standard 19 inch relay rack

002—Automatic actuation of zero and span solenoid valves.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

APRIL 6, 1976.

[FR Doc.10485 Filed 4-9-76;8:45 am]

[FRL 522-1]

SCIENCE ADVISORY BOARD ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a two-day meeting of the Environmental Measurement Advisory Committee will be held on April 29 and 30, 1976. The sessions will begin at 9:00 a.m. in Conference Room 1101 of the West Tower, Waterside Mall. The building address is 401 M Street, S.W., Washington, D.C.

The purpose of the meeting will be to brief the members of the Committee on the programs and activities of various groups within the Environmental Protection Agency and to plan future activities of the Committee.

The meeting will be open to the public. Persons not possessing building passes to Waterside Mall must register at the West Tower Entrance and receive a visitor's pass. Any member of the public wishing to attend the meeting, submit a paper, or both, should contact the Secretariat of the Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by close of business (c.o.b.) on April 26, 1976. Please ask for the Executive Secretary of the Committee, Dr. A. F. Forziati. This date is especially important for those persons who wish to submit statements or papers to the Committee to assure sufficient time for reproduction and distribution of the statements or papers. It is further requested that statements not exceed two (2) typewritten pages, 8½ x 11 inches, single spaced typing, and that bulky enclosures and references be avoided. If much longer statements are necessary, or if detailed reference materials are involved, please contact the Executive Secretary as early as possible to work out suitable distribution and handling procedures. The telephone numbers are (703) 557-7710 or (703) 557-7720.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

APRIL 7, 1976.

[FR Doc.76-10486 Filed 4-9-76;8:45 am]

[FRL 521-3; PP6G1718/T43]

ESTABLISHMENT OF A TEMPORARY TOLERANCE

N′-(2,4-Dimethylphenyl)-N-[[(2,4-dimethylphenyl)imino]methyl] - N-methylmethanimidamide

Upjohn Co., Agricultural Div., Kalamazoo MI 49001, has submitted a pesticide petition (PP 6G1718) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for combined residues of the insecticide N′-(2,4-dimethylphenyl)-N-[[(2,4 - dimethylphenyl)imino]methyl] - N-methylmethanimidamide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities pears at 3 parts per million (ppm), apples at 1 ppm, in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm, and in milk at 0.01 ppm. Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities treated in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported has shown that the requesetd tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the insecticide, therefore, with the following provisions:

(1) The total amount of the insecticide to be used must not exceed the quantity authorized by the experimental use permits.

(2) The Upjohn Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 5, 1977. Residues not in excess of 5 ppm in or on pears, 1 ppm in or on apples, 0.05 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses and sheep, and 0.01 ppm in milk remaining after this expiration date will not be considered to be actionable if the insecticide has been legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerances. These temporary tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with this insecticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: April 5, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-10400 Filed 4-9-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(3)), each insured bank is required to make a Report of Condition as of the close of business March 31, 1976, previously selected as the date for the Report of Condition by the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the Chairman of the

Board of Governors of the Federal Reserve System, to the appropriate agency designated herein, within the times prescribed by applicable instructions referred to herein, and furnished to each insured bank: *Provided*, That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its original Report of Condition on Office of the Comptroller Form CC-8022-05 (Rev. 3/76)[1], and shall send the same to the Comptroller of the Currency and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District of Columbia, shall make its original Report of Condition on Federal Reserve Form 105—Call No. 219[1] and shall send the same to the Federal Reserve Bank of the District wherein the bank is located and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition and one copy thereof on FDIC Form 64—Call No. 115[1] and shall send the same to the Federal Deposit Insurance Corporation.

The original Report of Condition required to be furnished hereunder to the Comptroller of the Currency and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations," dated March 1976[1]. The original Report of Condition required to be furnished hereunder to the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Reports of Condition by State Member Banks of the Federal Reserve System," dated March 1976[1]. The original Report of Condition and the copy thereof required to be furnished hereunder to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Reports of Condition by Insured State Banks Not Members of the Federal Reserve System," dated February 1976[1].

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original Report of Condition and one copy thereof on FDIC Form 64 (Savings)[1], prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 (Savings), and Report of Income on Form 73 (Savings) by Insured Mutual Savings Banks," dated December 1971, and any amendments thereto[1], and shall send the same to the Federal Deposit Insurance Corporation.

ROBERT E. BARNETT,
Chairman, Federal Deposit Insurance Corporation.

JAMES E. SMITH,
Comptroller of the Currency.

STEPHEN S. GARDNER,
Vice Chairman, Board of Governors of the Federal Reserve System.

[FR Doc.76-10480 Filed 4-9-76;8:45 am]

[1] Filed as part of original document.

INSURED COMMERCIAL STATE BANKS NOT MEMBERS OF THE FEDERAL RESERVE SYSTEM, EXCEPT BANKS IN THE DISTRICT OF COLUMBIA, WITH TOTAL ASSETS OF $300 MILLION OR MORE AS OF YEAR-END 1975

Call for Quarterly Report of Income

Pursuant to the provisions of section 7(a) of the Federal Deposit Insurance Act each insured State bank not a member of the Federal Reserve System with total assets of $300,000,000 or more as of year-end 1975, except a bank in the District of Columbia, is required to make a Report of Income for the first quarter of 1976 on FDIC Form 73 (revised March 1976)[1] to the Federal Deposit Insurance Corporation by May 15, 1976. Said Report of Income shall be prepared in accordance with "Instructions for the Preparation of Reports of Income" dated February 1976.[1]

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-10481 Filed 4-9-76;8:45 am]

[1] Filed as part of original document.

FEDERAL MARITIME COMMISSION

[No. 76-20]

FOSS ALASKA LINE, INC., AND NORTHLAND MARINE LINES, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Foss Alaska Line against Northland Marine Lines, Inc. was served April 6, 1976. The complaint alleges that respondent has or is about to enter into a volume shipment tying arrangement with certain shippers, under which certain claims of these shippers against respondent would be deferred and paid off by providing free ocean freight. Such arrangements are alleged to violate section 14 First, Third and Fourth, 14b, 16, 16 First and Second, 17, and 18(a) of the Shipping Act, 1916.

Hearing in this matter shall commence on or before October 6, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-10455 Filed 4-9-76;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating New Members and Changes in FPC Representation

APRIL 5, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Executive Advisory Committee and initial membership for this Committee.

1. Membership. New members to the Executive Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Richard C. Gallop, Milbank, Tweed, Hadley & McCloy, New York, New York.
H. Zinder, H. Zinder Associates, Washington, D.C.
Ellen Winchester, Sierra Club, Tallahassee, Florida.

2. FPC Representation. New FPC Representatives to the Executive Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Allan R. Rexinger, Staff Attorney—OGC.
Thomas Jennings, Petroleum Engineer—NGS.

Mr. Rexinger replaces Mr. Don Shepler and Mr. Jennings replaces Edwin D. Goebel as a FPC Representative.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10488 Filed 4-9-76;8:45 am]

[Docket No. CI76-437]

AMOCO PRODUCTION CO.

Application

APRIL 5, 1976.

Take notice that on March 29, 1976, Amoco Production Company (Applicant), P.O. Box 3092, Houston, Texas 77001, filed in Docket No. CI76-437 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas in interstate commerce to Skelly Oil Company (Skelly) from the Blinebry Gas Field, Lea County, New Mexico, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the gas-oil ratio of the Lockhart A-27, Wells 5 and 11, Lockhart B-13, Well A-1, and Lockhart B-14, Well A-1, has reached the point at which, under the rules and regulations of the Oil Conservation Commission of the State of New Mexico, said wells are classified as gas wells rather than oil wells. Applicant states further that oil well gas production from said wells is dedicated to Skelly under a percentage of proceeds arrangement[1] and that gas

[1] 18 CFR 154.91(e).

well gas production from said wells is dedicated to El Paso Natural Gas Company (El Paso) under Applicant's FPC Gas Rate Schedule No. 110. It is noted that Skelly resells the gas purchased from Applicant to El Paso under Skelly's FPC Gas Rate Schedule No. 263 and to Northern under Skelly's FPC Gas Rate Schedule No. 262.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commssion on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10495 Filed 4-9-76;8:45 am]

[Docket No. ER76-496]

BANGOR HYDRO-ELECTRIC CO.

Extension of Time

APRIL 5, 1976.

On March 31, 1976, Bangor Hydro-Electric Company filed a motion to extend the time for filing responses to the Petition to Intervene and motions incorporated therein, filed by Eastern Maine Electric Co-operative on March 15, 1976 in the above-entitled proceeding.

Notice is hereby given that the time for filing responses to the above Petition to Intervene and motions incorporated therein is extended from March 30, 1976 to and including April 12, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10496 Filed 4-9-76;8:45 am]

[Docket No. ER76-581]

THE DETROIT EDISON CO.

Tariff Change

APRIL 5, 1976.

Take notice that The Detroit Edison Company (Edison) on March 29, 1976 tendered for filing a letter agreement dated December 9, 1975, which constitutes an amendment to the "Agreement for Sale of Portion of Generating Capability of Ludington Pumped Storage Plant by The Detroit Edison Company to Commonwealth Edison Company," dated June 1, 1971, as amended by an amendment dated August 15, 1971 (hereinafter termed "Agreement as amended"), according to Edison. Edison states that the letter agreement, pursuant to the terms of the Agreement as amended, constitutes a redetermination of the fixed charge factor established by the Agreement as amended. Edison states that effective for transactions on or after August 7, 1973, the letter agreement reduces the fixed charge factor from 0.15770 to 0.15351 reflecting changes in the state income tax rates, the federal investment tax credit, cost of bond financing, and depreciation deductions. Edison states that, based on the reduction in the fixed charge factor will be to reduce annual payments by Commonwealth Edison to The Detroit Edison Company by approximately $218,000.

Edison requests waiver of the notice requirements to permit an effective date of August 7, 1973.

Edison states that copies of the filing were served on Commonwealth Edison Company, Consumers Power Company, and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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.76-10501 Filed 4-9-76;8:45 am]

[Docket No. ER76-587]

GEORGIA POWER CO.

Tariff Change

APRIL 5, 1976.

Take notice that Georgia Power Company, on March 31, 1976, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 2. The proopsal changes would increase revenues from jurisdictional partial requirements sales and service by $14,215,000, based on the twelve-month period ending December 31, 1976. The filing contains a proposed Rate Schedule PR-2 which would replace Rate Schedule PR-1.

The Company asserts that its costs have escalated steadily since the filing of its PR-1 rate, resulting in a large increase in the revenue requirement from partial requirements wholesale service. The data submitted with the Company's filing allegedly demonstrates that rate PR-1, as presently in effect subject to refund, does not provide a fair rate of return on the Company's partial requirements wholesale service. An effective date of May 1, 1976 is requested.

The Company states that copies of the filing were served upon all of the Company's jurisdictional customers, whether full requirements or partial requirements customers, and on the Georgia Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.66-10484 Filed 4-9-76;8:45 am]

[Docket No. ER76-206]

IOWA ELECTRIC LIGHT AND POWER CO.

Filing of Revisions to Case in Chief

APRIL 5, 1976.

Take notice that on March 25, 1976, Iowa Electric Light and Power Company (Iowa) tendered for filing certain revised sheets of its letter of transmittal and of certain testimony and exhibits in its case in chief in the above-captioned docket.

Iowa states that the revisions are tendered pursuant to the Commission's Order issued February 20, 1976 in the instant docket which provided that the Amana Society Service Company be charged the proposed RES-1 rate (for partial requirements customers) filed herein rather than the RES-2 rate (for full requirements customers) as provided in the original filing, and that Iowa revise its case in chief so as to properly reflect cost allocation and revenues based on the status of Amana as a partial requirements customer.

Iowa further states that the revisions have reduced anticipated operating revenues by $25,843, thereby reducing the achievable rate of return in Period II by 0.28%, and that copies of the revisions

have been served on all parties and all customers.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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.76-10493 Filed 4-9-76;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Further Extension of Procedural Dates

APRIL 5, 1976.

On April 1, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 29, 1975, as most recently modified by notice issued February 18, 1976, in the above-designated proceeding.

Staff Counsel states that he has contacted all the interested parties in the proceeding and there is no opposition to the requested extension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, May 4, 1976.
Service of Intervenor Testimony, May 18, 1976.
Service of Company Rebuttal, June 1, 1976.
Hearing, June 16, 1976 (10:00 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10500 Filed 4-9-76;8:45 am]

[Docket No. RP74-75]

NORTHERN NATURAL GAS CO.

Certification of Settlement Agreement

APRIL 5, 1976.

Take notice that on February 6, 1976 the Presiding Administrative Law Judge certified to the Commission a settlement agreement together with the record as later supplemented in the above referenced proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 23, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10494 Filed 4-9-76;8:45 am]

[Docket No. RP74-100]

NATIONAL FUEL GAS SUPPLY CORP.

Extension of Time

APRIL 5, 1976.

On March 29, 1976, National Fuel Gas Supply Corporation (National) filed a motion to extend the time for filing briefs on exceptions to the initial decision issued on March 15, 1976 in the above-entitled proceeding. National states that no party objects to the requested extension.

Notice is hereby given that the time for filing briefs on exceptions in the above proceeding is extended from April 14, 1976 to and including April 30, 1976. The time for filing briefs opposing exceptions is extended from April 26, 1976 to and including May 20, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10491 Filed 4-9-76;8:45 am]

[Docket No. RP71-107; (PGA76-2)]

NORTHERN NATURAL GAS CO.

Purchased Gas Cost Adjustment Rate Change

APRIL 5, 1976.

Take notice that on March 25, 1976, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.P.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1
Tenth Revised Sheet No. 4a
Original Volume No. 2
Eleventh Revised Sheet No. 1c

Northern states that these tariff sheets provide for an increase of 10.10c per Mcf in the commodity portion of all jurisdictional rates to be effective July 1, 1976. Northern states that this will result in an increase in annual jurisdictional market area gas sales revenues of approximately $24,195,000 for the Year 1976 and $1,066,000 for field area sales. Northern states that these additional revenues will permit Northern to recover its increased gas purchased costs occasioned by Opinion No. 749 for the entire year 1976.

Northern states that this rate increase is being filed pursuant to Section 154.38 (d)(4) of the Regulations Under the Natural Gas Act and Opinion Nos. 749 and 749-A issued December 31, 1975 and February 27, 1976, respectively. Northern states that Ordering Paragraph (D) of Opinion No. 749-A permits jurisdictional pipeline companies having a purchase gas adjustment clause in effect on January 1, 1976 to make special rate increase filings to track their increases in gas purchase costs occasioned by rate increases estimated to be filed by natural gas producers reflecting the nationwide rates prescribed by Opinion No. 749 and 749-A.

Northern states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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.76-10492 Filed 4-9-76;8:45 am]

[Docket No. RP71-107; (PGA76-1)]

NORTHERN NATURAL GAS CO.

Submittal of Data

APRIL 5, 1976.

Take notice that on March 25, 1976, Northern Natural Gas Company (Northern) submitted in response to Commission order issued February 27, 1976, data with respect to 60-day emergency purchases. Northern states that it served the information upon Northern's customers and interested state commissions, which information consists of (1) the Northern's need for the gas, (2) the availability of other gas supplies, (3) the amount of gas purchased under each 60 day transaction, (4) a comparison of each emergency price with appropriate market prices in the same or nearby areas, and (5) the relationship between Northern and the sellers.

Copies of Northern's response are on file with the Commission and are available for public inspection. Any person desiring to comment on matters concerned therein should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 4, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10503 Filed 4-9-76;8:45 am]

[Docket No. E-9039]

NORTHERN STATES POWER CO. (MINNESOTA)

Compliance Filing of Capacity Exchange Agreement

APRIL 5, 1976.

Take notice that on March 25, 1976, Northern States Power Company (NSP) tendered for filing copies of the Capacity Exchange Agreement, dated January 16, 1976, between NSP and Dairyland Power Cooperative. This filing was made in compliance with the Commission's Order Approving Settlement Agreement, issued March 15, 1976, which accepted the Stipulation and Agreement, including the Capacity Exchange Agreement, filed in Docket No. E-9039 by NSP on January 16, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10502 Filed 4-9-76;8:45 am]

[Docket No. ER76-577]

PACIFIC POWER & LIGHT CO.

Initial Rate Filing

APRIL 5, 1976.

Take notice that Pacific Power & Light Company (Pacific) on March 26, 1976, tendered for filing a new rate schedule for transmission of electric power and energy for Tri-State Generation and Transmission Association, Inc. (Tri-State).

Pacific states that the proposed rate schedule provides for the transfer of electric power and energy by Pacific over its transmission facilities between Pacific's interconnections with the United States Bureau of Reclamation and Tri-States members on Pacific's transmission system in Wyoming. Pacific estimates revenues for the twelve month period ending in March of 1977 to be $63,870 based on Tri-State's estimated demand of 10,645 kilowatts.

Pacific requests waiver of the Commission's notice requirements to permit the rate schedule to become effective March 26, 1976, which it claims is the date of commencement of service.

Pacific states that a copy of the filing was supplied to Tri-State.

Any person desiring to be heard or to protest said application sould file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (19 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10487 Filed 4-9-76;8:45 am]

[Docket No. RP76-70]

TENNESSEE PUBLIC SERVICE COMMISSION AND EAST TENNESSEE NATURAL GAS CO.

Filing of Complaint

APRIL 5, 1976.

Take notice that Tennessee Public Service Commission (Tennessee PSC), on March 11, 1976, filed a complaint in this docket against the East Tennessee Natural Gas Company (East Tennessee). Tennessee PSC alleges that East Tennessee has received certain demand charge credits from its pipeline supplier and has not flowed these reductions in demand charges through to its customers while flowing through resulting commodity increases designed to allow the pipeline supplier to recover the demand charge credit theretofore given. Tennessee PSC states that the purpose of its complaint is to cause East Tennessee to refund to its customers a full amount of all reductions and demand charges, with interest which it has received subsequent to January 1, 1974.

We have forwarded a copy of the complaint to East Tennessee who shall answer it is writing within thirty days.

We shall direct the Secretary to publish a copy of this complaint together with this notice in the FEDERAL REGISTER.

Any person wishing to do so may submit written comments concerning the above-referenced complaint on or before April 22, 1976, to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All comments submitted will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10498 Filed 4-9-76;8:45 am]

[Docket No. RP76-71]

TENNESSEE PUBLIC SERVICE COMMISSION AND TENNESSEE NATURAL GAS LINES

Filing of Complaint

APRIL 5, 1976.

Take notice that Tennessee Public Service Commission (Tennessee PSC), on March 11, 1976, filed a complaint in this docket against Tennessee Natural Gas Lines, Inc. (Tennessee Natural). Tennessee PSC alleges that Tennessee Natural has received certain demand charge credits from its pipeline supplier and has not flowed these reductions in demand charges through to its customers while flowing through resulting commodity increases designed to allow the pipeline supplier to recover the demand charge credit theretofore given. Tennessee PSC states that the purpose of its complaint is to cause Tennessee Natural to refund to its customers a full amount of all reductions and demand charges, with interest which it has received subsequent to January 1, 1974.

We have forwarded a copy of the complaint to Tennessee Natural who shall answer it in writing within thirty days.

We shall direct the Secretary to publish a copy of this complaint together with this notice in the FEDERAL REGISTER.

Any person wishing to do so may submit written comments concerning the above-referenced complaint on or before April 22, 1976, to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All comments submitted will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10497 Filed 4-9-76;8:45 am]

[Docket No. CP76-304]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

APRIL 5, 1976.

Take notice that on March 16, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-304 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the North High Island System, to be located offshore and onshore Texas and onshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 63 miles of 24-inch pipeline, ½ mile of 16-inch pipeline, 29 miles of 8-inch pipeline and 11 miles of 6-inch pipeline to be located offshore and onshore Texas and onshore Louisiana. Additionally, it is proposed to construct and operate five purchase meter stations, a manifold platform and appurtenant liquid handling facilities at High Island Block 110 and separation, dehydration and appurtenant connecting and measuring facilities in Cameron Parish, Louisiana. The proposed facilities would connect to Applicant's existing Southwest Louisiana Gathering System near Johnson's Bayou, Cameron Parish, Louisiana.

Applicant states that the proposed facilities would be utilized to attach new gas supply sources to its system from the northern portion of the High Island Area and Galveston Area, offshore Texas, and that said facilities could be utilized to transport gas onshore for others from the same general vicinity. The application indicates that the initial design capacity of the proposed North High Island System is 230,000 Mcf per day and that the facilities involved are estimated to cost $56,000,000. Applicant asserts that it would finance said cost initially through short-term loans and available cash with permanent financing to be undertaken as part of an overall long-term financing program at a later date.

Applicant states that it has executed gas purchase contracts with Coastal States Gas Producing Company and Samedan Offshore Corporation covering

their respective interests in the Galveston Block 255 field and with C & K Petroleum, Inc., et al., covering its interest in the Galveston Block 189 Field. Further, Applicant states that Transco Gas Supply Company (Gasco) has executed a gas purchase contract with Texaco Inc. covering the High Island Block 206 Field and that Gasco would resell such gas to Applicant, subject to favorable Commission action on Gasco's pending application in Docket No. CP76-3. Applicant asserts that, absent such action, Gasco has the ability to assign its gas purchase contract with Texaco to Applicant and that Applicant and/or Gasco are in the process of consummating contracts for the purchase of gas from other producers in the High Island Block 110 and 154 Fields.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10499 Filed 4-9-76;8:45 am]

[Docket No. CS76-459, et al.]

ALBERT THORNBROUGH, ET AL.

Applicants for Small Producer Certificates; Correction

APRIL 5, 1976.

Issued February 26, 1976.

Tabulation, Page 3, Docket No. CS76-475: Change Applicant's name from "Nola Mae Sheldon" to "Charles F. Sheldon and wife Nola Mae Sheldon".

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-10490 Filed 4-9-76;8:45 am]

FEDERAL RESERVE SYSTEM

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document issuing a "Joint Call for Report of Condition of Insured Banks" see FR Doc. 76-10480, Federal Deposit Insurance Corporation appearing in the notices section of this issue of the FEDERAL REGISTER.

AMERICAN AFFILIATES, INC.

Acquisition of Bank

American Affiliates, Inc., South Bend, Indiana, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3) to retain approximately 3.8 percent and to acquire an additional 3.7 percent of the voting shares of American National Bank and Trust Company of South Bend, South Bend, Indiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 30, 1976.

Board of Governors of the Federal Reserve System, April 1, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-10456 Filed 4-9-76;8:45 am]

ELGIN BANCSHARES, INC.

Formation of Bank Holding Company

Elgin Bancshares, Inc., Elgin, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of The Bank of Elgin, Elgin, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 29, 1976.

Board of Governors of the Federal Reserve System, March 31, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-10458 Filed 4-9-76;8:45 am]

FAM FINANCIAL INC.

Formation of Bank Holding Company

FAM Financial Incorporated, Macksville, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of 70 per cent of the voting shares of The Farmers and Merchants State Bank, Macksville, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit viewers in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 29, 1976.

Board of Governors of the Federal Reserve System, March 31, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-10457 Filed 4-9-76;8:45 am]

NATIONAL CITY CORP.

Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3) to acquire 80 per cent or more of the voting shares of First National Bank of Elyria, Elyria, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 3, 1976.

Board of Governors of the Federal Reserve System, April 2, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-10460 Filed 4-9-76;8:45 am]

NATIONAL DETROIT CORP.

Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of National Bank of Port Huron,

Port Huron, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 30, 1976.

Board of Governors of the Federal Reserve System, April 1, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-10459 Filed 4-9-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

The following request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 15, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

Request for clearance of a new FEA form, FEA P124-M-O, Domestic Crude Oil Purchaser's Monthly Report. This new report will provide the means by which purchasers of crude oil will report their purchases of domestic crude oil and thus enable adjustments to the first sale price of crude oil to meet the requirements of the Energy Policy and Conservation Act. The reporters on this report include most refiners, some gathering systems, and resellers of crude oil. At the present time there are 350 identified respondents. Reporting burden, according to FEA, is minimal once the accounting records of the firm are closed for the reporting month.

GAO granted emergency clearance of the P124-M-O in order to preclude FEA from requesting this information via a telegram. The form consists of a shaded and unshaded portion—the unshaded portion represents the information being cleared by GAO at the present time and the shaded portion represents information which FEA anticipates it needs in the future. Respondents are requested to comment to FEA on the shaded portion of the form, and GAO clearance was provided so that respondents would have this opportunity to do so as soon as possible.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.78-10505 Filed 4-9-76;8:45 am]

REGULATORY REPORTS REVIEW

Notice of Receipt and Approval of a Proposed Report

The following request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 26, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

Request clearance of FEA U518-S-O, State Energy Conservation Feasibility Report Form. This form is justified under the Energy Policy and Conservation Act of 1975, Title III, Part C, which requires the Administrator of the Federal Energy Administration to prescribe guidelines for the preparation of a State energy conservation feasibility report and to invite the Governor of each State to submit such a report. Approximately 55 States are expected to participate in the survey.

GAO granted emergency clearance of this form because all data items requested have already been approved by GAO when approval was granted on form FEA U516-S-O, Application Form for Financial Assistance to States for Development of a State Energy Conservation Plan.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-10506 Filed 4-9-76;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on April 5, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and FPC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before April 30, 1976, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL POWER COMMISSION

The Federal Power Commission requests clearance of a revision to amend its existing Form 67, Steam-Electric Plant Air and Water Quality Control Data, by adding a new Part 4 thereto. The proposed new part would require the reporting of detailed information on the generating and emissions control equipment at steam-electric plants 25 megawatts and greater, the present and future cost and operation of such equipment, the present and future disposition of waste materials from the plants, and general information on fuel quality. Data relating to plant and equipment is required every fifth year (see general instruction No. 5), with the following exception: Part I, Schedule E, Section 1A shall be reported for 1975 if it was not reported in 1974, again in 1979 and then every fifth year thereafter, unless equipment is altered, or retired prior to the expiration of such periods. Part IV shall be reported for 1975 and for every year thereafter. The initial filing for calendar year 1975 is due four months from the date of approval. In the future, Part IV will be made an integral part of Form 67. The report will be filled out by approximately 294 utilities reporting for about 830 power plants; it is estimated that an average of 80 hours will be required initially per response per plant and 30 hours will be required annually per response per plant thereafter. The burden range according to FPC will be from 80 to 800 hours per respondent initially and 30 to 300 hours per respondent thereafter because the number of plants per respondent ranges from one to ten.

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission requests clearance of revisions to Form M, Annual Report. FCC amended Part 31 and Part 33 of its Rules and Regulations to permit normalization accounting for income tax differentials occasioned by the use of depreciation based on Class Lives and Asset Depreciation Ranges for income tax purposes. In so doing, FCC established two new accounts and revised three existing accounts. Form M has been revised to be consistent with changes in the accounting rules and a new schedule pertaining to property held for future use has been added to the form. The form is required to be filed annually by Class A telephone companies with operating revenues in excess of $1,000,000 pursuant to Sections 1.785 and 43.21 of the Commission's Rules and Regulations. The reporting burden per response is estimated to average 1.5 hours per million dollars of plant investment.

FCC requests clearance of a revision to Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies. Form 901 is required to be filed monthly by Class A telephone companies with operating revenues in excess of $1,000,000 pursuant to Sections 1.786 and 43.31 of the Commission's Rules and Regulations. The reporting burden is estimated to average two hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.10607 Filed 4-9-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 6, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Sugarbeet Acreage and Production (factories), semiannually, sugarbeet processors, Hulett, D. T., 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:
An Investigation of Features of Prescription Drug Advertising Using Physician Perception, FDABD 1227, on occasion, physicians in Philadelphia SMSA, Richard Eisinger, 395-6140.
Center for Disease Control, National Disease Surveillance Program—I. Case Reports, CDC 4.439, on occasion, individuals, Richard Eisinger, 395-6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Monthly Livestock Slaughter Report, SRS-LS-149, Monthly, livestock slaughters, Hulett, D. T., 395-4730.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-10599 Filed 4-9-76;8:45 am]

THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

MEETING

Notice is hereby given, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. § 10(a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting on April 30, 1976, in the 6th Floor Hearing Room of the Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C. The meeting will begin at 9:30 AM. The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is "* * * to develop recommendations as to the establishment of a policy-making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multistate, regional and state governmental jurisdictions."

The summarized agenda for the meeting is as follows:

1. Reports by Executive Director and Study Group Leaders.
2. Discussion and review of Committee Members proposals, ideas and concepts relating to improvements in the Federal policy-making process and structure.

In the event the Committee does not complete its consideration of the items on the agenda on April 30, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street NW., 8th Floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254-6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 1750 K Street NW., 8th Floor, Washington, D.C. 20006.

Dated: April 8, 1976.

ARNOLD A. SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

[FR Doc.76-10504 Filed 4-9-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-270]

DUKE POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-____, issued to Duke Power Company (the licensee) for operation of the Oconee Nuclear Station, Unit 2 (the facility), located in Oconee County, South Carolina.

The amendment would modify operating limits in the Technical Specifications based on analyses conducted for the Oconee Unit 2 Cycle 2 core reload.

Prior to issuance of the proposed license amendment, 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 May 12, 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 amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 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 Section 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 Mr. Troy B. Conner, Conner & Knotts, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006, the 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 amend-

ment dated February 25, 1976 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy 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 2nd day of April 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-10524 Filed 4-9-76;8:45 am]

[Docket No. PRM-20-5]

NATURAL RESOURCES DEFENSE COUNCIL

Denial of Petition for Rule Making

Notice is hereby given that the Nuclear Regulatory Commission has denied a petition for rule making submitted by letter dated February 14, 1974, by the Natural Resources Defense Council, Inc., 1710 N Street NW., Washington, D.C. A notice of filing of petition, Docket No. PRM-20-5, was published in the FEDERAL REGISTER on March 28, 1974 (39 FR 11450). Interested persons were invited to comment on the petition. Six letters were received opposing the petition, and two letters were received which supported it. The supporting letters, from the West Michigan Enivornmental Action Council, Inc. and from the Citizens' Action Group for Safe Energy Sources, petitioned the Nuclear Regulatory Commission to take the same action as requested by the Natural Resources Defense Council. These petitions have also been denied.

The Natural Resources Defense Council (NRDC) petitioned the Atomic Energy Commission (AEC) to establish specific health protection standards for "hot particles," defined by NRDC as particles containing 0.07 picocuries or more of alpha radioactivity and yet sufficiently small to be inhaled and deposited in the lung. The petition contained the following requests:

1. Stay approvals for new construction or operation of facilities involving "hot particle" materials, and stay approvals for increase in quantity of "hot particle" materials for previously approved operations, until the petitioner's requests for modification of associated standards are resolved.

2. Establish, for occupational exposure, a maximum permissible lung particle burden of two "hot particles," and for non-occupational exposure a maximum permissible lung particle burden of 0.2 (average) "hot particles;" add concentration values to 10 CFR Part 20 for all alpha-emitting radionuclides which could form "hot particles," as defined by NRDC, each value to be a factor of 115,000 smaller than the value given for the radionuclide when not in "hot particle" form.

3. Establish, for unrestricted areas, a maximum permissible surface contamination level of one "hot particle" per square meter.

4. Amend 10 CFR Part 100 by adding a site criterion guide of 10 "hot particles" deposited in the lung during a two-hour exposure under accident conditions.

5. Convene public hearings to determine as-low-as-practicable regulations for materials in "hot particle" form.

In denying the petition the Nuclear Regulatory Commission (NRC) denies all five of these requests. This follows from the fact that the NRC finds that scientific evidence does not support the technical position upon which the NRDC petition is based. This technical position is stated by the NRDC in the corollary to the "hot particle" hypothesis, as discussed below.

By letter dated March 27, 1975, the NRDC requested that the NRC conduct quasi-adjudicatory hearings in connection with the NRDC petition. However, public hearings were conducted by the Environmental Protection Agency on December 10-11, 1974, and January 10, 1975, which included the subject of standards for protection against plutonium and other transuranic elements. The "hot particle" question was addressed during those hearings, and very little pertinent information was presented beyond that presently available in the open literature. The Commission also had the benefit of meetings with the petitioner's consultants and others knowledgeable in the field. The Commission believes that the supporting information cited in the petition, and the large body of available information in the open scientific literature, provide an adequate basis for a thorough examination of the merits of the petition. In the light of this, and in the light of the fact that examination and cross examination as in a formal hearing are not likely to produce additional useful scientific information in this complex, scientific field, the Commission does not believe that holding of formal hearings would be in the public interest.

The sections which follow contain: (A) background information concerning the question at issue, (B) a discussion of the formulation of the NRDC hypothesis and its corollary, (C) a critical analysis of the hypothesis and its corollary, (D) the conclusions of the NRC, (E) a discussion of the basis for existing standards for insoluble plutonium, and (F) a summary of ongoing work which will be important to the NRC in its future considerations of radiological protection standards for insoluble plutonium.

A. BACKGROUND

1. *Spatial Distribution of Dose.* An important issue involved in this petition is the spatial distribution within the lung of radiation dose due to deposted alpha-emitting particles. Such particles irradiate immediately surrounding tissues intensely, but may leave other more distant tissues unirradiated. The radiobiological issue is whether, for a given quantity of radioactive material in the lung, the risk of cancer is greater for discrete particles distributed nonuniformly in the lung tissues or for material that is distributed uniformly throughout the lung. Present recommendations of the National Council on Radiation Protection and Measurements (NCRP) and the International Commission on Radiological Protection (ICRP), present guidance to Federal agencies issued by the Federal Radiation Council (now incorporated in the Environmental Protection Agency), and present NRC standards, are based upon the premise that nonuniform distribution is not more hazardous that uniform distribution. The petitioner takes the position that nonuniform distribution can be much more hazardous and that special, extremely restrictive standards are needed to limit exposure to alpha-emitting particles such as those containing plutonium-239.

2. *Current NRC Standards.* The NRC's current standards for protection against radioactive material, implicitly including materials in "hot particle" form, are specified in 10 CFR Part 20, "Standards for Protection Against Radiation." The particular standards to which the petition is addressed are given in 10 CFR Part 20 as limiting concentrations of radioactive materials in air for occupational exposure and limiting concentrations for radioactive materials in effluents to unrestricted areas, and provisions for limiting quantities of radioactive material in air or water.

In its first memorandum to the President (25 FR 4402, May 18, 1960) the Federal Radiation Council (FRC), pursuant to Section 274h of the Atomic Energy Act, recommended that Federal agencies use radioactivity concentration guides consistent with the Radiation Protection Guides given in the same memorandum. The Radiation Protection Guide for the lung was 15 rems per year, occupational. The concentration values for insoluble nuclides listed in 10 CFR Part 20 were at that time, and are still, based on a dose rate of 15 rems per year to the lung. With regard to nonoccupational exposure, the FRC recommended in the memorandum that protection guides in use by the Federal agencies be continued. These recommendations were approved by the President as guidance to Federal agencies (25 FR 4402, May 18, 1960). The occupational and nonoccupational concentration values in 10 CFR Part 20 were consistent with this guidance when it was issued. Subsequently, all functions of the FRC were transferred to the Administrator of the Environmental Protection Agency (EPA) by Reorganization Plan No. 3 of 1970 (35 FR 15623, October 6, 1970). EPA has not altered the guidance issued in the FRC's first memorandum to the President, and therefore the NRC's regulations remain consistent with guidance to Federal agencies pursuant to Section 274h of the Atomic Energy Act.

3. *Action Taken Due to Petition.* Although the standards in 10 CFR Part 20 are consistent with FRC guidance, upon receipt of the NRDC petition it was determined by the AEC that the results of pertinent research programs and the status of scientific evidence should be reevaluated. Scientific personnel most closely associated with relevant research programs were requested by the AEC to perform a study of current radiobiological evidence. The results of this study have been published in a report entitled "A Radiobiological Assessment of the Spatial Distribution of Radiation Dose from Inhaled Plutonium," by W. J. Bair, C. R. Richmond and B. W. Wachholz, WASH-1320, dated September 1974 (see Section C-4 below). Copies of this report may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (price $1.10).

Because the AEC had for many years looked to the NCRP for authoritative guidance on radiation protection standards, upon receipt of the petition the AEC joined the EPA, which had received an identical petition, in requesting the NCRP to provide its views on the adequacy of existing radiation protection standards as related to radioactive particles deposited in the lungs, with particular emphasis given to the technical questions raised in the petition. EPA and the AEC made a similar request to the National Academy of Sciences (NAS). The resulting NCRP Report No. 46, "Alpha-Emitting Particles in the Lung," was issued July 1, 1975 (see Section C-5 below). A report from the NAS is expected in 1976.

After the AEC was abolished and its regulatory functions vested in the NRC, the NRC staff completed a review of available information and data bearing on the petition. This review included WASH-1320, many of the references cited in that report, and other references cited in this denial. The following document was also reviewed:

Tamplin, A. R. and Cochran, T. B., "A Critique on the Biophysical Society's Draft Comments on 'Radiation Standards for Hot Particles'," NRDC, December 1974.

This document is available for inspection in the NRC's public document room, file PRM-20-5.

With regard to two instances of human hand exposure to plutonium discussed in the NRDC petition, Dr. C. C. Lushbaugh and Dr. Neil Wald were asked for their medical opinions. Their replies have been placed in the public document room and are discussed below.

On January 9, 1975, members of the AEC (now NRC) staff met with Thomas B. Cochran of NRDC to discuss the petition, and on January 30, 1975, the staff met with the authors of WASH-1320 for the same purpose. Minutes of these meetings, which were useful in elucidating the issue of the petition but which did not add substantive new information are available in the public document room.

B. NRDC POSITION

1. *Hypothesis and Corollary.* In reports written in connection with the petition [1, 2] the authors provide a hypothesis for cancer induction as caused by the irradiation of tissue. According to this hypothesis, if the dose to a critical tissue mass is sufficiently large, there is a high probability of tumor production. Thus the hypothesis restates a generalized, widely accepted conclusion on the biological effects of radiation. Also developed is a corollary to the hypothesis. According to this corollary, if the human lung is irradiated by an immobile, alpha-emitting particle of sufficient activity, a lesion will develop; if the lesion develops in a particularly susceptible type of tissue, the carcinogenic risk is high. Thus the corollary, on which the petition is based, is concerned directly with cancer as caused by lesions in critical lung tissues and is concerned only with radiation doses sufficiently high to cause such lesions. The corollary does not deal with particles of insufficient activity to cause a lesion, and the authors make no recommendations regarding such particles. Similarly, no distinction is made between lesion-forming particles of varying activity. The corollary assumes that the same probability of causing cancer is associated with all particles that can be deposited in the lung and that can cause a lesion.

The existence of a particularly susceptible type of tissue in the lung is not addressed in the NRDC report; the authors assume that such tissues are present. It appears to the NRC from the NRDC supporting documents that these critical tissues would be located in the deep lung. For small particles within the size range given in NRDC's "hot particle" definition, the deep lung tissues are much more heavily irradiated than tissues in upper respiratory passages where particle removal is relatively rapid.

2. *Quantification of Corollary.* In order to quantify this corollary, as is necessary in the development of a standard for personnel protection, the threshold dose or dose rate to form a lesion in the critical tissue would have to be determined, and an estimate of the cancer risk per lesion would have to be made. A large portion of the NRDC report is devoted to such quantification. For the threshold dose, 1000 rems was adopted by NRDC, based primarily on experiments involving irradiation of rat skin.[3, 4, 5] In these experiments there was little carcinogenic response below doses of 1000 rems. With respect to the rate of dose administration, NRDC selected 1000 rems in one year and justified the one-year period by estimating that the epithelial cell turnover time in the lung is about one year.

This selection of a threshold dose and time period permitted the NRDC to estimate the minimum quantity of activity necessary to cause a lesion—0.07 picocuries. Thus a "hot particle" was initially defined as containing 0.07 picocuries or more of alpha radioactivity and yet sufficiently small to be inhaled and deposited in the lung. (The definition was later changed to 0.14 picocuries as discussed subsequently under Subtitle 9, Human Inhalation Exposure.) This definition presumes the particle to be immobile for one year.

3. *Risk Estimate and Proposed Standards.* Quantification of the corollary also required a risk estimate, i.e., the cancer risk per lesion. For this estimate the NRDC again used data from the rat skin irradiation experiment mentioned previously. D. P. Geesaman,[6] in his study of the rat skin data, concluded that the risk probability is 10^{-3} to 10^{-4}. The NRDC selected the approximate midpoint of this range, viz, 5×10^{-4}, or one tumor per 2000 lesions. Since the only particles under consideration are those which cause lesions, this risk can also be expressed as $n(1/2000)$ cancers per n particles. To determine an appropriate occupational value for n, i.e., the permissible number of particles in a worker's lungs, the NRDC concluded that the risk from n particles should be no greater than the risk from the occupational external dose limit of five rems per year to the whole body. This risk can be estimated from risk factors reported by the NAS to be approximately 1/1000.[7] The NRDC equated these risks

$$n(1/2000)=1/1000$$

to obtain two particles as the appropriate value for n.

Since a "hot particle," as defined by the NRDC, must contain at least 0.07 picocuries, the minimum activity permissible in the lung in "hot particle" form would be 0.14 picocuries. The present occupational limit is 16,000 picocuries for all forms of alpha-emitters. The NRDC concludes that new standards for materials in "hot particle" form should be established, and that these new standards should be a factor of 16,000/0.14 (or about 115,000) lower than the current standards for such materials in insoluble form.

[1] "Radiation Standards for Hot Particles," by A. R. Tamplin and T. B. Cochran, February 14, 1974.

[2] Tamplin, A. R. and Cochran, T. B., "NRDC Supplemental Submission to the Environmental Protection Agency Public Hearings on Plutonium and Transuranium Elements," February 27, 1975.

[3] Albert, R. E., Burns, F. J., and Heimbach, R. D., "The Association Between Chronic Radiation Damage of the Hair Follicles and Tumor Formation in the Rat," Radiation Research, 30, 1967.

[4] Albert, R. E., Burns, F. J., and Heimbach, R. D., "The Effect of Penetration Depth of Electron Radiation on Skin Tumor Formation in the Rat," Radiation Research, 30, 1967.

[5] Albert, R. E., Burns, F. J., and Heimbach, R. D., "Skin Damage and Tumor Formation from Grid and Sieve Patterns of Electron and Beta Radiation in the Rat," Radiation Research, 30, 1967.

[6] Geesaman, D. P., "An Analysis of the Carcinogenic Risk from an Insoluble Alpha-Emitting Aerosol Deposited in Deep Respiratory Tissue," UCRL-50387 and Addendum, 1968.

[7] "The Effects on Populations of Exposure to Low Levels of Ionizing Radiation," Advisory Committee on Biological Effects of Ionizing Radiations, National Academy of Sciences—National Research Council, 1972.

4. *Extrapolation of Risk Factor to Human Lungs.* The basis for the corollary is the postulate that lung cancer can be caused by lesions located within sensitive, or critical, human lung tissues. The foundation for this postulate is the series of rat skin irradiation experiments referred to above. These experiments involved electron irradiation of relatively large areas of skin on a large number of rats.[3,4,5]

These irradiations resulted in a high incidence of skin tumors. It was noted by the experimenters that the tumors formed primarily within hair follicles, and that the tumors were correlated with the disruption of the hair follicles in a rough proportion of one tumor per 2000 atrophied follicles. The NRDC corollary, as mentioned previously, suggests that the human lung also has a particularly sensitive tissue that can be disrupted by an alpha-emitting particle, and that the cancer risk due to such disruption is also 1/2000.

C. *Analysis of the NRDC "Hot Particle" Corollary.* The NRDC petition to establish specific health protection standards for "hot particles" raises the issue of the health effects of certain radioactive materials in the human lung. The issue as viewed by NRC relates to the effects of these materials in the lung as discrete, insoluble, and immobile particulates on the one hand, or as materials distributed uniformly within the organ on the other hand. Central to the issue is whether the biological evidence presently available supports continued use of the NRC's present standards for insoluble, alpha-emitting nuclides in particulate form, or whether the "hot particle" corollary, as provided by the petitioners, can be supported sufficiently by this evidence to form the basis for new health protection standards in the NRC regulations. The hypothesis as most recently stated by Tamplin and Cochran is: [3]

> When a critical tissue mass is irradiated at a sufficiently high dose, the probability of tumor production is high.

The corollary is: [3]

> When a critical tissue mass in the lung is irradiated by an immobile particle of sufficient alpha activity the probability of a lesion developing approaches unity, and the probability of this lesion developing into a tumor is high.

Evidence supporting the plausibility of the hypothesis can be obtained from studies of tumor incidence of rat skin subjected to ionizing radiation. A discussion of this experimental work is provided in the following paragraphs.

1. *Irradiated Rat Skin Experiments.* Albert and co-workers[5] irradiated defined areas of rat skin of the Sprague-Dawley strain with single exposures of electrons having maximum penetration of 0.5, 1.0 and 1.5 millimeters. They observed that in the non-ulcerogenic dose range the ratio of the number of tumors to atrophic hair follicles was between 1/2000 to 1/4000. When tumor incidences and atrophic hair follicles were related to dose as a function of depth below the skin surface, coincident incidence-dose curves were found at depths of 0.27 millimeters.[5] It was noted by the investigators,[5] who observed that atrophic hair follicles diminished near the margin of the irradiated areas, that:

> these observations strongly suggest that the pathogenic mechanisms for the development of both irreparable hair follicle damage and skin tumors depend on both the dose and the amount of skin irradiated.

Radiation experiments were also carried out on rat skin using grid and sieve patterns[6] of dose delivery. It was concluded for the non-uniform radiation patterns that both chronic hair follicle damage and tumor formation were reduced by these patterns of dose delivery within a limited dose range.

In the experiments described above, a tumor response curve was observed that was closely proportional to a hair follicle atrophy response curve. These curves appeared to exhibit a threshold (i.e., the biological response appears to begin) at about 1000 rads delivered at 0.27 millimeters beneath the skin surface. A maximum response was observed at about 2000 rads delivered at this depth, followed by a rapidly decreasing response at doses greater than 2000 rads.

On the basis of the above, it can be inferred that enhanced tumor incidence for the skin of the Sprague-Dawley rat strain results from hair follicle damage (atrophy) caused by the irradiation of relatively large areas of the skin. The evidence suggests that a dose threshold for enhanced adnexal (i.e., follicle or sebaceous) cancer incidence may exist at about 1000 rads when measured at a depth below the skin of 0.27 millimeters and that the incidence curve passes through a maximum at about 2000 rads and then diminishes with increasing energy deposition. The experiments further suggest that tumor formation occurs in the ratio of 1/2000 to 1/4000 to hair follicle atrophy and is dependent upon the amount of skin irradiated in addition to the number of atrophied follicles.

A study was conducted by Passonneau, et al.,[8] in which the tumor incidence of rat skin was measured versus the activity of Sr-90/Y-90 sources in the form of beads or plates. The results of this study, as summarized by Bair, et al.,[9] clearly indicate that the efficiency for tumor production, in tumors per microcurie, increased with increasing uniformity of irradiation (i.e., from high activity beads to flat plate sources).

However, the data provided by Passonneau, et al., have been analyzed by the NRC in another manner. Based upon estimates of those actual areas subject to doses exceeding 1000 rads by both particles containing Sr-90/Y-90 or by flat plates with uniform Sr-90/Y-90 activity distribution, the number of tumors produced per unit area of rat skin actually irradiated to 1000 rads or more is nearly constant, indicating that nonuniform irradiation was as hazardous as uniform irradiation. Although no estimates were obtained of hair follicle damage as a consequence of these studies, the work of Passonneau, et al., appears to be consistent with the work of Albert, et al., referenced earlier. These data contribute the only evidence for the existence of a "critical tissue mass" in animals or man contained in submittals to the NRC by the NRDC.

2. *Critical Tissues in Human Lung.* Critical tissues from the standpoint of cancer origination have also been indicated to exist in human lungs.[7] These critical tissues constitute the basal cell layer of the bronchial epithelium. In the bronchial region of the lung, the residence time of particles is short because they are trapped in mucus, moved to the pharynx by action of the epithelial cilia, and are then swallowed. The deep lung regions of interest to the "hot particle" question (i.e., regions of lower particle mobility) are the respiratory bronchioles, the alveolar ducts and alveolar sacs. The NRC has no evidence that indicates the existence of tissue that might be described as "critical" or of "critical tissue mass" within these regions of the lung.

The corollary of the NRDC is apparently provided support only by experiments conducted on rat skin. The postulate by the NRDC of the existence of "critical tissue mass(es)," located in the deep lung, is not supported by available information and is considered to be highly speculative. Experience with uranium miners indicates that critical tissues probably do exist in the respiratory epithelium of the human bronchus (an upper region of the lung) in which tumors may originate more probably than in other cells in the lung following irradiation by the short-lived daughter products of Rn-222. However, the NRDC petition deals with particles lodged immobile in the deep region of the lung in which there is no evidence of critical tissue masses.

3. *Difference in Response Between Rat Strains.* In the initial experiments conducted by Albert and his co-workers concerning the irradiation of rat skin[10] and discussed by Healy, et al.,[11] Y-91 was the source of irradiation and two strains of rats, the Holzman and the Sprague-Daw-

[8] Passonneau, J. V., Brues, A. M., Hamilton, K. A., and Kisieleski, W. E., "Carcinogenic Effects of Diffuse and Point Source Beta Irradiation On Rat Skin: Final Summary," ANL-4932:31, 1952.

[9] Bair W. J., Richmond, C. R., and Wachholz, B. W., "A Radiobiological Assessment of the Spatial Distribution of Radiation Dose from Inhaled Plutonium," U.S. Atomic Energy Commission, WASH-1320, September, 1974.

[10] Albert, R. E., Newman, W., and Altshuler, B., "The Dose-Response Relationships of Beta-Ray—Induced Skin Tumors in the Rat," Radiation Research, 15, 1961.

[11] Healy, J. W., Richmond, C. R., and Anderson, E. C., "A Review of the Natural Resources Defense Council Petition Concerning Limits for Insoluble Alpha Emitters," LA-5810-MS, Los Alamos Scientific Laboratory, November, 1974.

ley, were used. The Holzman strain is considered to be similar to the Sprague-Dawley strain, but the Holzman rats in these experiments were considerably older than the Sprague-Dawley rats. The dose-response curves of the two strains were observed to differ quite markedly for the principal type of tumor that resulted. In the case of the Sprague-Dawley strain, the onset of tumor response appears to be well-defined and begins at about 2000 rads dose delivered to the skin surface. For the Holzman strain, a less well-defined but discernible threshold appears near the same dose delivery value as the Sprague-Dawley strain. However, the response at the maximum for the Sprague-Dawley strain is greater than that of the Holzman strain by about a factor of five. It is not evident that this striking difference in response is related to strain or age at irradiation. Such differences suggest, however, that the extrapolation of irradiation response characteristics to similar tissue within an animal species is highly uncertain. The validity of the extrapolation of irradiation response characteristics of a particular tissue and species to a dissimilar tissue of a different species greatly compounds the uncertainties.

4. *Difference in Response Between Rodent Species.* Further evidence of differences that can occur between species is provided in the work of Albert, et al.,[12] and discussed by Healy, et al.,[11] in examining the tumor response of mouse skin to irradiation. The authors confirmed that while under certain conditions the rats exhibited adnexal tumors in response to skin doses, this outcome was rare in mice. Furthermore, the total number of tumors produced in mice under these conditions was only 15% to 20% of the total produced in rats. The decreased frequency of adnexal tumors and atrophied hair follicles in mouse skin relative to rat skin can be attributed to a greater lethal sensitivity of mouse hair follicles to radiation than rat hair follicles. (It appears that the mouse hair follicles may have been destroyed in this experiment.) This conclusion indicates the difficulties that can be encountered by attempting to impose the characteristics of one species onto another. The characteristic behavior of the skin of Sprague-Dawley rats to radiation has no known relevance to the behavior of the human lung other than the general observation that cancer can be induced in either type of tissue as a consequence of irradiation.

5. *Partial Irradiation of "Critical Tissue Mass".* A further element of the NRDC corollary is that it could be assumed that irradiation at high levels of dose of only a portion of a "critical tissue mass" would result in a high probability for tumor production. However, as reported by Albert, et al.,[5]

> the development of both irreparable hair follicle damage and skin tumors depend upon both the dose and the amount of skin irradiated.

Further studies of rat skin tumor induction with ionizing radiation[13] indicated that upon using alpha particles and protons, no tumors were produced where the ranges of the particles extended to about 0.15 millimeters below the skin surface. The investigators found that no tumors or atrophied hair follicles were observed for irradiation depths of 0.3 millimeters under alpha particle irradiation unless the entire hair follicle was substantially irradiated. The significance of these findings, according to Albert is:[14]

> This observation suggests that even though the critical cell population is located at 0.3 mm, that there are recovery mechanisms that block tumorogenesis when only parts of the 'critical architectural unit of tissue' is irradiated. What these recovery processes might be is not understood. Nevertheless, this result does not support the contention that a single plutonium particle positioned next to a 'critical architectural unit' such as the hair follicle, will produce a tumorogenic risk of the magnitude assumed by Tamplin and Cochran.

On the basis of the above, "critical tissue mass(es)" in rat skin for which there is evidence, requires substantial irradiation of the entire structure before hair follicle ("critical tissue mass") tumors are induced. Thus, experimental support for the corollary of the NRDC is restricted to conditions where a "critical tissue mass" is entirely irradiated. It should be noted that Tamplin and Cochran, in their development of the 1/2000 risk factor, apparently did not take the recovery mechanisms reported by Albert[14] into account.

(NOTE: As pointed out earlier, the evidence for a "critical tissue mass" is supported only by radiation experiments involving rat skin. The corollary presumes the existence of "a critical tissue mass in the lung," sufficiently small to be entirely irradiated, but not destroyed, by a "hot particle." The NRC knows of no evidentiary support for this speculative assertion. However, in the discussion of the corollary which follows, the existence of such a "critical tissue mass in the lung" is hypothetically assumed.)

6. *Particle Immobility.* As provided in the corollary given by the NRDC, the source of radiation for "critical tissues mass in the lung" must be an immobile particle to satisfy the requirements of the corollary. Although this may be a necessary condition to aid in establishing the validity of the corollary, its relevance to inhaled particulates of insoluble plutonium in the lungs does not appear to be substantial. As provided in the report of Bair, et al.,[9] in the upper lung particles are efficiently and rapidly removed, principally by mucociliary mechanisms. In the lower lung, particles are subjected to gradual dissolution, followed by absorption into the blood or removal by macrophages; these appear to be the prime mechanisms for plutonium transport. Evidence is available, however, to indicate that some plutonium particles can be immobilized in scar tissue in the lung. Bair, et al.,[9] summarize the knowledge of particle mobility in the lung in the following statements:

> Although the kinetics are unknown and even a qualitative description is still rather primitive, there is ample evidence that plutonium deposited in lung is subjected to biological and physical forces. This argues against either particles or aggregates of plutonium remaining static indefinitely, except for the plutonium that becomes immobilized in scar tissue. To the contrary, while the rates may be low, movement of plutonium within lung tissues, by several mechanisms, certainly occurs, as the lung attempts to expel the plutonium and other foreign material. The migration of deposited plutonium particles in lung is recognized in the USSR as at least partially compensating for the nonuniformity of the radiation exposure from plutonium particles and justifying acceptance of the concept of averaging the radiation dose over the entire lung mass. (A reference of Bair, et al., is deleted here.)

Since all particles are not immobile in the lung, the probability of particle imboility should be considered in the estimate of risk.

7. *Alpha Induced Lesions in Rat and Hamster Lungs.* The corollary to the hypothesis of the NRDC states that under specific lung irradiation and tissue conditions "the probability of a lesion developing approaches unity, and the probability of this lesion developing into a tumor is high." As applied to alpha-emitting particles in the lung, the NRDC states:[15]

> If a particle deposited in the deep respiratory tissue is of such activity as to expose the surrounding lung tissue to a dose of at least 1000 rems in 1 year, this particle represents a unique carcinogenic risk. The biological data suggest that such a particle may have a cancer risk equal to 1/2000.

The petitioners do not explicitly define a lesion, but they assume[1] that lung tissue with a mass of 65 micrograms surrounding an alpha-emitting particle, that receives an average dose of 1000 rem or more per year, will have a probability of essentially unity for the development of a lesion, and that such a lesion would constitute a cancer risk of 1/2000.

Lesions have been observed surrounding plutonium-238 oxide particles with diameters ranging from 122 to 207 micrometers lodged in the blood vessels of rat lungs by intravenous injection.[16] The

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[12] Albert, R. E., Burns, F. J., and Dermott, P., "Radiation-Induced Hair Follicle Damage and Tumor Formation in Mouse and Rat Skin," *J. Nat'l Cancer Inst.*, 49(4), 1972.

[13] Heimbach, R. D., Burns, F. J., and Albert, R. E., "An Evaluation by Alpha-Particle Bragg Peak Radiation of the Critical Depth in the Rat Skin for Tumor Induction," Radiation Research, 39, 1960.

[14] In "Plutonium and Other Transuranium Elements: Sources, Environmental Distribution and Biomedical Effects," U.S. Atomic Energy Commission WASH-1359, December 1974.

[15] Tamplin, A. R., and Cochran, T. B., "The Hot Particle Issue: A Critique of WASH-1320 as It Relates to the Hot Particle Hypothesis," Report of the Natural Resources Defense Council, Inc., Washington, D.C., November, 1974.

[16] Richmond, C. R., Langham, J., and Stone, R. S., "Biological Response to Small Discrete Highly Radioactive Sources, II. Morphogenesis of Microlesions in Rat Lungs from Intravenously Injected $^{238}PuO_2$ Microspheres," Health Physics, Vol. 18, 1970.

alpha dose rate to tissue within 40 micrometers of a 180-micrometer particle (the average diameter of these particles was 178 micrometers) was about 6×10^{6} rems per hour and the photon dose delivered to a distance of 300 micrometers was estimated to be about 830 rads per day. The authors described a lesion found in one rat lung as similar to that reported by Lushbaugh, et al.,[17] describing a plutonium lesion found in the palmar dermis of a plutonium worker. Richmond, et al.,[18] have described the experimental results further. They state:

> Microlesions caused by exposure of rat lung tissue to high specific-activity $^{238}PuO_2$ microspheres for 1–211 days were examined histologically. The huge radiation dose rates ($\sim 10^{6}$ rad/hr for alpha particles and $\sim 10^{3}$ rad/hr for photons) caused surprisingly little change in the lung structure except in the immediate area of the particle. The lesion progresses from a highly cellular to an acellular, collagen surrounded state and appears to be limited in size after several months.

In the experiment, no cancers developed in the animals. Of the 38 animals under study, 32 were sacrificed 120 to 400 days after particle implantation, and six died of natural causes.

A significant study with hamsters has been conducted at Los Alamos Scientific Laboratory which allows direct testing of the corollary of the NRDC hypothesis. In this experiment, implantation of plutonium particles was carried out by intravenous injections, as in the previously described experiments with rats.[16] In the course of this study lesions were observed. This work has been summarized by Healy, et al.,[11] as follows:

> In an experiment currently in progress,* uniform-sized microspheres (10-μm-diameter) of ZrO_2 are used with intermixed PuO_2 to provide particles of differing activities, and these are introduced into the lungs of hamsters by the above technique. In the first study in this experiment, 8 groups of 60 animals each were injected with 2000 such particles, with the plutonium content of each particle ranging from 0.07 to 59.4 pCi.
>
> Essentially all of the animals have now died, with only two lung cancers observed. (Three other cancers in the exposed animals occurred in organs other than the lung.) The dose rates to the lungs of those animals, when calculated as the average dose rate to the lung, ranged from 13 rads per year (130 rems per year) to 12,000 rads per year (120,000 rems per year). This is a range over which one would expect high tumor incidence and, in fact, premature death from pulmonary inefficiency if the material had been distributed homogeneously. Since the survival curves of the individual groups did not differ from those of the controls and the total tumor incidence was low, one can only conclude that the DF (Distribution Factor) for plutonium in particulate form must be less than one. In the continuation of this study, some 1900 hamsters have received 1.6×10^{6} microspheres.* As of October 1974, the minimum time of exposure has been 50 weeks, which is comparable to or longer than the tumor induction times observed by Little, et al., in their experiments with more uniformly distributed 210Po. In fact, only three lung tumors (including the two observed in the first study) have, as yet developed from the microsphere exposures. While this study is as yet incomplete, the very low tumor incidence again indicates a low effectiveness of the particles in inducing lung cancers as compared to more homogeneously distributed alpha emitters, as well as the failure of the Geesaman hypothesis to correctly forecast the results of this experiment.

In describing some of the effects observed in their experiments, Richmond and Sullivan[18] discuss changes in lung tissues surrounding the immobile particles with the statement:

> There has been no increase in frank tumors observed within the past year; however, the epithelial changes described above could be considered as precursors of peripheral adenomas.

These observations are interpreted by Tamplin and Cochran[2] in their statements: "These experiments strongly support the proposal that a single particle imbedded in tissue is capable of eliciting a carcinogenic response. The killing of cells and the development of a lesion surrounding the particle is the suggested mechanism of carcinogenesis (an injury mediated mechanism)." They state further:

> Although no tumors appeared in association with the microspheres in the animal experiments, the description of the lesions is suggestive of an incipient tumorogenic response. Richmond, et al., state that they could be considered as precursors of peripheral adenomas and their description is consistent with that of developing bronchioloalveolar carcinoma. It is reasonable to propose that the induction period for a frank tumor by this mechanism is longer than the life span of rats and hamsters.

Tumors have been induced during numerous experiments in the rat by plutonium through a variety of exposure means (see, for example, Table III–A, p. 14, reference 9), and in the Syrian hamster[19] high tumor incidences have been observed with short induction times for exposures to particulate and more uniformly distributed Po-210. If it is assumed on the basis of this limited evidence that the period of tumor induction in the hamster does not exceed the life span of the animal and that the estimates of probability for tumor induction by Cochran and Tamplin were correct (i.e., the probability for lesion production approaches unity and the probability of cancer induction per lesion is 1/2000), the number of tumors to be expected in the 1150 hamsters having lived their lives or sacrificed[9] would be about 2900. In reality, three primary lung tumors were observed in all of the exposed animals. Thus, the relation between lesions and assumed cancer induction as proposed by the NRDC is not supported by this evidence. There are no data on the period of tumor induction by the specific mechanism proposed by Cochran and Tamplin for radioactive particles. However, as stated above, experiments reported in reference 19 demonstrated that exposure to alpha radiation produces pulmonary neoplasms in Syrian hamster lungs with high efficiency and short induction times.

8. *Human Hand Exposure.* In terms of the risk of cancer induction in man from exposure to particulate plutonium, Cochran and Tamplin[1] cite two instances of human hand exposure to plutonium as being potential or actual causes of cancer. The first, a report of Lushbaugh and Langham, describes the results of examinations of a lesion that developed from plutonium imbedded in the palm of a machinist. Lushbaugh and Langham state in their report:[17]

> The autoradiographs showed precise confinement of alpha-tracks to the area of maximum damage and their penetration into the basal areas of the epidermis, where epithelial changes typical of ionizing radiation exposure were present. The cause and effect relationship of these findings, therefore, seemed obvious. Although the lesion was minute, the changes in it were severe. Their similarity to known precancerous epidermal cytologic changes, of course, raised the question of the ultimate fate of such a lesion should it be allowed to exist without surgical intervention * * *

The information contained in this quotation and an estimate of puncture wounds involving plutonium that had occurred at approximately the time of publication of the Lushbaugh and Langham report led Tamplin and Cochran to conclude:[1]

> Therefore, this wound data would suggest that insoluble plutonium particles could offer a risk of cancer induction in man that is even greater than 1/1000 per particle.

This conclusion is not sustained by the information cited. The AEC contacted Dr. Lushbaugh,[20] requesting his views as to whether his report supported the NRDC's conclusions that: (1) a single Pu-239 particle is capable of inducing cancer; and (2) a risk of cancer may be greater than 1/1000 per particle. The entire response of Dr. Lushbaugh to this inquiry dated September 10, 1974, is reproduced below:

> In reference to your letter of August 16, 1974, I should point out that earlier this year I worked with Dr. Bruce Wachholz of Bio-Medical Programs, DBER, Germantown Headquarters, on the initial stages of a document recently numbered WASH-1320; entitled, *A Radiobiological Assessment of the Spatial Distribution of Radiation Dose from Inhaled Plutonium Particles;* and authored by W. Bair, C. Richmond, and B. Wachholz. Although I have not seen this paper in its final form as it is at this moment still being

[17] Lushbaugh, D. C. and Langham, J., "A Dermal Lesion from Implanted Plutonium," Archives of Dermatology, 86, October, 1962.

*Refer to original document for references given.

[18] Richmond, C. R., and Sullivan, E. M., (eds.), "Annual Report of the Biomedical and Environmental Research Program of the LASL Health Division for 1973," Los Alamos Scientific Laboratory Report LA-5633-PR, May, 1974.

[19] Little, J. G., Grossman, B. N., and O'Toole, W. F., "Factors Influencing The Induction of Lung Cancer in Hamsters by Intratracheal Administration of ^{210}Po," in: Radionuclide Carcinogenesis, (C. L. Sanders, R. H. Busch, J. E. Ballou, and D. D. Mahlum, eds.), CONF-720505:119, AEC Symposium Series No. 29, USAEC, 1973.

[20] Letter from L. Rogers to C. C. Lushbaugh, M.D., dated August 16, 1974.

printed, I am certain that it contains an attempt to answer the question of whether or not Mrs. Langham's and my article in Archives of Dermatology (1962) supports the contention of Dr. Tamplin and Mr. Cochran that a single particle of Pu-239 is capable of inducing cancer and that the risk of cancer from such a particle is 1 per 1000. We believe that these conclusions cannot be derived from the histopathologic observations we reported in this case report nor in the other cases we subsequently published along with it in the Annals of the New York Academy of Science.

In the petition from the Natural Resources Defense Council to which you refer, one can see that the authors apparently do not know the difference between a precancerous cellular change and a cancer. While it is true that the term "precancerous change" contains the implication that a cancer follows it, this is not always the case because precancerous changes are reversible and reparable. In fact when a lesion showing precancerous changes is removed surgically, the surgeon knows from this diagnostic impression given him by the pathologist that the lesion he removed is not a cancer and that he does not have to worry about it further. My object in using the term "precancerous" to describe the cytologic appearance of some of the epithelial cell nuclei around the plutonium particles in the skin of the case in *Arch. Dermatol.* was to point out that in spite of the amazingly huge dose of alpha radiation over a period longer than 4 years a cancer had *not* developed and that one could at most only call the changes precancerous.

In reviewing this case in the Annals of the New York Academy article, we attempted to show that the strictly localized injury caused by the plutonium particles was developing in such a fashion (like a pimple) that the particles would have been shed in time along with a small amount of pus-like material as the pimple "ripened" and drained spontaneously. Dr. Tamplin in his arguments assumes that fibrosarcomas in rat skin are equateable with the minimal changes we described in the skin of this man. Of course, they are not. The statement that it is "clear" on the basis of this one human case that plutonium can cause skin cancer in man is false. If this case and others like it show something of radiobiologic importance, they show only that the development of cancer from plutonium exposures of human tissues must be much more difficult to obtain than cancers in rodent tissues, since no human cancers have ever been seen or reported following plutonium exposure of human beings. Logically, if there is no observed plutonium-induced human cancer case, the one per thousand per particle level of cancer risk for plutonium exposure has no basis in fact and amounts to only a conjecture on the part of the authors of the NRDC petition.

The interpretation of his use of the term "precancerous" provided by Dr. Lushbaugh is shared by Peterson,[21] who cautions with regard to precancerous changes in the alimentary tract:

such entities have been called "premalignant" or "precancerous" but these terms convey a precursor relationship that is not proved in most cases and is not understood in others. For instance, adenomas of the colon are thought to be "precancerous" but that they actually develop from benign into malignant tumors is unproved; Plummer-Vinson syndrome is known to be followed frequently by carcinoma of the esophagus, but the "precancerous" relationship of this lesion is not understood. Unfortunately, these terms stem from post hoc observations, and their use may be misleading.

On the basis of the foregoing, the association of risk of cancer induction based upon observations of lesions described as "precancerous" is speculative, and such observations should not be used in quantitative estimates of risk.

The second instance of human hand exposure to plutonium cited by Cochran and Tamplin involves the case of a freight handler who "developed an infiltrating soft tissue sarcoma on the left palm which eventually resulted in his death."[1] The AEC contacted Dr. Neil Wald, who was a consulting physician in the case, to obtain his medical opinion as to whether "there is an overwhelming medical probability that his cancer was induced by plutonium"[1] as stated by Cochran and Tamplin. Dr. Wald advised the AEC that he remains in agreement with the data and conclusions drawn in his consultation report concerning the absence of any evidence to support the claim of a relationship between the exposure incident and the subsequent development of neoplastic disease. Dr. Wald's letter and consultation report are on file in the NRC public document room.

9. *Human Inhalation Exposure.* There is limited human experience which is relevant to the "hot particle" question. Perhaps the most relevant case of human exposure to plutonium inhalation as well as the best documented study relating to the "hot particle" issue has been reported by McInroy, et al.[22] Investigators who examined pulmonary lymph nodes of a plutonium worker (case 7-138) killed in an automobile accident, determined the plutonium particle size distribution in the lymph nodes by emulsion track techniques, and estimated the number of plutonium particles associated with size classes contained within the observed particle size distribution.

Cochran and Tamplin[23] have examined these results. Using the parameters for plutonium oxide and the calculational methods for inhalation provided by the ICRP,[24] they estimated that at the time of the worker's death the number of "hot particles" of $^{239}PuO_2$ with activities greater than 0.07 or 0.14 picocuries was 20,000 and 1600 "hot particles" respectively. There was no evidence of cancer in the lungs of the deceased worker. In the event that 20,000 particles were present in the lungs for over one year, and allowing sufficient time for cancer induction (26 years since first exposure), the probability of one or more lung tumors being present at death would be essentially unity using the tumor probabilities proposed by the NRDC. Cochran and Tamplin[23] then suggest that the minimum activity of a "hot particle" should be adjusted upward from 0.07 to 0.14 pCi.

The NRC has also reviewed the work of McInroy, et al.[22] Based on the tabulated number of particles estimated by the authors to exist in the lymph node under discussion, the total number of particles was calculated by the NRC staff to be 306,000.

McInroy, et al., suggest that the deceased worker (Case 7-138) suffered his principal exposure during his first eight years of work (1947-1955). Assuming this, further assuming that he experienced plutonium dioxide inhalation at a uniform rate during this period, and using the parameters and models of the ICRP,[24] the NRC staff calculates that about 52,000 "hot particles" containing 0.07 picocuries or more were present in the lungs at the end of the eight-year exposure period, and about 14,000 remained in his lungs at death. The number of "hot particles" defined to be represented by activities of 0.14 picocuries or more in the lung are calculated to be 9300 at the end of the exposure period and 2500 at death. The residence half-time in the pulmonary region given by the ICRP for plutonium dioxide is 500 days[24]. Under this assumption, in the case of "hot particles" defined to contain 0.07 picocuries or more activity it is estimated that 32,000 particles remained in the lung for more than one year. In the case of "hot particles" defined to contain 0.14 picocuries or more activity the estimate is 5700 particles remaining over one year. Using the tumor probability estimates of Cochran and Tamplin[15], the probabilities for cancer for the two cases would be 99.99999% and 94.2%, respectively. In either case, the NRC finds that evidence provided by the study of this worker provides support for the adequacy of present standards but no support for the corollary as advanced by the NRDC.

Additional studies of relevance to human exposure to plutonium have been reported by Hempelmann and co-workers[25, 26] and reviewed by Blair, et al.,[9] and by Healy, et al.[11] The studies summarize the results of 27 years of observations of 24 individuals exposed to plutonium in several chemical forms during Manhattan Project operations. No lung cancers had been observed in these persons through the latest examinations reported. It has been estimated[9, 12] that the

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[21] Peterson, M. L., "Neoplastic Diseases of the Alimentary Tract," in *Textbook of Medicine*, eleventh edition, Cecil-Loeb Publishers, Philadelphia and London, 1963.

[22] McInroy, J. F., Stewart, M. W., and Moss, W. D., "Studies of Plutonium in Human Tracheobronchial Lymph Nodes," LA-UR-74-1454 (Preprint), Los Alamos Scientific Laboratory, undated.

[23] Letter from T. B. Cochran and A. R. Tamplin to R. B. Minogue, Nuclear Regulatory Commission, dated February 4, 1975.

[24] "The Metabolism of Compounds of Plutonium and Other Actinides," ICRP Publication 19, International Commission on Radiological Protection, Pergamon Press, adopted May, 1972.

[25] Hempelmann, L. H., Richmond, C. R., and Voelz, G. L., "A Twenty-Seven Year Study of Selected Los Alamos Plutonium Workers," LA-5148-MS, Los Alamos Scientific Laboratory, January, 1973.

[26] Hempelmann, L. H., Langham, W. H., Richmond, C. R. and Voelz, G. L., "Manhattan Project Plutonium Workers: A Twenty-Seven Year Follow-Up Study of Selected Cases," Health Physics, 25, November, 1973.

total initial plutonium burden was about 10 microcuries summed over the lungs of all these men. The burden of "hot particles" (plutonium activity per particle of 0.07 picocuries or greater) was estimated at 4.0×10^{5} particles per man. Based upon the lung cancer probability estimates of Cochran and Tamplin,[1] approximately 5000 lung tumors should have been observed in these men. Under the later assumption of Cochran and Tamplin [28] that "hot particles" must exhibit an activity of 0.14 picocuries or greater, the estimated minimum number of "hot particles" in the lungs of each of the Manhattan workers is $8.4 \times 10.^{4}$ The expected number of lung tumors, based upon the NRDC cancer induction estimates, would then be approximately 1100. As noted earlier, no lung cancers have been observed in these men and the NRC considers this human experience as supporting evidence that its present standards for insoluble plutonium have a radiobiologically sound basis.

The NRDC has examined [2] the Manhattan Project worker data from a somewhat different view than Healy, et al.[11] The NRDC assumes that the distribution of plutonium particles in the lungs of the Manhattan Project workers may be inferred to be the same as that reported by McInroy, et al.[23] The particle size classes that NRDC provides (Table I, Reference 2) do not strictly conform to the distribution reported by McInroy, et al. However, using this distribution and the tumor probability estimate of Cochran and Tamplin, the NRC staff has estimated that the number of lung tumors would exceed 2800 for "hot particles" defined as containing 0.07 picocuries of plutonium activity or more, and would exceed 250 for "hot particles" defined as containing 0.14 picocuries of plutonium activity or more.[2] These values may be compared with the observation that no lung tumors have been observed in the 24 Manhattan Project workers.

A study has been conducted [27] to evaluate lung burdens of plutonium dioxide in persons exposed at an AEC contractor facility, Dow Chemical, Rocky Flats Division, in 1965. The NRDC observes [2] that while no lung cancers have appeared in the 25 persons exposed, the time required for the induction of cancer might exceed 10 years. Thus there do not yet appear to be any definitive conclusions that can be drawn from the Rocky Flats results from the standpoint of their providing support or refutation of the corollary of the NRDC hypothesis.

D. CONCLUSION

The Nuclear Regulatory Commission denies the petition of the Natural Resources Defense Council to establish specific health protection standards for "hot particles." The denial is based on the NRC's finding that its present standards for long-lived, alpha-emitting radionuclides in insoluable form are, with respect to the spatial distribution of dose, radiobiologically sound and that the NRDC corollary to the hypothesis describing an injury-mediated mechanism of carcinogenic response to alpha-emitting particles is speculative and not supported by the body of scientific data and knowledge on this subject. Consequently, the NRDC position does not provide a sufficient scientific basis for changing or supplementing existing radiation protection standards.

In Section C above, the NRC has outlined its examination of the carcinogenic response mechanism which was hypothesized by the NRDC from a plausibility argument which the NRDC based on selected portions of the considerable body of knowledge on this subject. That is, the corollary to the hypothesis is shown in this analysis to be based on a pattern of arbitrary interpretations of selective portions of the available information.

The tests which the NRC has applied in evaluating the NRDC petition are: (a) whether existing radiobiological evidence indicates that present standards in question should be modified as requested; (b) whether the corollary to the NRDC hypothesis is supported by the body of relevant knowledge; and (c) whether the corollary is a valid interpretation of the supporting data cited by its authors. The NRC finds that the corollary fails to satisfy any of these tests.

The NRDC has stated [15] that given two hypotheses—(1) the Cochran and Taplin model, (2) and the uniform dose model—the responsible regulatory agency must make the prudent choice and select the more conservative of the two as the basis for radiological protection standards. The NRC agrees in principle, if the two hypotheses are generally supported by the body of knowledge. That is not the case in this instance.

The uniform dose model is examined in Section E, below. The NRC concludes on the basis of its examination of the body of knowledge that the uniform model remains an acceptable basis for radiological protection standards for insoluble plutonium.

E. DISCUSSION OF EXISTING STANDARDS

The preceding discussion has dealt specifically with the question of special standards for protection against the inhalation of insoluble, alpha-emitting particles of specified physical characteristics, which may be capable of forming lesions in the lung which may in turn induce cancer. In this section the question of the adequacy of existing NRC standards for protection against all insoluble, alpha-emitting particles is considered, irrespective of the mechanisms for adverse biological effects.

1. *Present NRC Standards.* The present NRC standards for protection against insoluble, alpha-emitting radionuclides are given in 10 CFR Part 20. For plutonium-239 these standards specify that no occupationally exposed individual may be exposed to concentrations exceeding 4×10^{-11} microcuries per milliliter of air, averaged over a 40-hour week. Under equilibrium conditions, this level of exposure will deliver about 15 rems per year averaged over the entire lung mass. The 15 rems per year limit has been recommended by the ICRP, the NCRP, and the FRC. The regulations further specify that insoluble plutonium-239 in effluents to unrestricted areas cannot exceed 1×10^{-12} microcuries per milliliter of air when averaged over one year. This level of exposure could deliver about 1.5 rem per year to the lung, i.e., the limit recommended by the ICRP. Similar standards are given for other insoluble, alpha-emitting radionuclides. In the development of these standards it was assumed that the dose is uniformly distributed throughout the entire lung mass; thus uniform and nonuniform dose are treated in the same manner.

2. *Position Taken By Other Organizations.* Organizations such as the ICRP, NCRP, FRC, NAS, National Radiological Protection Board (UK), the Biophysical Society, and the Medical Research Council (UK) have considered the question of whether nonuniform dose is more hazardous than uniform dose. Their conclusions are that the uniform dose assumption is adequately conservative. Below are statements to this effect from these organizations:

> The general opinion which emerged from the discussion was that the carcinogenic effect per unit volume is probably considerably less for the irradiation of small masses of tissue than for large.[28]

> On the basis of general considerations and of some experimental data and clinical experience the Task Group were of the opinion that, for late effects, the same radiation energy absorption might well be less effective when distributed as a series of hot spots, than when uniformly distributed. Thus, with particulate radioactive sources within a tissue, a mean tissue dose would probably introduce a factor of safety. * * *[29]

> It is therefore concluded that the current NCRP practice of averaging over the lung the absorbed dose from particulate alpha-emitting radionuclides is a defensible procedure when employed in conjunction with appropriate dose limits.[30]

> * * * it may be inferred that a higher localized dose from alpha particles was not more cancerogenic than the same mean tissue dose delivered more uniformly to critical cells.[7]

It is noted that the basis of ICRP recommendations is the average radiation dose to an organ and not the number of radioactive particles in the organ. This dosimetric basis of radiological protection has been established for many years by observations of humans and experimental work with animals. A better evaluation than that offered by Cochran and Tamplin would be needed for

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[27] Mann, J. R. and Kirchner, A. R., "Evaluation of Lung Burden Following Acute Inhalations of Highly Insoluble PuO_2," Health Physics, 13, 1967.

[28] McMurtrie, G. E. (Secretary), "Permissible Doses Conference held at Chalk River, Ontario (Sept. 1949)," Report RH-10, May, 1950.

[29] "Radiosensitivity and Spatial Distribution of Doses, Reports Prepared by Two Task Groups of Committee 1, of the International Commission of Radiological Protection," ICRP Publication 14, Pergamon Press, Oxford, 1969.

[30] "Alpha-Emitting Particles in the Lung" NCRP Report No. 46, Washington, D.C., 1975.

this system to be set aside in favor of the hot particle concept.[31]

The use of the data of Albert et al. on rat skin tumors induced by fast electrons to estimate the risk from hot particles seems unjustified on four grounds. (i) The rat data involved a single dose, whereas the lung irradiation being considered is chronic. (ii) Cochran and Tamplin do not cite data showing that nonuniform irradiation by beta and alpha particles is less effective than uniform radiation. (iii) Previous experiments cited by the Albert group showed no tumor production by 0.3 MeV electrons, external alpha particles and protons. (vi) The hair folicle seems to be the sensitive structure for radiation induced cancer in the skin. No similar structure has been identified in the lung, nor is there any estimate of the probability of a hot particle being close to such a structure.[32]

In summary, therefore, there is at present no evidence to suggest that irradiation of the lung by particles of plutonium is likely to be markedly more carcinogenic than when the same activity is uniformly distributed.[33]

The organizations which have recommended the use of the uniform dose assumption have reviewed considerable data in their decision-making process. The studies considered most important by the NRC staff are discussed below as they relate to the uniform dose assumption.

3. *Hamster Experiments.* Richmond and Sullivan [18] and Richmond and Voelz [34] have reported the partially completed results of experiments, previously discussed, in which large numbers of plutonium particles were implanted in the lungs of hamsters by intravenous injections. According to the summary of these experiments reported by Bair, et al.,[9] approximately 560 hamsters each received 2000 particles (0.07 to 59.4 picocuries), 485 received 6000 to 1,000,000 particles, and a large number of additional hamsters received 50,000 to 900,000 particles (some containing as little as 0.015 picocuries). About 2000 animals were involved in these experiments. Bair, et al.,[9] report that 1150 of these animals have lived their full life spans or have been sacrificed, with only three primary lung tumors observed. These results indicate a very low risk for nonuniform lung dose due to plutonium in particulate form.

Little, et al.,[10] exposed hamster lungs to alpha radiation from Po–210. The size of the particles was varied, thus resulting in a range in the degree of dose uniformity. The incidence of lung cancer was lower for the less uniform dose. The authors concluded:

* * * in the dose range studied, alpha radiation is cancerogenic when a lower but relatively uniform dose is delivered to a large volume of lung tissue than when a similar amount of radioactivity is distributed nonuniformly such that the primary effect is to deliver much higher radiation doses to relatively small tissue volumes.

These results indicate that plutonium standards based on uniform dose distribution would be conservative for particles in the lung. This experiment also revealed that hamster lungs develop cancer in a relatively short period, as compared with their life span, following alpha irradiation. This information lends support to the usefulness of the data reported in references 18 and 34.

4. *Special Study on the Spatial Distribution of Lung Dose (Bair, et al., Reference 9)*. As previously mentioned, a study was recently conducted relative to the question as to whether, for a given quantity of radioactive material in the lung, the risk of cancer is more properly characterized by assuming that the material is concentrated nonuniformly in discrete particles or by assuming that the material is distributed uniformly throughout the lung. This study was conducted by personnel most closely associated with pertinent research programs. The results were published in reference 9. Two of the conclusions from reference 9 are reproduced below:

Available experimental data indicate that averaging the absorbed alpha radiation dose from plutonium particles in lung is radiobiologically sound.

After thirty years experience with plutonium in laboratory and production facilities, there is no evidence that the mean dose lung model on which occupational radiation protection standards for plutonium are based is grossly in error or leads to hazardous practices. Currently available data from occupationally exposed persons indicate that the nonhomogeneous dose distribution from inhaled plutonium does not result in demonstrably greater risk than that assumed for a uniform dose distribution. Thus, empirical considerations lead to the conclusion that the nonuniform dose distribution of plutonium particles in the lung is not more hazardous and may be less hazardous than if the plutonium were uniformly distributed and that the mean dose lung model is a radiobiological sound basis for establishment of plutonium standards.

5. *NCRP Report No. 46.* The NCRP report on this subject, quoted above, concludes that the dose-averaging procedure that was used to derive current standards is defensible. This conclusion is based on observations in experimental animals, on observations in man, and on a theoretical analysis showing that the number of cells at risk is much greater per unit quantity of activity when the activity is distributed uniformly in the lung.

6. *Human Experience.* Hempelmann, et al.,[25,26] discuss several workers who were exposed to insoluble plutonium particles about 30 years ago during the Manhattan Project. It is estimated that they were exposed to levels of plutonium considerably exceeding the present NRC standards. Several of these persons still retain body burdens in excess of the presently permissible level. None of the workers have suffered any illness attributable to the exposures, which can be taken to indicate a low risk associated with the levels of exposure permitted by the NRC standards.

7. *Summary.* In summary, the uniform dose model is generally recognized by the scientific community and supported by experimental evidence as a conservative basis for standards for personnel protection. The NRC finds, in agreement with the recommendations of the organizations quoted, that available data support the use of the uniform dose assumption as an appropriately conservative approach. That is, the available data indicate that while the biological risk from a uniform lung dose of 15 rems per year is low, an equivalent dose delivered in a nonuniform manner is at least as low. Therefore, standards for insoluble, alpha-emitting radionuclides, as based on a uniform dose assumption, are believed to be adequately conservative.

F. FURTHER CONSIDERATIONS

The NRC conclusions cited in Section D do not obviate the need for continuing review of developments in the field. The Commission will reconsider its determination if warranted by any of several considerations. These may include new guidance to Federal agencies from EPA, new recommendations from the NCRP, ICRP or NAS, or new data from observations of exposed personnel or from the results of ongoing or future animal experiments. The Commission will continue to follow closely any new information that becomes available, and consideration will be given to the modification of standards as necessary to reflect advances in radiobiological knowledge.

Extensive studies on inhalation hazards are being continued by the Energy Research and Development Agency. The most relevant ongoing studies in this program are discussed below.

1. *Pacific Northwest Laboratory.* Pacific Northwest Laboratory is conducting polydisperse aerosol studies with transuranium radionuclides in dogs and rodents which range from short-term experiments to determine the kinetics and dosimetry aspects to long-term (lifetime) experiments to help define the risks associated with inhalation of radionuclides.

Of major interest are the long-term beagle experiments in which animals are given an exposure to polydisperse plutonium oxide aerosols at various levels, from levels that overlap previous beagle experiments down to lower levels which provide an initial overall average lung dose of 15 rems per year. Experiments are being performed with both ^{239}Pu and ^{238}Pu to define quantitative differences between the two plutonium isotopes. The ^{239}Pu exposures were administered in 1971 and 1972 and the ^{238}Pu exposures were administered in 1973 and 1974. There are 130 animals including 20 controls in the ^{239}Pu studies and the same number in the ^{238}Pu studies.

[31] Dolphin, G. W., "Hot Particles," National Radiological Protection Board, Harwell, UK, 1974.

[32] Science and Technology Advice and Information Service Committee, "Report on Radiation Protection Standards for Hot Particles of Plutonium and Other Antinides," Biophysical Society, draft dated November, 1974.

[33] Committee on Protection Against Ionising Radiation, "The Toxicity of Plutonium," Medical Research Council, 1975.

[34] Richmond, C. R. and Voelz, G. L., (eds.), "Annual Report of the Biological and Medical Research Group (H-4) to the USAEC," Division of Biology and Medicine, Los Alamos Scientific Laboratory Report, LA-4923-PR, 1972.

2. *Lovelace Foundation.* Lovelace Foundation is conducting monodisperse aerosol studies with transuranium radionuclides in hamsters and dogs and preliminary studies with shetland ponies. Experiments are designed to determine deposition, retention, mobility, dosimetry and correlation to pathological observations of various physical and chemical forms of monodisperse particulates in animal lungs.

Of particular interest to the "hot particle" question are beagle experiments with monodisperse $^{238}PuO_2$ particles similar to the PNL studies of beagles with polydisperse particles. The exposures initiated in 1973 are scheduled to be completed in 1975.

Experiments are also being conducted with other alpha and beta emitting radionuclides in various chemical and physical forms.

3. *Los Alamos Scientific Laboratory.* Los Alamos Scientific Laboratory is continuing studies in which particulate materials are transported by the circulatory system and lodged in hamster lungs following intravenous injection. Results to date [18] after three years of exposure indicate minimal to no effects. Experiments are being extended to larger numbers of particulates in an attempt to provide some experimental overlap with the results of Little [19] who obtained lung tumor incidence in hamsters after polonium exposures. A collaborative program involving experiments by Little with plutonium particles and Los Alamos experiments with polonium is being initiated.

4. *Human Exposures.* Studies [22] of tissues of the Los Alamos worker whose lymph nodes contained particulate plutonium are being extended to include other portions of the lung.

A number of personnel have been exposed to insoluble particles of plutonium and other transuranic elements in connection with the operation of the AEC's national laboratories. The results of medical examinations for these personnel are considered by the NRC to be the best possible source of direct information regarding the adequacy of its standards for the protection of personnel against such particles. These results are being closely followed.

Copies of the petitions for rulemaking and of the Commission's letters of denial are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C. this 7th day of April 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-10523 Filed 4-9-76;8:45 am]

[Docket Nos. 50-528A, 50-529A, 50-530A]

ARIZONA PUBLIC SERVICE COMPANY, ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated April 6, 1976:

"You have requested our advice pursuant to the provisions of section 105c. of the Atomic Energy Act of 1954, as amended, in regard to amendments to the applications in the above-cited dockets which would substitute Southern California Edison Company for Tucson Gas and Electric Company as the owner of an undivided 15.4 per cent interest in the Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3.

"The Department of Justice initially rendered antitrust advice to your Commission on the PVNGS license applications by letter of April 8, 1975. We described the PVNGS facility—three nuclear units of 1270 megawatts each, scheduled for operation in 1981, 1982 and 1984, respectively—the six then-applicant electric utilities, their interconnection and coordination arrangements, and their relationships with smaller neighboring systems. We noted that certain restrictive provisions in an agreement between two of the applicants, Arizona Public Service Company (APSC) and the Salt River Project (SRP), and in agreements of those systems with third parties, had been removed by the applicants of their own volition, and, further, that the possible anticompetitive effect of provisions in the power supply agreements between APSC and certain wholesale customers and in agreements between SRP and certain wholesale customers had been satisfactorily eliminated by APSC's and SRP's agreement to license conditions. The Department accordingly recommended that no antitrust hearing appeared to be necessary on the PVNGS applications.

"The new license applicant, Southern California Edison Company (SCE), was previously the subject of antitrust review under Section 105c. in connection with its application (along with San Diego Gas & Electric Company) to construct the San Onofre Nuclear Generating Station, Units 2 and 3, AEC Docket Nos. 50-361A and 50-362A. Our initial advice to the Atomic Energy Commission, rendered by letter of July 12, 1971, recommended an antitrust hearing concerning the alleged anticompetitive activities of SCE toward smaller electric utilities in the Southern California area. Subsequently, however, SCE agreed to accept license conditions which enable the Department to advise your predecessor Commission that an antitrust hearing would no longer be required on the San Onofre applications. Letter of June 23, 1974, from Thomas E. Kauper, Assistant Attorney General, Antitrust Division, to Howard K. Shapar, Assistant General Counsel, Atomic Energy Commission. These license conditions commit SCE to permit participation in new nuclear generating units initiated by it to neighboring entities lacking access to an alternative, comparably-priced power supply source and, with respect to nuclear units not initiated by it in which it is a joint participant with others, to cooperate in facilitating the participation of such entities upon their timely application. Interconnection and reserve coordination, emergency service, coordinating power sales and purchases, transmission services, and coordination of new transmission construction are also provided for in these license conditions.

"Given the present applicability of the procompetitive San Onofre license conditions, and the absence of any information to the contrary of which we have become aware in the course of this antitrust review, the Department believes no antitrust hearing will be necessary as a result of the addition of Southern California Edison Company as a 15.4 percent owner in the proposed Palo Verde Nuclear Generating Station."

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by May 12, 1976, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, DC. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust & Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.76-10689 Filed 4-9-76;9:26 am]

[Docket Nos. 50-440, 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO., ET AL., (PERRY NUCLEAR POWER PLANT, UNITS 1 AND 2)

Rescheduled Hearing

The hearing previously scheduled on the issue as set down in the March 25, 1976, Notice of Hearing, to consider an amendment to a previously-issued Limited Work Authorization for the placement of reinforcing steel for the reactor building in the reactor building excavation, by stipulation of the parties for the 9th of April 1976, is now rescheduled to April 13, 1976, to commence at 9:30 a.m., in Room 2069, Federal Building, 1240 East 9th Street, Cleveland, Ohio 44119.

Dated at Bethesda, Maryland this 8th day of April 1976.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.76-10687 Filed 4-9-76;9:26 am]

[Docket No. P-531A]

PUBLIC SERVICE CO. OF OKLAHOMA, (BLACK FOX GENERATING STATION, UNITS 1 AND 2)

Order Cancelling Oral Arguments on Amended Petition To Intervene

The Staff has advised the Board that the Grand River Dam Authority intends to withdraw unconditionally its petition to intervene. Therefore oral arguments scheduled for 1:00 p.m. April 12, 1976 in the Commission's hearing room of the East/West Towers Building, Bethesda, Maryland have been cancelled.

It is so ordered.

Dated at Bethesda, Maryland this 8th day of April 1976.

For the Atomic Safety and Licensing Board.

IVAN W. SMITH,
Chairman.

[FR Doc.76-10688 Filed 4-13-76;9:26 am]

[Docket Nos. 50-3; 50-247; 50-286]

CONSOLIDATED EDISON CO.

Public Hearing on Seismic Issues

The three units of the Indian Point Nuclear Generating Station are located on the east bank of the Hudson River in Westchester County, New York, in the Village of Buchanan. By notice dated August 5, 1975, the public was informed that the Nuclear Regulatory Commission had called for a special hearing to inquire further into the seismic characteristics of the Indian Point (Units 1, 2 and 3) site. The Commission designated the Appeal Board which was then involved in an Indian Point operating license proceeding to preside at the hearing. That Board consists of Michael C. Farrar, a lawyer; Dr. John H. Buck, a nuclear physicist; and Dr. Lawrence R. Quarles, a nuclear engineer.

The original request for the seismic hearing came from the New York State Atomic Energy Council. The Citizens Committee for Protection of the Environment (CCPE) has also raised matters that will be considered. The other parties to the proceeding are the Consolidated Edison Company of New York and the Nuclear Regulatory Commission staff.

Previous orders we have issued during the lengthy pre-hearing phase of this proceeding have indicated that the hearing itself would commence on Wednesday, April 21, 1976, in the general vicinity of White Plains, New York. That fact has been widely publicized. The precise time and location are now settled: the hearing will start at 9:30 a.m. on April 21st in the Ceremonial Courtroom of the Westchester County Courthouse, which is located at 111 Grove Street in White Plains. Members of the public are welcome to attend all sessions of hearing, subject of course to limitations imposed by the seating capacity of the hearing room.

The present schedule calls for the hearing to continue in White Plains for three days, from April 21st through April 23rd. The hearing will resume on the following Monday, April 26th, in the Commission's public hearing room in Bethesda, Maryland (that hearing room is located on the 5th floor of the East-West Tower Building, 4350 East-West Highway). In order that the parties may have sufficient time to analyze the significance of the seismic disturbance which occurred on March 11, 1976, one of the issues will not be heard until May, 1976. Accordingly, the hearing will recess after Thursday, April 29th; under current plans, it will resume on Tuesday, May 18, 1976. In all likelihood, the May session of the hearing will also be held in Bethesda.

Three issues will be considered at the hearing:

1. Does the Cape Ann earthquake of 1755, or any other historic event, require the assumption, in accordance with 10 CFR Part 100, Appendix A, of a Safe Shutdown Earthquake for the Indian Point site greater than a Modified Mercalli intensity VII?

2. Should the ground acceleration value used for the design of Indian Point Unit 1, 2 or 3 be increased?

3. Is the Ramapo fault a capable fault within the meaning of Appendix A, 10 CFR Part 100? Those issues are framed in technical language. Accordingly, at the outset of the hearing, the lawyers for each of the parties will make brief opening statements explaining in layman's terms both their perception of the issues and their expectations of what the evidence will establish.

In order to accommodate one of CCPE's principal witnesses, issue No. 2 will be heard first; whatever time is left during the first seven hearing days will be devoted to issue No. 1. Issue No. 3 will not be considered until the May session; that session will also be used to complete any matters left unfinished earlier.

In accordance with customary Commission practice, members of the public who wish to make oral or written statements setting forth their position or concerns with respect to the issues may request permission to make a "limited appearance" under Section 2.715 of the Commission's Rules of Practice. The August 5, 1975 notice indicated that such requests had to be filed by August 29, 1975. In view, however, of the recent increase in public interest in this matter, we will entertain additional requests to make limited appearances. Persons wishing to request such permission should either send a letter to this Board by Thursday, April 15, or sign up at the entrance to the Courtroom between 9:00 and 9:30 a.m. on the first day of the hearing. Limited appearance statements will be heard only on that same morning.

In this connection, we wish to stress that the issues in this proceeding are relatively narrow ones. A person making a limited appearance may state his position, and any questions he would like to have answered, *only to the extent relevant to the matter at hand*. We will not entertain statements dealing with the merits or demerits of nuclear power in general or with other aspects of the Indian Point Station, for such matters are not before us for inquiry or decision.

We also note that, because only three days of hearing will be held in White Plains, we have to ration the time allocated to limited appearances. To devote an inordinate amount of time to that purpose would be unfair to those members of the public who come to the hearing to learn what the evidence shows about the seismic matters in issue. Moreover, it is important that there be ample opportunity during the first three days for both the direct testimony and the cross-examination of one of CCPE's witnesses, whose availability to testify is quite limited.

With these facts in mind, we request that the members of any organized groups wishing to be heard select a spokesman to present their views to the Board. This will enable us to be apprised of the views of a greater number of people in the time available. In any event, we will have to consider the constraints of time in passing upon requests to make limited appearances and in determining how much time each person will be allotted.

All documents filed in this proceeding are available and may be inspected at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York, as well as at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. Copies of the transcript of each day's hearing will also be made available at those locations.

It is so ORDERED.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

APRIL 9, 1976.

[FR Doc.76-10726 Filed 4-9-76;12:09 pm]

NATIONAL SCIENCE FOUNDATION

ALAN T. WATERMAN AWARD COMMITTEE

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee.

Date and time: April 25, 1976; 8:30 a.m.

Place: Rm. 543, National Science Foundation, 1800 G St. NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Jack T. Sanderson, Acting Director, Office of Planning and Resources Management, National Science Foundation, Washington, D.C. 20550, tel: (202) 632-4364.

Purpose of award committee: To provide recommendations concerning the recipient of the Alan T. Waterman Award.

Agenda: To review nominations as part of the selection process for the award.

Reason for closing: The nominations being reviewed include information of a personal and confidential nature. These matters are within exemption (6) of 5 U.S.C. 552(b), Freedom of Information Act.

Authority to close meeting: The determination made by the Director of the National Science Foundation, pursuant to provisions of Section 10(d) of Public Law 92-463.

Reason for late notice: The Award is to be presented at the annual meeting of the National Science Board in early May. April 25 is the only available date on which the Committee members could be assembled and still meet the schedule for presentation of the Award.

FRED K. MURAKAMI,
Committee Management Officer.

APRIL 7, 1976.

[FR Doc.76-10516 Filed 4-9-76;8:45 am]

POSTAL SERVICE

DOMESTIC SPECIAL MAIL SERVICES AND OTHER NONPOSTAL SERVICES

Temporary Increase in Fees

1. On January 5, 1976, the United States Postal Service requested the Postal Rate Commission to submit to the governors of the Postal Service a recommended decision on changes in fees for domestic special mail services. This filing was made in accordance with the December 16, 1975, opinion of the United States District Court for the District of Columbia (Sirica, J.) in the case of *Associated Third-Class Mail Users, et al.* v. *The United States Postal Service, et al.* (Civ. Action No. 75–1809) but without prejudice to the Postal Service's appeal from the decision in that case.

2. The specific changes in fees for special services proposed by the Postal Service are shown in column (3) of the tables set out in paragraph 4 below.

3. Since the Postal Rate Commission has not transmitted its recommended decision to the Governors of the Postal Service 90 days after submission of the Postal Service's request of January 5, 1976, the Postal Service intends to place into effect at 12:01 a.m., April 18, 1976, temporary fees for special services as shown in column (4) of the tables set out in paragraph 4 below, under authority of 39 U.S.C. § 3641.

4. The following tables show the Postal Service's changes in special service fees for which it has requested a recommended decision.

ROGER P. CRAIG,
Deputy General Counsel.

(39 U.S.C. 401, 404, 3621, 3641.)

TABLE I.—*Registered mail*

Value up to	Fees (in addition to postage)					
	For articles not covered by commercial or other insurance			For articles also covered by commercial or other insurance		
	Current fees	Proposed full fees	Temporary fees	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)	(2)	(3)	(4)
$100	$0.95	$1.90	$1.25	$0.95	$1.90	$1.25
$200	1.25	2.10	1.65	1.25	2.10	1.65
$400	1.55	2.40	2.05	1.55	2.40	2.05
$600	1.85	2.70	2.45	1.85	2.70	2.45
$800	2.15	3.00	2.85	2.15	3.00	2.85
$1,000	2.45	3.30	3.25	2.45	3.30	3.25
$2,000	2.75	3.60	3.60			
$3,000	3.05	3.90	3.90	2.45	3.30	3.25
$4,000	3.35	4.20	4.20	plus handling charge of—		
$5,000	3.65	4.50	4.50	.20	.25	.25
$6,000	3.95	4.80	4.80	per $1,000 or fraction over first $1,000		
$7,000	4.25	5.10	5.10			
$8,000	4.55	5.40	5.40			
$9,000	4.85	5.70	5.70			
$10,000	5.15	6.00	6.00			
$1 million	5.15	6.00	6.00			
	plus handling charge of—					
	.20	.25	.25			
	per $1,000 or fraction over first $10,000					
$1 million	203.15	253.50	253.50	202.25	253.05	253.00
$15 million	plus handling charge of—			plus handling charge of—		
	.15	.20	.20	.15	.20	.20
	per $1,000 or fraction over first $1 million			per $1,000 or fraction over first $1 million		
Over $15 million	Additional charges may be made based on considerations of weight, space, and value					

TABLE II.—*Registered c.o.d. charge*

(1)	Current fees (2)	Proposed full fees (3)	Temporary fees (4)
C.o.d. collection charge (maximum amount is $300)	$.70	$.85	$.85

TABLE III.—*Certified mail*

Type (1)	Currentfees (2)	Proposed full fees (3)	Temporary fees (4)
In addition to postage	$.30	$.50	$.40

Table IV.—*Insured mail*

Liability	In addition to postage		
	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
$0.01 to $15.00	$0.20	$0.35	$0.25
$15.01 to $50.00	.30	.55	.40
$50.01 to $100.00	.40	.75	.50
$100.01 to $150.00	.50	.95	.65
$150.01 to $200.00	.60	1.15	.80

Table V.—C.o.d. mail

Amount to be collected or insurance coverage desired	In addition to postage		
	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
$.01 to $10.00	$.70	$.85	$.85
$10.01 to $25.00	.80	1.05	1.05
$25.01 to $50.00	.90	1.25	1.20
$50.01 to $100.00	1.00	1.45	1.30
$100.01 to $200.00	1.10	1.65	1.45
$200.01 to $300.00	1.25	1.85	1.65

Table VI.—*Special delivery*

Class of mail	Weight								
	Not more than 2 lb			More than 2 lb but not more than 10 lb			More than 10 lb		
	Current fees	Proposed full fees	Temporary fees	Current fees	Proposed full fees	Temporary fees	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)	(2)	(3)	(4)	(2)	(3)	(4)
First class and airmail, and priority mail	$0.60	$1.20	$0.80	$0.75	$1.45	$1.00	$0.90	$1.70	$1.20
All other classes	.80	1.70	1.05	.90	1.80	1.20	1.05	2.10	1.40

Table VII.—*Special handling*

Class of mail	Not more than 2 lb			More than 2 lb but not more than 10 lb			More than 10 lb		
	Current fees	Proposed full fees	Temporary fees	Current fees	Proposed full fees	Temporary fees	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)	(2)	(3)	(4)	(2)	(3)	(4)
Third class, fourth class, and international.	$.25	$.50	$.30	$.35	$.70	$.45	$.50	$1.00	$.65

Table VIII.—*Money orders*

Amount	Fee (domestic)		
	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
$0.01 to $10.00	$0.25	$0.45	$0.30
$10.01 to $50.00	.35	.60	.45
$50.01 to $300.00	.40	.80	.50
APO–FPO			
$0.01 to $300.00	.15	.15	.15

Table IX.—*Permit imprint fee*

	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
Fee	$15	$20	$20

TABLE X.—*Return receipts*

Type	In addition to postage		
	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
Requested at time of mailing:			
Showing to whom (signature) and date delivered	$0.15	$0.25	$0.20
Showing to whom (signature) and date and address where delivered	.35	.45	.45
Requested after mailing:			
Showing to whom and date delivered	.25	.45	.30

TABLE XI.—*Restricted delivery*

(1)	Current fees (2)	Proposed full fees (3)	Temporary fees (4)
Restricted delivery	$0.50	$0.60	$0.60

TABLE XII.—*Correction of mailing lists*

(1)	Current fees (20 names or less) (2)	Proposed full fees (10 names or less) (3)	Temporary fees (16 names or less) (4)
Minimum	$1.00	$1.00	$1.00
Per name	.05	.10	.06

TABLE XIII.—*Dead-letter-return fee*

(1)	Current fees (2)	Proposed full fees (3)	Temporary fees (4)
Fee	$.10	$.25	$.13

TABLE XIV.—*Certificates of mailing*

Item	In addition to postage		
	Current fees	Proposed full fees	Temporary fees
(1)	(2)	(3)	(4)
Individual pieces:			
Original certificate of mailing for individually listed pieces of all classes of ordinary mail (each piece).	$.05	$.10	$.06
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and c.o.d. mail.	.02	.10	.02
Bulk pieces:			
Identical pieces of first- and third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:			
Up to 1,000 pieces (1 certificate for total number)	.25	.50	.30
For each additional 1,000 pieces, or fraction	.05	.10	.06
Duplicate copy	.05	.10	.06

TABLE XV.—*Notice of nondelivery of c.o.d.*

(1)	Current fees (2)	Proposed full fees (3)	Temporary fees (4)
Notice of nondelivery of c.o.d	$.10	$.25	$.13

TABLE XVI.—*Alteration of c.o.d. charges*

(1)	Current fees (2)	Proposed full fees (3)	Temporary fees (4)
Alteration of c.o.d. charges or designation of new addressee	$.35	$.50	$.45

[FR Doc.76-10430 Filed 4-7-76;2:01 pm]

RENEGOTIATION BOARD

PERSONS HOLDING PRIME CONTRACTS OR SUBCONTRACTS FOR TRANSPORTATION BY WATER AS COMMON CARRIER

Extension of Time for Filing Financial Statements

Every person who held a prime contract or subcontract for transportation by water as a common carrier at any time during the calendar year 1975 is hereby granted an extension of time until November 1, 1976 for filing a financial statement for such year pursuant to section 105(e) of the Renegotiation Act of 1951, as amended.

Dated: April 7, 1976.

R. C. HOLMQUIST,
Chairman.

[FR Doc.76-10444 Filed 4-9-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

GOVERNMENT EMPLOYEES INSURANCE CO.

Notice of Suspension of Trading

APRIL 6, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Government Employees Insurance Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, Pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 7, 1976 through April 16, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-10440 Filed 4-9-76;8:45 am]

[Rel. No. 19467 (70-5828)]

OHIO POWER CO. AND AMERICAN ELECTRIC POWER CO., INC.

Notice of Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding and Issuance and Sale of Common Stock by Subsidiary to Holding Company

APRIL 6, 1976.

Notice is hereby given that American Electric Power Company, Inc. ("AEP") 2 Broadway, New York, New York 10004, a registered holding company, and Ohio Power Company ("Ohio") 301 Cleveland Avenue SW., Canton, Ohio 44701, its electric utility subsidiary company, have filed an application-declaration with this Commission pursuant to the Public Holding Company Act of 1935 ("Act") designating Sections 6(b) and 10 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $80,000,000 principal amount of First Mortgage Bonds, to mature in not less than 5 and not more than 30 years. The interest rate (which will be expressed in a multiple of 1/8 of 1%) and the price to be paid to Ohio for the Bonds (which shall not be less than 100% unless Ohio shall authorize a lower percentage not less than 99%, and shall not exceed 102.75%) will be determined by competitive bidding. The terms of the Bonds preclude Ohio from redeeming any such Bonds prior to May 1, 1981, if such redemption is for the purpose of refunding such Bonds with proceeds of funds borrowed at a lower effective interest cost. The Bonds will be issued under and secured by the Mortgage and Deed of Trust, dated as of October 1, 1938, to Manufacturers Hanover Trust Company and Donald B. Herterich, Trustees, and a new Indenture Supplemental thereto which will be dated as of the first day of the month in which the Bonds are to be issued. Ohio will notify prospective bidders, not less than 72 hours prior to the time for receiving bids, of the maturity date of the Bonds.

Ohio also proposes to issue and sell to AEP, its parent, and AEP proposes to purchase from Ohio, 1,666,667 shares of Ohio common stock, no par value, at a price per share of $15, for a total consideration of $25,000,005. It is proposed that AEP purchase the said 1,666,667 shares upon the receipt of the required authorization and prior to the issuance and delivery of the Bonds.

The proceeds realized from the sale of the Bonds and common stock are to be used to retire unsecured short-term debt of Ohio, including the financing of part of its construction program. As of March 11, 1976, there were notes payable to banks and commercial paper outstanding in the amount of $158,000,000; and it is expected that Ohio will have short-term debt outstanding not to exceed $190,000,000 at the time of the issue and sale of the Bonds and common stock. The estimated cost of Ohio's construction program for 1976 is approximately $165,000,000, exclusive of construction costs in connection with the completion of the General James M. Gavin Plant by Ohio's wholly owned subsidiary, Ohio Electric Company.

Expenses of Ohio in connection with the proposed transactions will be filed by amendment. It is stated that the proposed issuance and sale of the Bonds and common stock is subject to the jurisdiction of the Public Utilities Commission of Ohio and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, That any interested person may, not later than April 30, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective s provided in Rule 23 of the General Rules adn Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-10439 Filed 4-9-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Doc. No. 301-8]

NATIONAL SOYBEAN PROCESSORS ASSOCIATION AND AMERICAN SOYBEAN ASSOCIATION

Complaint

On March 30, 1976, the Chairman of the Section 301 Committee received from Julian B. Heron, Jr., Counsel for the National Soybean Processors Association and the American Soybean Association, a petition alleging unfair trade practices by the European Community, in the form of restrictions on the American soybean trade. Relief is requested under Section 301 of the Trade Act of 1974 (P.L. 93-618; 88 Stat. 1978). The text of the petition is as follows:

Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 725, 1800 G Street, N.W., Washington, D.C. 20506.

COMPLAINT PURSUANT TO SECTION 301 OF THE TRADE ACT OF 1974

1. The complainants are National Soybean Processors Association and American Soybean Association. The National Soybean Processors Association members are American soybean processors who process and market more than 95% of all

the soybeans crushed in the United States. The American Soybean Association is the non-profit organization devoted to the interests of soybean growers and handlers of the nation. Exports of soybeans, soybean meal, and soybean oil to the European Economic Community and to the rest of the world are adversely affected by the imposition of a charge on imports of soybean meal into the EEC.

2. The EEC has levied a charge of 30 units of account per metric ton, effective March 19, 1976, on imports and effective April 1, 1976, on domestic production of vegetable protein products, including soybeans and soybean meal. The charge is characterized as a deposit, because an importer or producer can obtain a refund by buying 50 kilos of surplus European nonfat dry milk for each 1,000 kilos of soybean meal. This practice falls within Section 301(a), 19 U.S.C. § 2411(a).

3. The charge, or deposit, applicable to imports of soybean meal, was effective March 19, 1976, and results from action of the European Economic Community.

4. The complaint concerns restrictions on American soybean trade imposed by the European Economic Community.

5. The products restricted are soybean meal, TSUS 131.45 and 131.80, and BTN 11.01 and 11.02, and soybeans, TSUS 175.49 and BTN 12.01. The restrictions are causing adverse effects on American exports of soybean oil, TSUS 176.52 and BTN 15.07.

6. (i) The charge on imported soybean meal and soybeans will reduce such imports from the United States. Indeed, the deposit is specifically designed to cause a substitution of powdered milk for some of the protein meals used in animal feed, including soybean meal. The EEC is the largest market for United States exports of soybeans and meal. In 1974–75, 70% of American soybean exports went there.

(ii) Since the feed displacement effect of nonfat dry milk is estimated to nearly equal an equivalent amount of soybean meal, United States trade in soybean meal will be reduced. The impact will fall mainly on imports from the United States, since the EEC imports about 85% of its vegetable protein consumption. Further, there will be distortions adversely affecting U.S. exports of soybeans and soybean oil. The adverse effects on imports into the EEC will affect the United States and its major competitor, Brazil, and will surely intensify the competitive pressures between them in other importing markets of the world.

(iii) The EEC's action violates Article II of the General Agreement on Tariffs and Trade, which prohibits the impairment of benefits under trade agreements; Article III, which prohibits the application of mixture requirements to imports as a protectionist device; and Article VIII, which prohibits fees on imports in excess of the costs of services rendered. In previous negotiations, the EEC has agreed with the United States to hold its tariff at zero. The soybean deposit is clearly a protectionist device having the effect of a tariff, since it is redeemable only with the purchase of a quantity of a competing domestic commodity. Further, the EEC's action is within the purview of Section 301(a) of the Trade Act of 1974.

7. Complainants have not filed for any other form of relief under the Trade Act or any other act, believing that the United States has sufficient authority under Section 301 and under its treaty rights to cause the EEC to terminate its restrictive charge on soybean meal.

Respectfully submitted,

Julian B. Heron, Jr., Pope Ballard & Loos, 888 17th Street, N.W., Washington, D.C. 20006, Attorney for National Soybean Processors Association and American Soybean Association.

HEARINGS

I. The complainant has requested that hearings be held on this matter. Such hearings will be held at 10:00 a.m. on Tuesday, May 11, 1976, at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C., Room 730.

II. Requests to present oral testimony and accompanying briefs must be received on or before May 4, 1976. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 F.R. 39497—August 28, 1975).

A. *Submission of Briefs and Requests to Present Oral Testimony.* Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR Part 2006.6 and 2006.7 (40 F.R. 39497—August 28, 1975).

B. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed within 15 days after the close of the hearings. The requirement that written briefs be submitted in 20 copies is waived with regard to rebuttal briefs.

C. *Attendance at Hearings.* The hearings will be open to the public.

MORTON POMERANZ,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.76-10474 Filed 4-9-76;8:45 am]

NATIONAL CANNERS ASSOCIATION

[Doc. No. 301-7]

Notice of Complaint

On March 30, 1976, the Chairman of the Section 301 Committee received from Leonard K. Lobred, Director of International Trade, National Canners Association, a petition alleging unfair trade practices by the European Community. The complaint alleges that the variable levy, on calculated added sugars which is assessed on canned fruits imported into the Community, constitutes an unjustifiable and unreasonable import restriction, which impairs the value of trade commitments made to the United States and burdens, restricts and discriminates against United States commerce. Relief is requested under Section 301 of the Trade Act of 1974 (P.L. 93-618; 88 Stat. 1978). The text of the petition is as follows:

Chairman,
Section 301 Committee,
Office of the Special Representative for Trade Negotiations
1800 G Street, N.W., Room 725
Washington, D.C. 20506

Re: Petition Filed on Behalf of the National Canners Association for Section 301 Relief from the EC Variable Levy on Calculated Added Sugars in Canned Fruit.

INTRODUCTION

Pursuant to Section 301 of the Trade Act of 1974, 19 U.S.C. § 2411 and the Regulations promulgated pursuant thereto, 19 C.F.R. §§ 2006.0–2006.10, the National Canners Association hereby petitions the President of the United States, through the Office of the Special Representative for Trade Negotiations, to act pursuant to Section 301, to obtain the elimination of the variable levy on calculated added sugars which is assessed on canned fruit imported into the European Community (EC) pursuant to EC Regulation No. 865/68, as amended by EC Regulation No. 2275/70.

This variable levy, imposed by the EC countries, constitutes an unjustifiable and unreasonable import restriction, which impairs the value of trade commitments made to the United States, and burdens, restricts and discriminates against United States commerce within the meaning of Section 301(a)(1) of the Trade Act of 1974; this levy is also an unjustifiable and unreasonable trade policy which burdens and restricts United States commerce within the meaning of Section 301(a)(2) of the Trade Act of 1974.

The stated purpose of this variable levy is to harmonize EC import charges on the sugars used in the manufacture of processed fruit with the import charges on pure sugar. The method utilized is to impose a levy upon the calculated added sugars content of canned fruit containing added sugars in addition to the fixed rate of duty charged upon imports of the canned fruit. The amount of the variable levy per 100 kg of sugar is determined quarterly by the EC by computing the difference between the world price of sugar and the EC threshold (gate) price which is a price determined by the EC itself.

Because of the complexities, uncertainties and delays arising out of the EC variable levy on calculated added sugars in canned fruits, importers in the EC member states may never be certain, in advance, of the amount of added charges which must be paid on imported

canned fruit containing added sugars. Nor can EC importers calculate how much time will be required to complete the complex import procedure and to receive a final assessment of the amount of variable sugar levy due. Importers wishing to be free of such import restraints may do so by purchasing canned fruit originating in an EC member state or in an associated EC state or territory which is exempt from the variable sugar levy. Thus the variable levy on calculated added sugars in canned fruits is clearly unjustifiable, unreasonable, and discriminatory against United States commerce.

STATEMENT OF INTEREST

The National Canners Association is supported voluntarily by approximately 475 canners of processed foods, a substantial number of whom are engaged in the production and sale of canned fruit which is imported into the EC under CCT heading Nos. 20.06B.IIa and 20.06B.IIb and are subject to the variable levy on calculated added sugars.

United States exports of canned fruit to the EC member states during the most recent fiscal years are substantial, as reported by the Economic Research Service, U.S. Department of Agriculture:

[Thousands of dollars:]

	1970-71	1971-72	1972-73	1973-74	1974-75
Canned fruit, total	23,830	16,936	22,969	25,282	16,884
Peaches	9,853	5,692	5,431	7,798	3,740
Fruit cocktail	3,756	2,942	3,967	6,940	2,822
Pineapple	8,572	6,176	6,718	5,777	5,409
Other	1,649	2,126	6,853	4,767	5,853

Source: "Foreign Agricultural Trade of the United States (FATUS)," ERS-USDA, December 1975.

As the trade association representing U.S. producers of canned fruit exported to the EC member states, the National Canners Association represents a significant economic interest affected by the restrictive acts and practices which are the subject of this petition, as required by the Regulations, 19 C.F.R. §2006.0(a).

HISTORY OF THE EC VARIABLE LEVY ON CALCULATED ADDED SUGARS

Prior to formation of the EC, there was an import charge on added sugars in canned fruits only in the Benelux countries. The Benelux sugar charge was called a duty, and the amount to be paid was a fixed rate which was bound by Belgium to the United States. The pertinent portion of the binding read as follows:

"No additional duty if added sugar is 10 percent or less; otherwise, if added sugar is 11 percent to 30 percent, the additional duty is equal to 30 percent of the duty for sugar applied to the amount of added sugar * * *."

Pursuant to the binding with Belgium, there was no additional duty if the added sugar was 10 percent or less. In fact, almost all canned fruit entering into Belgium contained less than 10 percent added sugar and thus entered into Belgium without the payment of any added sugar duty. The volume of imports with added sugar in excess of 10 percent was negligible, and the over-all ad valorem effect of the Belgian sugar added duty was virtually a nullity.

Following the formation of the EC, and during the GATT Article XXIV:6 negotiations of 1960-61, the European Community reserved the right to assess an additional duty on the quantity of sugars contained in certain processed fruit products in excess of certain "allowances" and "tolerances."

The pertinent wording in French, which was the language of the agreement, is as follows:

"La Communauté se reserve le droit de percevoir, en sus du droit consolidé, *un droit additionnel* sur le sucre, correspondant à la charge supportée a l'importation par le sucre, et applicable à la quantité de sucres divers (calculée en saccharose), contenue dans ce produit, au-delà d'une teneur de X% in poids." (Emphasis added.)

Simultaneously the EC agreed in the Dillon Round to reduce and bind its common fixed external tariff on canned fruit containing added sugars in containers having a net content of 1 kg or less, covered by CCT No. 20.06B.IIb; this reduction comprehended all canned fruit in retail-sized containers. The EC agreed to reduce the CXT from 27 percent and to bind it at 25 percent.

Thus, at the same time that it agreed to the 2-point reduction in its canned fruit tariff, the EC obtained, in the GATT Article XXIV:6 negotiations, the right to enlarge the geographic scope of the incidental sugar duty that had previously been exacted only in Benelux. The right to assess the duty ("un droit additionnel") on calculated added sugars was an acknowledged impairment of the tariff concession applicable to the same articles. It was foreseen by negotiators at the close of the Dillon Round that the EC would impose an import charge corresponding to the CXT on sugar (there was then a fixed EC tariff on sugar, at 80 percent ad valorem) on the volume of sugar, by weight, which exceeded the "allowances" and was not exempted following the "tolerances." Although detailed plans for implementating this supplementary charge were not then developed, it was anticipated that the geographic enlargement of the Benelux sugar duty would have only an incidental effect on the total EC sugar duty and would certainly be no more burdensome than the Benelux sugar duty.

The European Community did not immediately exercise its reserved right to impose a duty on sugar added, delaying until the close of the Kennedy Round negotiations. If then instituted, not a duty, as the reserved right permitted and as was foreseen and understood as a basis for the Dillon and Kennedy Rounds, but a variable levy. The variable levy on calculated added sugars in canned fruit was introduced July 1, 1967, pursuant to EC Regulation No. 220/67, which was superseded November 1, 1967, by EC Regulation No. 789/67. In these interim regulations the variable sugar levy varied according to the price levels for sugar in each of the member states.

The permanent system of variable levies on calculated added sugars in canned fruit was instituted July 1, 1968, pursuant to EC Regulation 868/68, which provides that the levy is an amount of money which is the result of multiplying (1) the figure which represents the calculated added sugars in the canned fruit by (2) the EC levy for sugar.

With enlargement of the EC in 1973, the geographic scope of the variable sugar levy was enlarged from six to nine member states. The variable sugar levy is assessed currently in all of the EC member states—Belgium, Denmark, France, Ireland, Italy, Germany, Luxembourg, The Netherlands, and the United Kingdom.

OPERATION OF THE EC VARIABLE LEVY ON CALCULATED ADDED SUGARS

The sugars in canned fruit are a combination of sugar occurring naturally in the fruit and those which are added in the form of syrup during canning. There is wide variation in the natural sugar content of fruit; the variation may be due to differences in variety, maturity, or growing conditions.

After canning, the natural sugar and the added sugar come to equilibrium both in the pieces of fruit and in the liquid syrup. The result for each fruit is natural can-to-can variation in total sugar content that is unavoidable in good manufacturing practice. The total combined sugars in the canned fruit are measured in terms of degrees Brix, an estimate of the sugar content based on the specific gravity of the syrup. The Brix is measurable by refractometer.

Because it is not practical to distinguish accurately between the added sugars and those that are present due to natural occurrence in a single can of fruit, the EC assessment is based on calculated added sugars, with an "allowance" for natural sugars.

The volume of calculated added sugars in each shipment of canned fruit into the EC is determined according to the following procedure. When a shipment of canned fruit is presented for customs clearance, one can from that entire shipment is selected at random for a government laboratory analysis. This determination of calculated added sugars subject to the variable levy is based on laboratory analysis of only one can in each shipment, regardless of the size of the shipment. It is, in effect, a "lottery" in which the volume of leviable added sugars, the most significant factor in the computation of the levy due on the shipment, is based on the Brix of one sample can drawn at random out of thousands of cans.

The Brix of that sample can is measured by refractometer. The Brix of the sample can is then reduced by 0.93, to account for soluble solids other than sugar. The "allowance" for natural sugar, provided for in Appendix I of the Regulation, is then subtracted, and the resulting figure is the calculated added sugars subject to the variable levy.

In the unlikely event that the "calculated added sugars" is within the combined "allowance" and "tolerance," no levy is due.

The second factor in the computation of the levy on the canned fruit shipment is the amount of the levy per leviable unit, which is officially declared by the EC, pursuant to EC Regulation No. 1009/67, on a quarterly basis.

(As originally issued, EC Regulation No. 865/68 had provided for recalculation of the levy with great frequency, and during 1969, for example, the levy was adjusted a total of 25 times. EC Regulation No. 2275/70 changed the frequency of the variable levy determination to once every three months, effective January 1, 1971. This change was of only minor consequence, as it did not affect the complex procedure by which the volume of calculated added sugars in each shipment is determined.)

The combination of these two variable factors, the sample laboratory analysis and the changing quarterly amount due per leviable unit, virtually guarantees that the actual import process will be procedurally complex and time consuming, and that the outcome of that procedure will be wholly unpredictable.

An importer of canned fruit into the EC member states must follow a complex procedure: Prior to the importation, the importer must obtain an import license. In the application, the importer must make an estimate of what the calculated added sugars in the shipment will be, and the license is issued accordingly at the prevailing quarterly leviable rate. This import license is virtually useless as a predictor of the import charges due on the shipment because, upon actual importation, the amount of the levy due on the shipment will reflect the calculated added sugars in the sample can and any quarterly change in the leviable rate.

Importers in the EC member states have had the opportunity, under EC Regulation No. 865/68, to obtain an advance fixing of the levy per leviable unit. However, importers have not utilized this procedure because the bigger variable and major uncertainty in computing import charges due on the shipment—the determination of calculated added sugars—is absolutely unpredictable.

Thus, neither the United States exporter of canned fruit, nor the EC importer can ever be certain, in advance, of the amount of the variable levy on calculated added sugars which will be assessed on a particular shipment of canned fruit, and they are thus unable to ascertain, in advance, the landed duty-paid cost of the canned fruit. Moreover, the delivered cost of imported canned fruit subject to the variable sugar levy may not be ascertained by the importer until he receives an assessment from the authorities, a matter of weeks or months during which the imported merchandise has already moved into the channels of distribution.

It is impossible to quantify the restrictive effect of this EC variable sugar levy because some of its major effects are uncertainty as to what the level of import protection will be, delays in calculating the amount of import protection due, and discouragement for EC importers from handling non-EC origin canned fruit.

The ad valorem effect of the variable sugar levy is reduced as the c.i.f. price of canned fruit is increased. The ad valorem effect of the variable sugar levy also reflects the calculated difference each calendar quarter between the world sugar price and the EC threashold (gate) price which is a price determined by the EC itself.

The ad valorem effect of the EC variable sugar levy is not ascertainable from EC import statistics.

The Variable Levy Is Unjustifiable

The variable levy on calculated added sugars is an unjustifiable import restriction which impairs the value of trade commitments made to the United States and which burdens, restricts and discriminates against United States commerce within the meaning of Section 301 (a)(1) of the Trade Act of 1974, 19 U.S.C. § 2411(a)(1), and is a discriminatory act which is unjustifiable as a burden or restriction on United States commerce as provided in Section 301(a)(2) of the Trade Act, 19 U.S.C. § 2411(a)(2).

According to the Senate Finance Committee Report on the Trade Act, an unjustifiable restriction is one which is "illegal under international law or inconsistent with international obligations." (Trade Act of 1974, S. Rept. No. 93-1298, 93rd Cong., 2d Sess., page 163 (November 26, 1974)). The variable levy on calculated added sugars is clearly incompatible, inconsistent and in violation of the General Agreement on Tariffs and Trade (GATT) in a number of respects:

GATT Art. I: The variable sugar levy is applied in a discriminatory manner in that canned fruit originating in some of the EC's associated states and territories is exempt from the levy.

GATT Art. II(3): With the implementation of the variable levy on calculated added sugars, the EC altered its method of determining dutiable value, thus impairing the value of trade concessions made to the United States in the Dillon and Kennedy Rounds. Although during the Dillon Round of tariff negotiations, the EC had reserved the right to impose an additional duty ("un droit additionel") on calculated added sugars to various canned fruits, it had not reserved the right to impose a variable levy. Thus, trade concessions made and received on the basis of an expected duty on added sugars have been substantially eroded by the imposition, instead, of a variable levy on added sugars.

GATT Art. III(1): Despite the claims that the variable levy affords protection to the domestic sugar industry, in whose name the levy was invoked, it is clear that the levy in fact is intended to provide further protection to the EC fruit canning industry, which is already protected by a bound, fixed tariff on importation of canned fruit, as well as an unjustifiable, unreasonable and discriminatory system of import licenses made effective on October 1, 1975.

GATT Art. VII(2): The EC variable sugar levy is in direct conflict with the GATT principle that customs valuation be based on actual value rather than on fictitious value. This variable levy bears no relationship to the actual value of the canned fruit or to the actual value of the sugars added to the canned fruit. Rather, the levy is based upon the difference between the world price of sugar and the EC threshold (gate) price (which is self-determined by the EC. The levy, thus, is based on a fictitious value, having no relationship to the actual value of the sugar in the imported products.

GATT Art. VII(5): Contrary to the GATT requirement that import protection be stable and predictable, the two elements determinative of the amount of the variable sugar levy are subject to constant change. The amount of the levy per 100 kg of calculated added sugars is subject to change quarterly, and the volume of leviable sugar in each shipment is unpredictable because it is based upon a sample can drawn at random from the cans in each shipment.

GATT Art. VIII(1)(c): The EC variable levy regulations embody complex calculations, uncertainties and delays, and are clearly contrary to the principles of "minimizing the incidence and complexity of import and export formalities," and "decreasing and simplifying import and export documentation requirements."

GATT Art. XI(1): The EC variable levy on calculated added sugars is incompatible with the basic principle of the GATT which calls for import protection exclusively by the customs tariff. The variable levy violates the proscription that "no prohibitions or restrictions other than duties, taxes or other charges * * * shall be instituted or maintained."

Clearly the EC variable levy on added sugars is inconsistent with international law and the obligations of signatories of the GATT. As such, it is clearly an unjustifiable trade restriction within the meaning of Section 301 of the Trade Act of 1974, and an appropriate target for relief under that Section.

The Variable Levy Is Unreasonable

The variable levy on calculated added sugars is an unreasonable import restriction which impairs the value of trade commitments made to the United States. The Senate Finance Committee Report defined an unreasonable trade restriction within the meaning of the Trade Act

of 1974 as a restriction which is not necessarily illegal, but which nullifies or impairs benefits accruing to the United States under trade agreements, or which otherwise discriminates against or burdens U.S. commerce. (Trade Reform Act of 1974, S. Rept. No. 93-1298, 93rd Cong., 2d Sess., page 163 (November 26, 1974)).

The EC variable levy on calculated added sugars clearly impairs the value of trade commitments made to the United States in the Dillon and Kennedy Rounds of tariff negotiations, and the levy was imposed unilaterally by the EC without compensation to the United States.

It cannot be argued that such a variable levy on added sugars was foreseen during the Dillon Round of tariff negotiations. The EC expressly reserved the right to impose, not a variable levy, but a fixed duty on sugars added to canned fruit, modeled upon the example of the Benelux sugars added duty, a duty which had a virtually insignificant effect upon canned fruit imports. The substantial effect of this variable levy imposed instead of the fixed duty—the delays, the uncertainties—could not have been and were not foreseen by reason of the reservation of a right to impose an additional fixed rate duty. Benefits accruing to the United States under the trade agreements obtained in the Kennedy and Dillon Rounds have been substantially impaired by reason of the imposition of this unreasonable levy.

Furthermore, the variable levy on calculated added sugars imposed by the EC is within that group of restraints which the Senate Finance Committee expressly stated should be deemed to be discriminatory against U.S. commerce within the meaning of the Act's definition of "unreasonable." The Committee clearly included "variable levies" and "licensing systems" as discriminatory restraints which justify Section 301 relief. (Trade Reform Act of 1974, S. Rept. No. 93-1298, 93rd Cong., 2d Sess., page 164 (November 26, 1974).)

The uncertainties with respect to cost and timing which are inherent by reason of import licensing coupled with a variable levy discourages importers in the EC countries from purchasing United States canned fruit. Importers do not experience the same reticence when importing canned fruit from associated states and territories of the EC which are exempt from the levy.

In an unclassified State Department aide memoire conveyed to a member of the EC delegation in the State Department on November 2, 1971, it was stated that:

"The variable levy on added sugar in canned fruits is detrimental to U.S. trade in canned fruits for at least two reasons (1) it causes uncertainty for the trade because of the methods of calculation and assessment and (2) this protection is excessive and unreasonable in terms of protection which the United States would have anticipated on the basis of its negotiations in the Dillon and Kennedy Rounds of trade negotiations."

CONCLUSION

On September 1, 1970, the National Canners Association filed a petition and requested a public hearing pursuant to Section 252(d) of the Trade Expansion Act of 1962, on the effects on United States trade of the EC variable levy on calculated added sugars in canned fruit. The Trade Information Committee held a public hearing on this petition on November 12, 1970. For the reasons set forth in that prior petition, for the reasons set forth during the public hearing before the Trade Information Committee, and for the reasons set forth in this further petition under the Trade Act of 1974, the National Canners Association requests that the President of the United States, through the Special Representative for Trade Negotiations, vigorously exercise the powers set forth in Section 301 of the Trade Act of 1974 "to insure fair and equitable conditions for U.S. commerce."

Respectfully submitted,

LEONARD K. LOBRED,
Director of International Trade, National Canners Association.

The petitioner has not requested a hearing on this complaint.

Interested parties are invited to present their views on this matter to the Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 725, 1800 G Street, N.W., Washington, D.C. 20506. It is requested that views be submitted by April 16, 1976. Interested parties should follow procedures outlined in Section 2006.6 and endeavor to include in their submissions the kinds of information delineated in Section 2006.1 of the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 F.R. 39497—August 28, 1975).

MORTON POMERANZ,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.76-10475 Filed 4-9-76;8:45 am]

TENNESSEE VALLEY AUTHORITY

[Contract TV-19470A; Supp. No. 2]

WHEELER NATIONAL WILDLIFE REFUGE LANDS

Notice of Agreement Eliminating Certain Lands From Wheeler National Wildlife Refuge

Notice is hereby given that, pursuant to Contract TV-19470A dated February 6, 1959, between the Tennessee Valley Authority and the United States Department of the Interior, Fish and Wildlife Service, the following second supplementary agreement to that contract has been executed by these parties eliminating certain lands described in such supplementary agreement from Wheeler National Wildlife Refuge and returning all rights of possession, control, and use of such lands to the Tennessee Valley Authority:

AGREEMENT BETWEEN TENNESSEE VALLEY AUTHORITY AND UNITED STATES DEPARTMENT OF INTERIOR FISH AND WILDLIFE SERVICE

This agreement, made and entered into as of the 14th day of March 1975, by and between the TENNESSEE VALLEY AUTHORITY (hereinafter called TVA), and the UNITED STATES DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE (hereinafter called Department),

WITNESSETH:

Whereas, Department and TVA desire to exclude from the Wheeler National Wildlife Refuge certain land and improvements,

Now, therefore, the parties hereto agree as follows:

1. There are hereby eliminated from the Wheeler National Wildlife Refuge sixteen (16) parcels of land, containing in the aggregate 65.40 acres, more or less, all as described on Exhibit "A"[1] and delineated on plats marked Exhibits "B", attached to and made a part of this Supplement No. 1 to Contract TV-19470A.

2. TVA and Department certify that the exclusion from the refuge of the above-described land and improvements is in the public interest and consistent with the Tennessee Valley Authority Act of 1933, as amended, and the Migratory Bird Conservation Act (45 Stat. 1222).

3. This agreement, following formal execution by the parties, shall be published in the FEDERAL REGISTER, whereupon the Department releases all rights to the use, possession and control of the above-described land and improvements to TVA for the purposes of the Tennessee Valley Authority Act of 1933, as amended.

In witness whereof, the parties have caused this agreement to be executed by their duly authorized officers as of the day and year first above written.

TENNESSEE VALLEY AUTHORITY
LYNN GEEBER,
General Manager.
KENNETH E. BLANE,
Regional Director, United States Department of Interior Fish and Wildlife Service.

Attest:

MADGE EVANS,
Assistant Secretary.

Effective date: Under the provisions of Contract TV-19470A and the foregoing supplement, all rights of possession, control and use of the lands described are returned to TVA effective April 12, 1976.

Dated: April 5, 1976.

LYNN SEEBER,
General Manager.

[FR Doc.76-10428 Filed 4-9-76;8:45 am]

[1] Exhibits filed as part of the original documents.

INTERSTATE COMMERCE COMMISSION

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

[Notice No. 216]

Correction Notice

Notice No. 216 published Monday, April 5, 1976, (41 FR 14457), contained an incorrect heading. The correct heading is as set forth above.

The following publicatioins include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a requst for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Protests against approval of applications No. MC-FC-76454, MC-FC-76459, MC-FC-76460, MC-FC-76465, and MC-FC]76469 must be filed by May 5, 1976.

[SEAL] ROBERT L. OSWALD.

[FR Doc.76-10508 Filed 4-9-76;8:45 am]

[Notice No. 221]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76474, filed April 5, 1976. Transferee; R. S. ALBRIGHT, INC., doing business as R. S. ALBRIGHT, INC., 2212 1st Ave. So., Seattle, Washington 98134. Transferor: ROBERT ALBRIGHT, 2212 1st Ave. So., Seattle. Washington 98134. Applicants' representative: Robert Albright, 2212 1st Ave. So., Seattle, Washington 98134. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 134820 (Sub-No. 1) and Permit No. MC 134820 (Sub-No. 3), issued November 13, 1972, and May 30, 1974, respectively authorizing the transportation of various commodities from specified points in Ohio, Indiana, Illinois. Arkansas, Minnesota, Wisconsin, New Jersey, and New York, to specified points in Washington, Idaho, and Oregon. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76486, filed April 6, 1976. Transferee: MILLER-MORRELL TRUCKING, INC., 730 N. Euclid, Suite 317, Anaheim, Calif. 92801. Transferor: NATHAN MORRELL AND VICTOR MORRELL, a partnership, doing business as MILLER & MORRELL TRUCKING CO., 730 N. Euclid, Suite 317, Anaheim, Calif. 92801. Applicants' representative: James McGrew, 730 No. Euclid St., Anaheim, Calif. 92801. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 33438, issued September 4, 1973, as follows: General commodities, with the usual exceptions, between Los Angeles, Calif., and points in Los Angeles County, Calif., within 5 miles of the intersection of Indiana and the 95h Streets, Los Angeles, and Vernon, Huntington Park, and Compton, Calif., on the one hand, and, on the other, Los Angeles Harbor and Long Beach, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-10509 Filed 4-9-76;8:45 am]

[Notice No. 22]

ASSIGNMENT OF HEARINGS

APRIL 7, 1976.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119789 (Sub 270), Caravan Refrigerated Cargo, Inc., hearing now assigned April 6, 1976, at Atlanta, Ga., is postponed indefinitely.

AB 6, Sub 15, Burlington Northern, Inc. Abandonment between Joliette & Pembina, in Pembina County, North Dakota, now assigned April 22, 1976, at Pembina, N.D., is canceled and application dismissed.

MC 124947 (Sub 45), Machinery Transports, Inc. now being assigned July 13, 1976 (1 day), at Denver, Colorado in a hearing room to be later designated.

MC 119777 (Sub 323), Ligon Specialized Hauler, Inc. now being assigned July 14, 1976 (3 days), at Denver, Colorado in a hearing room to be later designated.

MC 141497, Beattie & Sanger, Inc. now being assigned July 19, 1976 (2 days), at Seattle, Washington in a hearing room to be later designated.

MC-F-12623, Anderson Trucking Service, Inc. —Purchase (Portion)—Jenkins Truck Line, Inc. and MC 95876 (Sub 179), Anderson Trucking Service, Inc. now being assigned July 21, 1976 (3 days), at Seattle, Washington in a hearing room to be later designated.

MC 139495 (Sub 119), National Carriers, Inc. now being assigned July 26, 1976 (1 week), at Seattle, Washington in a hearing room to be later designated.

MC 106920 Sub 59, Riggs Food Express, Inc., now assigned April 28, 1976, at Washington, D.C., is canceled.

MC 123502 Sub-Nos. 20, 21, 27, 28, 29, 30, 34, 38, and 41, Free State Truck Service, Inc., now assigned June 7, 1976, at Washington, D.C., is canceled and petition is withdrawn.

MC 139871 (Sub 2), Chi-Ru Leasing & Trucking, Inc. now assigned May 25, 1976 (2 days), at Chicago, Illinois and will be held in Room 3637-A, Federal Building, 230 South Dearborn Street.

MC 37398 (Sub 4), John J. Boyce Transportation, Inc. now assigned May 17, 1976 (1 week), at Philadelphia, Pennsylvania and will be held in Room 3240, William J. Green Jr. Federal Building, 600 Arch Street.

MC 140688 (Sub 1), Nicoll Trucking (Medicine Hat) Ltd. now assigned May 12, 1976 (3 days), at Billings, Montana and will be held in Room 605, Yellow Stone County Courthouse, 3rd Avenue, N. & 27th.

MC 114273 (Sub 235), CRST, Inc. and MC-F-12498, CRST, Inc.—Purchase (Portion)—Lee Bros. Inc. now assigned May 10, 1976 (1 week), at Chicago, Illinois and will be held in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 69405 (Sub 2), Jim Corbett now assigned May 10, 1976 (1 week), at Topeka, Kansas and will be held in Room X-2, Second Floor, Federal Building, 424 Kansas Avenue.

MC-C-861, A. & H. Truck Line, Inc., et al. v. Schaller Trucking Corporation, et al. now assigned May 10, 1976 (1 day), at Indianapolis, Indiana and will be held in Conference Room 402, Old Federal Building, 46 East Ohio Avenue.

MC 14252 (Sub 26), Commercial Motor Freight, Inc. now assigned May 10, 1976 (1 week), at Columbus, Ohio and will be held in Hearing Room No. 2, Public Utilities Commission, 111 North High Street.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-10510 Filed 4-9-76;8:45 am]

COMMON CARRIERS

Fourth Section Application for Relief

APRIL 7, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43148—*Rubber to Points in Eastern Territory.* Filed by Southwestern Freight Bureau, Agent, (No. S-593), for interested rail carriers. Rates on rubber and related articles, in carloads, as described in the application, from points in Louisiana and Texas, to points in eastern territory.

Grounds for relief—Rate relationship and water competition.

Tariff—Supplement 14 to Southwestern Freight Bureau, Agent, tariff 13-F, I.C.C. No. 5209. Rates are published to become effective on May 13, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-10512 Filed 4-9-76;8:45 am]

[Exemption No. 122]

THE BALTIMORE AND OHIO RAILROAD CO. ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That The Baltimore and Ohio Railroad Company (BO), The Chesapeake and Ohio Railway Company (CO), Consolidated Rail Corporation (ConRail), and the Western Maryland Railway Company (WM) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 398, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", "GT", and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the BO, CO, ConRail, and WM without regard to the requirements of Car Service Rules 1 and 2.

Reporting marks

BO	CO	ConRail				WM
BO	CO	AA	DLW	NH	P&E	WM
		BA	EL	NYC	PRR	
		BWC	ERIE	PC	RDG	
		CASO	LHR	PCA	TOC	
		CNJ	LV	PCB		

Effective April 2, 1976.

Expires May 31, 1976.

Issued at Washington, D.C., April 2, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.76-10513 Filed 4-9-76;8:45 am]

[Notice No. 45]

MOTOR CARRIER TEMPORARY AUTHORITY

Applications

APRIL 6, 1976.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52704 (Sub-No. 126TA), filed March 26, 1976. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from Gramercy, La., to points in Alabama, Georgia, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Colonial Sugars Company, Division of Borden, Inc., Gramercy, La. 70052. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 106398 (Sub-No. 738TA), filed March 29, 1976. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Trailers,* designed to be drawn by passenger automobiles and buildings in sections mounted on wheeled undercarriage, from the plant site of Sioux Falls Structures, Inc., at or near Sioux Falls, S. Dak., to points in the United States west of the Mississippi River and the state of Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sioux Falls Structures, Inc., Rt. 4, Box 43D, Sioux Falls, S. Dak. 57101. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Lld, P.O. Bldg., 215 NW. 3rd St., Oklahoma City, Okla. 73102.

No. MC 111401 (Sub-No. 462TA), filed March 29, 1976. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Solvent, naptha,* in bulk, from Cyril, Okla., to Offutt Air Force Base, Nebr., and to Hill Air Force Base, Utah, for 180 days. Supporting shipper: Hyde Naphtha Co., P.O. Box 837, Marshall, Tex. 75670. Send protests

to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 NW. 3rd St., Oklahoma City, Okla. 73102.

No. MC 112520 (Sub-No. 316TA), filed March 26, 1976. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32304. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, in bulk, in tank vehicles, from Chatom, Ala., to Pascagoula, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lloyd Chemical Sales, Inc., P.O. Box 2393, Midland, Tex. 79701. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 113459 (Sub-No. 104TA), filed March 25, 1976. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Bonner, Mont., to Albuquerque, N. Mex., for 180 days. Supporting shipper: Duke City Lumber Co., Inc., Norman Reich, T. M., P.O. Box 25807, Albuquerque, N. Mex. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 116519 (Sub-No. 32TA), filed March 22, 1976. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, 733 Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, compactors, truck bodies, and trailers* equipped specifically for the collection and/or compaction of waste materials, from Ports of Entry on the International Boundary line between the United States and Canada, located in Michigan and New York, to Birmingham, Ala.; Bridgeport, Conn.; Washington, D.C.; Fort Wayne, Ind.; Lexington and Louisville, Ky.; Boston, Mass.; Troy, Mich.; Cinmanmonson, N.J.; Buffalo, N.Y.; Akron, Canton, Cleveland, Toledo, and Youngstown, Ohio; and Beaver Falls, Erie, New Castle, Pittsburg, Wilkes-Barre, and Williamsport, Pa. Restrictions: (1) The authority granted herein is restricted to traffic in foreign commerce. (2) The authority granted herein is restricted to traffic originating at the plantsite and facilities of Universal Handling Equipment Company, at Hamilton, Ontario, Canada, and destined to customers of Universal Handling Equipment Company, located at the indicated points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Universal Handling Equipment Company, 100 Burland Crescent, Hamilton, Ontario, Canada. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 117119 (Sub-No. 577TA), filed March 25, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical products, including but not limited to cleaning and defoaming compounds, textile softeners, sizing*, from the plantsites of Diamond Shamrock Chemical Corporation, at Charlotte, N.C., and Cedartown, Ga., to points in California, restricted to traffic originating at named plantsites, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond Shamrock Chemical Corporation, Process Chemicals Division, 350 Mt. Kemble Ave., Morristown, N.J. 07960. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118159 (Sub-No. 170TA), filed March 29, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Illinois, Indiana, Ohio, Michigan, Wisconsin, Kentucky, Louisiana, Mississippi, and Memphis, Tenn., restricted to traffic originating at and destined to the named points, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 NW. 3rd St., Oklahoma City, Okla. 73102.

No. MC 118806 (Sub-No. 48TA), filed March 29, 1976. Applicant: ARNOLD BROS. TRANSPORT, LTD., 730 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 0T8. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Waterloo, Booneville, Crocketts, Deer River, and Smyrna, N.Y., and Titusville, Pa., to the ports of entry on the International Boundary line between the United States and Canada, at or near Pembina, N. Dak., and Noyes, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Theo A. Burrows Lumber Company, Ltd., 1007–211 Portage Ave., Winnipeg, Manitoba, Canada R3B 2A2. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119789 (Sub-No. 285 TA), filed March 29, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Ellensburg, Wash., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia, for 180 days. Supporting shipper: Superior Packing Co., Inc., P.O. Box 277, Ellensburg, Wash. 98926. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123407 (Sub-No. 296TA), filed March 19, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Rice & Rice (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden trusses, prefabricated stairs, prefabricated doors, pallets, and blocking*, from Lafayette, Colo., to points in Wyoming, Kansas, Nebraska, Missouri, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lafayette Material Fabricators, Inc., P.O. Box 188, Lafayette, Colo. 80026. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 126436 (Sub-No. 12TA), filed March 29, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel shot* (except ammunition), from Bedford, Va., to points in Texas, under a

continuing contract with Wheelabrator-Frye, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wheelabrator-Frye, Inc., 400 S. Bryket Ave., Mishawaka, Ind. 46544. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 128235 (Sub-No. 17TA), filed March 29, 1976. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall Ave. NE., Minneapolis, Minn. 55413. Applicant's representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, Minn. 55413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising equipment, premiums, materials and supplies* when shipped therewith, from La Crosse, Wis., to Bemidji, Crookston, Duluth, Fairmont, Farmington, Fergus Falls, Gaylord, Grand Rapids, Granite Falls, Hinckley, Marshall, New Prague, Ortonville, Rogers, Royalton, St. Michael, Sauk Centre, Slayton, Sleepy Eye, Stillwater, Thief River Falls, Victoria, and Wayzata, Minn., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. Heileman Brewing Company, Inc., 925 South Third St., La Crosse, Wis. 54601. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., and U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

No. MC 128343 (Sub-No. 32TA), filed March 24, 1976. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products, and supplies*, used in the manufacture and distribution of plastic materials and plastic products (except in bulk), between Hemingway, S.C., on the one hand, and, on the other, Jerome, Idaho; Halls, Tenn.; North Smithfield, R.I.; and ports of entry on the International Boundary line between the United States and Canada, in Michigan, New York, and Vermont, under a continuing contract with The Tupperware Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Tupperware Co., Woonsocket, R.I. 02895. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset St., Providence, R.I. 02903.

No. MC 129068 (Sub-No. 28TA), filed March 29, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 S. Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: Jack L. Griffin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes-trailers* designed to be drawn by passenger automobile and *buildings*, complete or in sections mounted on wheeled undercarriages with hitchball connector in initial movements, from points in Grady County, Okla., to points in Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Texas, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chickasha Mobile Homes, Inc., Box 405, Chickasha, Okla. 73108. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old P.O. and Courthouse, 215 N.W. 3rd St., Oklahoma City, Okla. 73102.

No. MC 133708 (Sub-No. 22TA), filed March 26, 1976. Applicant: FIKSE BROS., INC., 12647 East South St., Artesia, Calif. 90701. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, (1) from Cushenbury, Calif., to points in San Juan County, N. Mex.; and (2) from points in McKinley County, N. Mex., to points in San Juan County, N. Mex., restricted to the transportation of shipments having an immediately prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Cement & Gypsum Corp., 600 South Commonwealth Ave., Los Angeles, Calif. 90005. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133757 (Sub-No. 2TA) (Correction), filed February 20, 1976, published in the FEDERAL REGISTER issue of March 4, 1976, republished as corrected this issue. Applicant: CAROLINA EAST FURNITURE TRANSPORT, INC. P.O. Box 906, Sumter, S.C. 29150. Applicant's representative: David Homer Cresson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from Rocky Mount and Turkey, N.C., to Sumter, S.C.; (2) from Guntown, New Albany, Okolona, and Tupelo, Miss., to North Carolina and South Carolina.

NOTE.—Applicant proposes to tack the authority applied for with that presently held, at Sumter, S.C. It also proposes to interline shipments moving under the authority applied for with other motor carriers at Memphis, Tenn.; Fort Smith, Ark.; Charlotte, High Point, Statesville, and Asheboro, N.C., for 180 days.

Supporting shipper: Futorian Corporation, Highway 78 West, New Albany, Miss. 38652. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 135082 (Sub-No. 26TA), filed March 25, 1976. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum wallboard, gypsum joint cement and related commodities* (except commodities in bulk), from Hardeman County, Tex., to points in Wyoming, Montana, Idaho, Utah, Nevada, California, Oregon, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, Oreg. 97204. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Bldg., 517 Gold Ave. SW., Albuquerque, N. Mex. 87101.

No. MC 135839 (Sub-No. 5TA), filed March 26, 1976. Applicant: B LINE SERVICES, INC., P.O. Box 24, Greensburg, La. 70441. Applicant's representative: W. Hugh Sibley, P.O. Box 399, Greensburg, La. 70441. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel ball valves and valve parts*, on the one hand, *and rough iron or steel castings and forgings* on the other hand, from Houston, San Antonio, Lufkin, and Beaumont, Tex., to Hammond, La., with commodities described on the one hand, and from Hammond, La., to Houston, San Antonio, Lufkin, and Beaumont, Tex., for commodities described on the other, under a continuing contract with T K Valve Manufacturing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: T K Valve Manufacturing Co., Inc., P.O. Box 308, Hammond, La. 70401. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 136876 (Sub-No. 7TA), filed March 26, 1976. Applicant: PAULIE BRAZIER, doing business as PAULIE BRAZIER COMPANY, 203 Helton Drive, Lawrenceburg, Tenn. 38464. Applicant's representative: Robert L. Estes, 14th Floor, Third National Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk and bag as follows: Removal of restrictions to shipments of fertilizer in bulk moving in hopper type vehicles equipped with belt unloading systems for the account of Federal Chemical Company, from points in Davidson County, Tenn., to points in Colbert, Lauderdale, Lawrence, Madison, Limestone, and Jackson Counties, Ala.; and from points in Davidson County,

Tenn., and Humboldt, Tenn., to points in Kentucky south and west of a line beginning at junction U.S. Highway 25E and the Kentucky State line east of Middlesboro, Ky., thence along U.S. Highway 25E to Corbin, thence along U.S. Highway 25 to Mt. Vernon, thence along U.S. Highway 150 through Danville, to junction U.S. Highway 68 at or near Perryville, thence along U.S. Highway 68 to Lebanon, thence along Kentucky Highway 84 to Hodgenville, thence along Kentucky Highway 61 to Elizabethtown, thence along U.S. Highway 62 to Leitchfield, thence along Kentucky Highway 259 to junction U.S. Highway 60 at or near Harned, thence along U.S. Highway 60 to Cloverport, thence north along a line from Cloverport to the Ohio River; (2) *Dry fertilizer*, in bags for the account of Federal Chemical Company, from points in Davidson County, Tenn., to points in Colbert, Lauderdale, Lawrence, Madison, Limestone and Jackson Counties, Ala.; and from points in Davidson County, Tenn., and Humboldt, Tenn., to points in Kentucky south and west of a line beginning at junction U.S. Highway 25E and the Kentucky State line east of Middlesboro, Ky., thence along U.S. Highway 25E to Corbin, thence along U.S. Highway 25 to Mt. Vernon, thence along U.S. Highway 150 through Danville, to junction U.S. Highway 68 at or near Perryville, thence along U.S. Highway 68 to Lebanon, thence along Kentucky Highway 84 to Hodgenville, thence along Kentucky Highway 61 to Elizabethtown, thence along U.S. Highway 62 to Leitchfield, thence along Kentucky Highway 259 to junction U.S. Highway 60 at or near Harned, thence along U.S. Highway 60 to Cloverport, thence north along a line from Cloverport to the Ohio River; (3) *Dry fertilizer*, in bulk and bag for the account of Federal Chemical Company, from points in Davidson County, Tenn., and Humboldt, Tenn., to points in Morgan, Franklin, and Marion Counties, Ala., and from points in Humboldt, Tenn., to points in Colbert, Lauderdale, Lawrence, Madison, Limestone, and Jackson Counties, Ala., under a continuing contract with Federal Chemical Company, for 180 days. Supporting shipper: Federal Chemical Company, 4900 Centennial Blvd., Box 90205, Nashville, Tenn. 37209. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37219.

No. MC 140612 (Sub-No. 6TA), filed March 29, 1976. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive, SE., Cedar Rapids, Iowa 52403. Applicant's representative: Robert F. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from points in Houston County, Ga., to points in Iowa and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pabst Brewing Company, 917 West Juneau Ave., Milwaukee, Wis. 53201. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 140615 (Sub-No. 11TA), filed March 25, 1976. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1064, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products, dairy by-products, and gift paks*, from Bongards, Minn., and Hopkinton, Iowa, to Wisconsin Rapids, Wis.; (2) *Dairy products, dairy by-products, and gift paks*, from Arpin and Wisconsin Rapids, Wis., to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and Washington, D.C.; and (3) *Materials, supplies and equipment* used in the preparation, packaging and sale of dairy products, dairy by-products and gift paks, from points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Washington, D.C., and Wisconsin, to Arpin and Wisconsin Rapids, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Arpin Dairy, Inc., Arpin, Wis. 54410. Cheez Co., Inc., Wisconsin Rapids, Wis. 54494. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 141171 (Sub-No. 2TA), filed March 26, 1976. Applicant: J. & G. SWARTZ, INC., 3755 Fenwick Drive, Spring Valley, Calif. 92077. Applicant's representative: David P. Christianson, 606 South Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic sponges cellulose*, from Tonawanda, N.Y., to points in California, under a continuing contract with O-Cel-O of General Mills, Inc., for 180 days. Supporting shipper: O-Cel-O of General Mills, Inc., 305 Sawyer Ave., Tonawanda, N.Y. 14150. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 141297 (Sub-No. 1TA), filed March 29, 1976. Applicant: UNITED INDUSTRIES, INC., 487 Parish St., Houston, Miss. 38851. Applicant's representative: W. DeWaune Griffin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, from the plantsites of Shannon Chair Co., Shannon, Miss., and Maben Manufacturing Co., Maben, Miss., to points in Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, New York, Arkansas, Oklahoma, Texas, Louisiana, New Mexico, Arizona, California, Massachusetts, Colorado, Connecticut, the District of Columbia, Missouri, and West Virginia, under a continuing contract with Shannon Chair Company, and Maben Manufacturing Company, for 180 days. Supporting shippers: Shannon Chair Company, 1st Ave. North, Houston, Miss. 38851. Maben Manufacturing Company, 375 Oswalt Drive, Maben, Miss. 39750. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 141744 (Sub-No. 1TA) (Correction), filed February 24, 1976, published in the FEDERAL REGISTER issue of March 17, 1976, republished as corrected this issue. Applicant: DAVID L. FILES, doing business as DAVID L. FILES LIME & FERTILIZER SPREADING, Darlington Trailer Court, Lot 1, Martinsburg, W. Va. 25401. Applicant's representative: David L. Files (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial fertilizer spreading*, in bulk form, between the plantsite of Miller Chemical & Fertilizer Corporation, located at Ranson, W. Va., on the one hand, and, on the other, points in Jefferson, Berkeley, Morgan, Hampshire, Hardy, Mineral, and Grant Counties, W. Va.; Frederick, Shenandoah, Page, Loudoun, Clarke, Fauquier, Rappahannock, Orange, Rockingham, Spotsylvania, Madison, Warren, Fairfax, and Prince William Counties, Va.; and Garrett, Allegheny, Washington, Frederick, Carroll, Howard, Montgomery, and Baltimore Counties, Md., under a continuing contract with Miller Chemical & Fertilizer Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Chemical & Fertilizer Corporation, 300 North Preston St., Ranson, W. Va. 25438. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave. NW., Room B-317, W. C. Hersman, District Supervisor, Washington, D.C. 20423. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 147887TA, filed March 25, 1976. Applicant: INLAND DISTRIBUTORS, INC., 810 Columbia St., Sunnyside, Wash. 98944. Applicant's representative: James C. Chilson, E. 6911 Marietta, Spokane, Wash. 99206. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, millwork, lumber products and plywood*, from points in Wallowa, Union, and Umatilla Counties, Oreg.; those points in Lincoln, Flathead, Glacier, Missoula, Sanders, Mineral, Rivalli, and Lake Counties, Mont.; those points in Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, and Idaho Counties, Idaho; those points in Okanogan, Lincoln, Stevens, Spokane, Pend Oreille, and Chelan Coun-

ties, Wash., to points in Washington, Idaho, Oregon, and the Ports of Entry on the International Boundary line between the United States and Canada at or near Blaine, Summas, and Lynden, Washington, Eastport, Idaho, and Roosville, Mont., service to British Columbia, Canada destined to Vancouver area and Suquamish, B.C., Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: P. H. Barnett International, Inc., P.O. Box 1803, Tacoma, Wash. 98401. St. Regis Paper Co., 1203 East D St., Tacoma, Wash. Send protests to: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 141888TA, filed March 25, 1976. Applicant: MOORE TRUCKING, INC., R.D. #1, Bath, Pa. 18014. Applicant's representative: Joseph F. Hoary, 121 South Main St., Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, crude*, in dump vehicles, from Delanco, N.J., to Stockertown, Pa., under a continuing contract with Hercules Cement Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hercules Cement Company, 1770 Bathgate Road, Bethlehem, Pa. 18018. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 141889TA, filed March 25, 1976. Applicant: RONALD DE BOER, Route 1 Sherry Station, Milladore, Wis. 54454. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Canton and Wadsworth, Ohio, to Marshfield, Wis., for 180 days. Supporting shipper: Sternweis and Sons, Inc., 400 E. Arnold St., Marshfield, Wis. 54449. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 141890TA, filed March 26, 1976. Applicant: LEE ROY MORRISON AND FRANCES MORRISON, doing business as MORRISON TRANSFER CO., 110 23rd St., Newport News, Va. 23607. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exhibits and exhibit paraphernalia*, between National Aeronautics and Space Administration, at or near Hampton, Va., on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Georgia, Florida, West Virginia, Tennessee, Kentucky, Ohio, Pennsylvania, Delaware, Maryland, California, Texas, Alabama, and Washington, D.C., for 180 days. Supporting shipper: National Aeronautics and Space Administration, Langley Research Center, W. R. Wiley, Jr., Transportation Motor Vehicle Operations, Officer, Bldg., 1199, M/S 485, Hampton, Va. 23365. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 141891TA, filed March 26, 1976. Applicant: LEPRECHAUN TRANSPORT, LTD., 6027 Lakeview Drive SW., Calgary, Alberta, Canada E3E 5S9. Applicant's representative: Richard E. Hart (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts thereof* used in the construction and maintenance of roads and mines, cranes, cement mixers, and forklift trucks; treated fence posts, dimensional lumber, plywood, and cedar shakes (shingles), from San Antonio and Pampa, Tex., Cleveland, Tenn., Cedar Rapids and Ida Grove, Iowa, Topeka, Kans., Yankton, S. Dak.; Chicago, Ill.; Milwaukee, Wis.; Escanaba, Mich.; Jacksonville, Ill., Madison, Ind., Los Angeles and Sacramento, Calif.; Sparks, Nev.; Portland and Eugene, Oreg.; and Seattle, Wash., to the International Boundary line between the United States and Canada, at or near Sweetgrass, Mont., for furtherance to Calgary and Edmonton, Alberta, Canada and to the International Boundary line between the United States and Canada, at or near Portal, N. Dak., for furtherance to various construction jobsites within the Province of Saskatchewan, Canada, under a continuing contract with Cedar Construction Equipment (Alta) Ltd., Percival Machinery & Supply Ltd. & P & S Mining Equipment, Ltd., Leprechaun Sales and Services, Ltd., for 180 days. Supporting shippers: B. O. Malcolm, Secretary Treasurer, Cedar Construction Equipment (Alta) Ltd., 8240 30th St. SE., Calgary, Alberta, Canada. J. F. Percival, President, Percival Machinery & Supply Ltd., & P & S Mining Equipment, Ltd., 9735 62 Ave., Edmonton, Alberta & P.O. Box 1020, Hinton, Alberta, Canada. Richard E. Hart, President, Leprechaun Sales and Services, Ltd., 6027 Lakeview Drive SW., Calgary, Alberta, Canada. T3E 5S9. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

PASSENGER APPLICATIONS

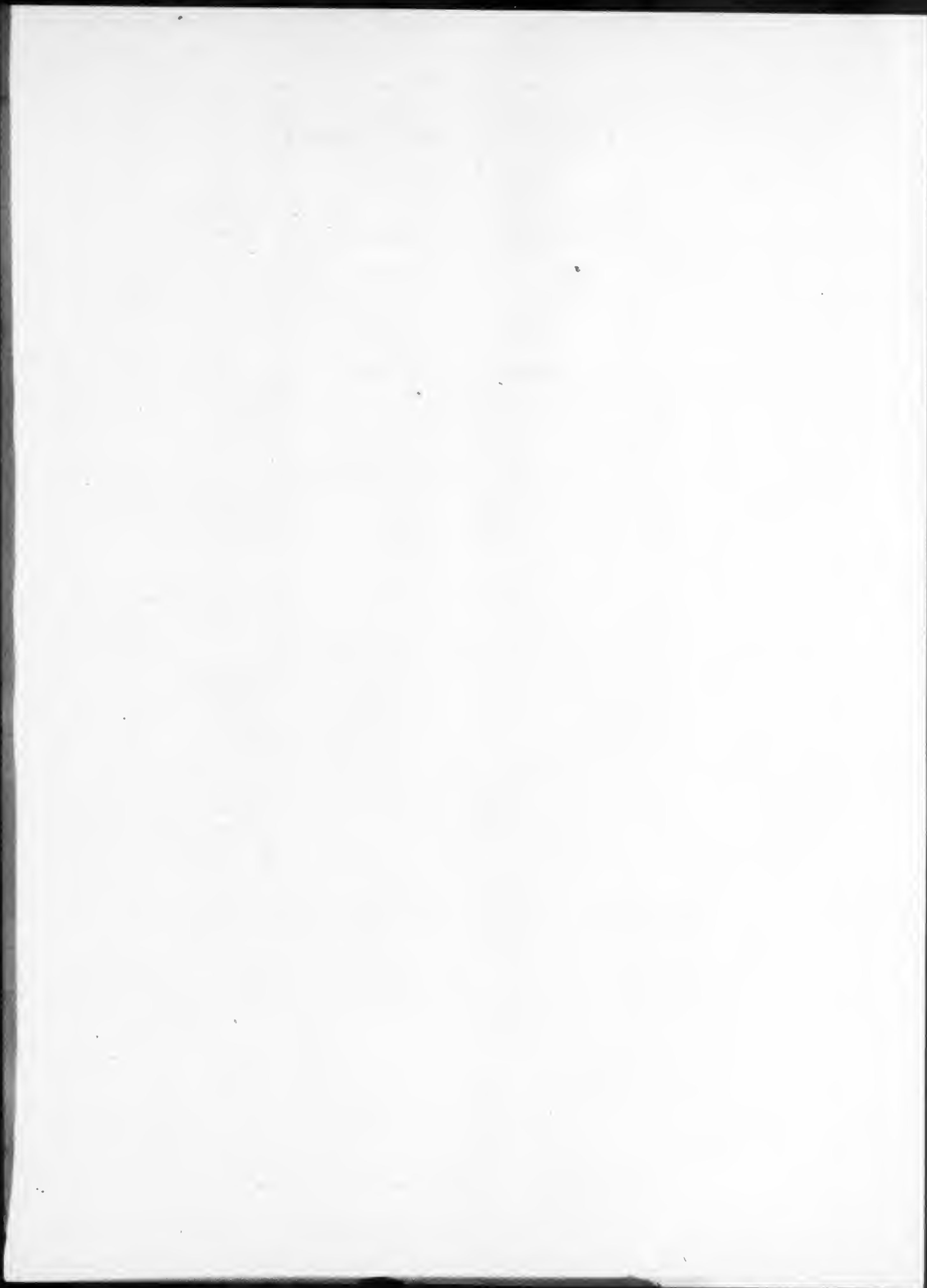
No. MC 141892TA, filed March 24, 1976. Applicant: FRANK'S BUS SERVICE, 101 Cleveland Ave., Mt. Ephraim, N.J. 08059. Applicant's representative: Frank B. Harker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, restricted to traffic originating at the points indicated, in charter operations, from the commercial zone of Bellmawr, N.J., to points in the Philadelphia, Pa., commercial zone, and return, for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 141886TA, filed March 24, 1976. Applicant: ACADEMY TOURS & TRAVEL CENTER, INC., 50 Highway 36, Leonardo, N.J. 07737. Applicant's representative: Edward F. Bowes, 744 Broad St., Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, between New York-New Jersey Port Authority Bus Terminal, 40th St., and 8th Ave., New York, N.Y., and executive offices, warehouse and plant of Hudson Pharmaceutical Corp., 21 Henderson Drive, West Caldwell, N.J. Restriction: The service described above is restricted to the transportation of employees of Hudson Pharmaceutical Corp. and operations under a continuing with Hudson Pharmaceutical Corp., for 180 days. Supporting shipper: Hudson Pharmaceutical Corp., 21 Henderson Drive, West Caldwell, N.J. 07006. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-10511 Filed 4-9-76;8:45 am]



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