FEDERAL REGISTER

VOLUME 36 • NUMBER 32

Wednesday, February 17, 1971 • Washington, D.C.

Pages 3037–3103

Part I

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Federal Communications Commission

Section 213.3338 is added to show that one new position of Special Assistant to the Chairman is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER (2–17–71), § 213.3338 is added as set out below.

§ 213.3338 Federal Communications Commission.

(a) One Special Assistant to the Chairman.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.71–2235 Filed 2–16–71;8:52 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

[Amdt. 6]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Miscellaneous Amendments

Regulations for the operation of the School Breakfast and Nonfood Assistance Programs and State Administrative Expenses (32 F.R. 33, 32 F.R. 13215, 33 F.R. 14513, 33 F.R. 15631, 34 F.R. 807, and 35 F.R. 3901) are hereby amended for the purpose of incorporating applicable requirements of Public Law 91–248, approved May 14, 1970, and for other purposes.

1. References to the Consumer and Marketing Service (C&MS), to the Consumer Food Programs District Offices (CFPDO), and to the School Lunch Division (SLD), are hereby deleted and references to the Food and Nutrition Service (FNS), the Food and Nutrition Service Regional Offices (FNSRO) and the Child Nutrition Division (CND), respectively, are hereby substituted therefor.

2. In § 220.2, paragraph (a) is revised, paragraph (g–1) is added, and paragraph (o) is revised.

§ 220.2 Definitions.

* * * * *

(a) "Act" means the Child Nutrition Act of 1966, as amended.

* * * * *

(g–1) "Distributing agency" means a State, Federal, or private agency which enters into an agreement with the Department for the distribution of commodities pursuant to Part 250 of this chapter.

* * * * *

(o) "Participation rate" means a number equal to the number of lunches meeting the minimum requirements prescribed for a Type A lunch in Part 210 of this chapter served in the fiscal year beginning 2 years immediately prior to the fiscal year for which the funds are appropriated, by schools participating in the National School Lunch Program under Part 210 of this chapter as determined by the Secretary.

* * * * *

3. Section 220.4 is revised to read as follows:

§ 220.4 Apportionment of funds to States.

(a) Any Federal funds made available for the School Breakfast Program shall be apportioned among the States in accordance with the provisions of section 4 of the Act.

(b) If any State cannot utilize all the funds apportioned to it under section 4 of the Act, or if additional funds are made available for apportionment among the States, further apportionment shall be made among the remaining States in the same manner as the initial apportionment: *Provided, however,* That the Department may determine the minimum amount of such funds it is practicable to so apportion.

(c) A share of School Breakfast Program funds apportioned to any State shall be withheld by FNS for the nonprofit private schools of that State, if the State Agency does not administer the Program with respect to such schools. The funds so withheld by FNS shall be an amount which bears the same ratio to the School Breakfast Program funds apportioned to that State as the participation rate of all nonprofit private schools of the State bears to the participation rate of all schools in the State.

4. In § 220.7, paragraph (e)(10) and paragraph (f) are revised to read as follows:

§ 220.7 Requirements for school participation.

* * * * *

(e) * * *

(10) Accept and use, in as large quantities as may be efficiently utilized in its breakfast program, such foods as may be offered as a donation by the Department;

* * * * *

(f) Any school in which a breakfast program is operated under an agreement as provided in paragraph (e) of this section may serve children from any other school, whether or not a breakfast program is operated in such school. The school in which the breakfast program is operated may request reimbursement in connection with all the breakfasts served, except that, where such school serves children from both public and nonprofit private schools in a State where FNSRO administers the School Breakfast Progam with respect to nonprofit private schools, the public school shall file a separate claim with the State Agency and the private school shall file a separate claim with FNSRO for breakfasts served to their respective participating children.

5. In § 220.8, the opening clause of paragraph (a) is revised, and new paragraphs (d), (e) and (f) are added, as follows:

§ 220.8 Nutritional requirements for breakfasts.

(a) Except as otherwise provided in this section, a breakfast shall contain, as a minimum, the following food components in the amounts indicated:

* * * * *

(d) The inability of a school to obtain a supply of milk on a continuing basis shall not bar it from participation in the program. In such cases the State Agency, or FNSRO where applicable, may approve the service of breakfasts without milk: *Provided, however,* That an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of the breakfast.

(e) Substitutions may be made in food listed in paragraph (a)(1) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(f) CND may approve variations in the food components of the breakfast on an experimental or on a continuing basis in any school where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic or physical needs.

6. A new § 220.11a is added, as follows:

§ 220.11a Competitive food services.

(a) The sale of extra food items at the same time and place as the breakfast program is in operation in the school

shall be restricted to those items recognized as making a contribution to, or permitted by the school to be served as part of, breakfast, and income from the sale of such food items shall be deposited to the account of the breakfast program.

(b) Food services operated for profit in the school, separate and apart from the breakfast program, shall not operate at such time or place as will constitute competition with the breakfast program.

7. Section 220.12 is revised to read as follows:

§ 220.12 Apportionment of funds to States.

(a) Fifty per centum of any Federal funds made available for nonfood assistance in accordance with section 5 of the Act shall be apportioned among the States during each fiscal year on the same basis as apportionments are made under Section 4 of the National School Lunch Act, as amended. The remaining 50 per centum of such funds shall be apportioned on the basis of the ratio between the number of children enrolled in schools without a food service in such State and the number of children enrolled in schools without a food service in all States.

(b) If any State cannot utilize all the funds apportioned to it under section 5 of the Act, or if additional funds are made available for apportionment among the States, further apportionment shall be made among the remaining States in the same manner as the initial apportionment: *Provided, however,* That the Department may determine the minimum amount of such funds it is practicable to so apportion.

(c) A share of the Nonfood Assistance Program funds apportioned to any State shall be withheld by FNS for the nonprofit private schools of that State if the State Agency does not administer the Nonfood Assistance Program with respect to such schools. The funds so withheld by FNS shall be an amount which bears the same ratio to the Nonfood Assistance Program funds apportioned to that State as the participation rate of all nonprofit private schools of the State bears to the participation rate of all schools in the State.

8. In § 220.16, paragraph (c)(6) is revised to read as follows:

§ 220.16 Requirements for participation.

* * * * *

(c) * * *

(6) If it is a nonprofit private school, in the event such equipment is no longer so used, it may be transferred with the approval of the State Agency, or FNSRO where applicable, to another nonprofit private school participating in any of such programs authorized by the Act or the National School Lunch Act, as amended, or to any other school participating in any of the programs authorized by such Acts or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

* * * * *

§ 220.19 [Amended]

9. Section 220.19 is amended by deleting the amount "$3,000" and substituting in lieu thereof the amount "$4,000" and by inserting the following sentence immediately after the phrase "per annum".

"Appropriate reductions shall be made by FNS in the resulting tentative amount available to any State Agency if such State Agency does not administer the programs authorized under this Act and the National School Lunch Act, as amended, for nonprofit private schools and service institutions."

* * * * *

10. Section 220.21 is revised to read as follows:

§ 220.21 Use of funds by State Agencies.

(a) Administrative expense funds paid to any State shall be used by State Agencies to employ additional personnel, as approved in the State Agency plan, to supervise and give technical assistance to local school districts and to service institutions in their initiation, expansion, and conduct of any program or programs for which the funds are made available. State Agencies may also use these funds, in an amount approved by CND in the State Agency plan, for their general administrative expenses in connection with any such program or programs, including travel and related expenses. Additional personnel or part-time personnel hired to give assistance to any such program or programs are expected to meet professional qualifications and to be paid at salary scales of positions of comparable difficulty and responsibility under the State Agency. Personnel may be used on a man-year equivalent basis, thus permitting new personnel and existing staff to be cross-utilized for most effective and economical operation under existing and new programs.

(b) Administrative expense funds may also be used by the State Agency to pay administrative expenses of a distributing agency (when such agency is an agency other than the State Agency) to employ additional personnel relating to supervisory and technical assistance provided by such distributing agency to schools and service institutions in the initiation, expansion, and conduct of any program or programs authorized under sections 4 and 5 of the Act and sections 11 and 13 of the National School Lunch Act, as amended.

(c) The amount of administrative expense funds paid to a distributing agency shall be based on the amount of additional funds needed to perform such supervisory and technical assistance deemed necessary by the State Agency: *Provided, however,* That the total amount paid to a distributing agency in any fiscal year shall not exceed 10 percent of the total amount of the administrative expense funds made available to the State Agency for that fiscal year, unless specific written approval is obtained from FNS. Requests for administrative expense funds for a distributing agency which exceed the 10 percent limitation shall be submitted to CND, with the State plan, for approval.

11. Section 220.24(d) is revised to read as follows:

§ 220.24 Special responsibilities of State Agencies.

* * * * *

(d) The State Agency shall release to FNS any Federal funds made available to it under the Act which are unobligated at the end of each fiscal year. Any such funds shall remain available to FNS for the purposes of the programs authorized by the Act until expended. Release of funds by the State Agency shall be made as soon as practicable, but in any event not later than 30 days following demand by FNSRO and shall be reflected by related adjustment in the State Agency's Letter of Credit.

* * * * *

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER (2-17-71).

Approved: February 11, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-2159 Filed 2-16-71;8:52 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 1]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Quotas for Foreign Countries; Requirements and Quotas for 1971

Basis and purpose and statement of bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act". The purpose of this amendment is to increase the limitation on the importation of raw sugar from foreign countries for the first quarter and the first half of this year by 100,000 short tons, raw value.

Deliveries of refined sugar during January (including constructive deliveries) were at a good seasonal rate. Marketings of mainland raws early in the year will be about 25,000 less than estimated by the Department in December because of the lower Louisiana production. In addition, production of sugar from offshore domestic areas is getting off to a slower start than anticipated. Increasing the first half import limitation by permitting an additional 100,000 tons to be imported during the first quarter is expected to make adequate supplies available early in the year.

By the virtue of the authority vested in the Secretary of Agriculture by the

Act, Part 811 of this chapter is hereby amended as follows:

Paragraph (d) of § 811.93 is amended by amending subparagraph (1) and subdivision (ii) of subparagraph (2) to read as follows:

§ 811.93 Quotas for foreign countries.

* * * * *

(d) (1) Of the total quotas and prorations for foreign countries established in paragraphs (b) and (c) of this section, an amount not to exceed 2,300,000 short tons, raw value, of raw sugar, which includes quantities imported in late 1970 under bond for refining and storage, may be charged against such 1971 quotas and authorized for importation or release from bond from all such foreign countries in accordance with Part 817 of this chapter during the first 6 months of 1971. Such charges to such 1971 quotas shall be made in the following manner: (i) The quantities imported in late 1970 under bond for refining and storage will be released from bond and charged to such quotas on January 1, 1971; (ii) in addition, 850,000 short tons, raw value, of sugar will be authorized for importation and charged to such quotas during the first quarter of the year and; (iii) that part of the 2,300,000 short tons, raw value, not charged to such 1971 quotas under subdivisions (i) and (ii) of this subparagraph will be authorized for importation and charged to such quotas during the second quarter of 1971.

(2) * * *

(ii) Applications for the importation of 750,000 short tons, raw value, of sugar during the first quarter received on or before December 15, 1970, will be considered as having been received at the same time. Applications for the importation of an additional 100,000 short tons, raw value, of sugar during the first quarter, representing an addition to the initial limitation of 750,000 short tons, raw value, received on or before February 17, 1971, will be considered as having been received at the same time. Applications for the importation of sugar during the second quarter received on or before January 15, 1971, will be considered as having been received at the same time.

* * * * *

(Secs. 202 and 403; 61 Stat. 924 as amended, 932 as amended; 7 U.S.C. 1112 and 1153)

Effective date. In order to promote orderly marketing, it is essential that all persons selling and purchasing sugar from foreign countries be able as soon as possible to make plans based on these changes in marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and the amendment herein shall become effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on February 11, 1971.

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

[FR Doc.71-2154 Filed 2-11-71;3:48 pm]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 467]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.767 Lemon Regulation 467.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded and opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 9, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period February 14, 1971, through February 20, 1971, are hereby fixed as follows:

(i) District 1: 35,000 cartons;

(ii) District 2: 135,000 cartons;

(iii) District 3: unlimited.

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

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

Dated: February 11, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-2194 Filed 2-12-71;11:18 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10052; Amdts. 91-87, 135-26]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Preflight Action

Correction

In F.R. Doc. 71-1612 appearing at page 2481 in the issue for Friday, February 5, 1971, in column 1, the first word of the ninth line of the second complete paragraph on page 2482, now reading "not", should read "no".

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Financing of Commissions and Service Payments

Title 22, Chapter II, Part 201 (A.I.D. Regulation 1), is amended as follows:

§ 201.65 [Amended]

Paragraph (a) of § 201.65 is amended as follows:

1. In the third sentence, a comma and the word "Cambodia" are added after the word "Laos".

2. In the fourth sentence the word "either" preceding the word "Laos" is deleted; and a comma and the word "Cambodia" are added after the word "Laos".

Effective date. The foregoing amendments shall enter into effect upon publication in the FEDERAL REGISTER. (2–17–71)

Dated: February 9, 1971.

MAURICE J. WILLIAMS,
Deputy Administrator.

[FR Doc.71-2183 Filed 2-16-71;8:52 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-391; Order 421]

PART 35—FILING OF RATE SCHEDULES

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

Transportation Costs for Operation of Utility-Owned Carriers and Limitation on Application of the Fuel Adjustment

FEBRUARY 8, 1971.

On July 13, 1970, the Commission issued a notice of proposed rulemaking in this proceeding (35 F.R. 11592, July 18, 1970) proposing to amend certain accounts in its Uniform System of Accounts for Class A and Class B Public Utilities and Licensees and its Regulations Under the Federal Power Act. Comments were invited from interested parties to be submitted by August 27, 1970.

The changes proposed to the Commission's Uniform System of Accounts, which involved the specific addition of utilities' fuel transportation costs to Account 151, Fuel stock, and related changes to other accounts, were initiated by the Commission as a result of information received that several utilities use company-owned unit trains or other transportation to transport coal or other fuel from company-owned or privately owned coal mines or other fuel sources to their generating stations. Account 151 included the costs of fuel, freight charges, taxes, commissions, insurance and other expenses directly assignable to the cost of fuel. However, the utility's transportation costs are not included in that account. It was believed that these costs should be included therein since the cost of fuel will be more accurately reflected.

Two changes were proposed to the Commission's Regulations Under the Federal Power Act. The first revision proposed to subparagraph (2) in § 35.14 (a) was intended to keep the addition of transportation costs to Account 151 from automatically activating fuel adjustment on file with the Commission by providing that the base cost of fuel for these fuel adjustment clauses shall not include a utility's transportation costs.

The second revision proposed to subparagraph (3) in § 35.14(a) of the regulations was intended to exclude charges for fuel used in nuclear generation from the automatic monthly adjustments presently allowed for energy generated in fossil-fueled plants by restricting the fuel adjustment clause to energy supplied by fossil fuel. This revision was proposed because fuel used in nuclear power reactors remains in the reactor for several years before being replaced and its cost therefore, is not subject to the frequent fluctuations experienced by fossil fuels.

Prior to discussing the comments to the rulemaking, we will dispose of the proposed revision to subparagraph (2) in § 35.14(a) of the regulations under the Federal Power Act. Since issuance of the rulemaking, utilities having fuel adjustment clauses on file with the Commission and owning fuel transportation equipment have either filed new fuel adjustment clauses with new fuel cost bases or have rate proceedings pending before this Commission that involve, inter alia, the propriety of the existing fuel adjustment clauses so that adoption of this rulemaking proceeding will not automatically activate any of those filed clauses without making the changes subject to refund. Therefore, we are deleting the proposed revision to § 35.14 (a) (2) from this rulemaking proceeding.

Twenty-five[1] responses were received to the proposed rulemaking. The responses show general agreement with the proposed changes to the Uniform System of Accounts. Certain suggested changes were received and we are adopting those of an editorial or clarifying nature. We shall discuss certain of the more significant changes suggested in the comments.

A number of comments were received that, to have utility-transported fuel comparable in cost to fuel transported by common carriers, return and related income taxes on the investment in transportation equipment should also be included in Account 151, Fuel Stock. We recognize that fuel transported by common carrier includes in the transportation cost an element of profit and fuel transported by the utility will not be fully comparable in cost because of this factor. However, we are rejecting the suggestions because inclusion of return on the utility's investment in transportation equipment would require prognostications of future Commission rate of return determinations and would conflict with the regulatory principle of computing return and income taxes on an overall functional operations basis.

Comments were received that the costs of operating associated transportation equipment and fuel handling equipment should also be included in the fuel stock account. These costs, however, are incurred whether fuel is delivered to the utility by common carrier or the utility utilizes its own fuel transportation equipment. Inclusion of these costs in fuel stock would not serve to make utility-transported fuel more comparable in cost to fuel transported by common carrier.

The proposed revision to subparagraph 3 of § 35.14(a) of the regulations under the Federal Power Act met with considerable opposition. We, however, believe that the revision should be adopted because experience to date indicates that changes in the cost of nuclear fuel should not occur with such frequency that the cost changes can be considered along with other changes in the cost of service. If additional cost experience shows that nuclear fuel cost does not have the indicated cost stability, we will then reconsider this matter.

A few of the respondents suggested that § 35.14(a)(3) should not be tied to Account 151, Fuel Stock, because it implies that the fuel adjustment clause is applicable only to energy supplied from coal fired generators. This is not the case. The reference to Account 151 is to limit the cost components of the fuel base and does not have a bearing on the type of fossil fuel used.

A comment was received that § 35.14 should be modified to provide more flexibility in the design of fuel adjustment clauses. On the other hand, a comment was received that the section should be modified to provide more specific instructions for computation of the fuel adjustment rate. The latter comment is more appropriate as the instructions on fuel adjustment clauses are general and do not specify the manner in which the fuel adjustment rate is to be computed. The requirements are flexible and we believe should remain so. If utilities have specific problems in developing fuel adjustment clauses and computing the fuel adjustment rate, our Staff is available for consultation.

With respect to certain of the matters we have discussed herein, one respondent requested a conference and another indicated an interest in discussing the rulemaking with our Staff. These requests were not honored because the respondent's comments were well presented and

[1] American Electric Power Service Corp.; Reid & Priest (Arizona Public Service Co.); Arkansas Power & Light Co.; Baltimore Gas and Electric Co.; Cincinnati Gas & Electric Co., The; Cleveland Electric Illuminating Co., The; Columbus and Southern Ohio Electric Co.; Commonwealth Edison Co.; Consumers Power Co.; Detroit Edison Co.; Duke Power Co.; Florida Power Corp.; Iowa Public Service Co.; Kansas City Power & Light Co.; Middle South Utilities Inc.; Minnesota Power & Light Co.; Northeast Utilities Service Co.; Northern States Power Co. (Minnesota); Pennsylvania Power & Light Co.; Public Service Co. of Indiana; Southern California Edison Co.; Southern Services, Inc. (Alabama Power, Georgia Power Co., Gulf Power Co., Mississippi Power Co., and Southern Electric Generating Co.); Union Electric Co.; Wisconsin Electric Co.; and Wisconsin Power and Light Co.

we did not believe a conference for further explanation or emphasis of their views would have been helpful.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writings, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of title 5 of the United States Code.

(2) The amendments to Part 101, Uniform System of Accounts and regulations under the Federal Power Act herein prescribed are necessary and appropriate for the administration of the Federal Power Act.

(3) Since the amendments prescribed herein which were not included in the notice in this proceeding are of a minor nature, further notice and opportunity for comment is unnecessary.

(4) Since the changes prescribed herein are for the reporting year 1971, good cause exists for making the amendments to the Commission's Uniform System of Accounts and Regulations under the Federal Power Act adopted herein effective as of January 1, 1971.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 301, 304, 309, and 311 thereof (49 Stat. 854, 855, 858, 859; 16 U.S.C. 825, 825c, 825h, 825j), orders:

(A) Effective January 1, 1971, the Uniform System of Accounts prescribed for Class A and Class B Public Utilities and Licensees by Part 101, Subchapter C, Chapter I, Title 18 of the Code of Federal Regulations is hereby amended as follows:

1. The list of items under account "151, Fuel Stock," is amended by adding new items 4 and 5 at the end of item 3 to read as follows:

151 Fuel stock.

* * * * *

ITEMS

* * * * *

4. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.

5. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

2. In account "403, Depreciation expense," a new Note C is added immediately following Note B to read as follows:

403 Depreciation expense.

* * * * *

NOTE C: Depreciation expense applicable to transportation equipment used for transportation of fuel from the point of acquisition to the unloading point shall be charged to Account 151, Fuel Stock.

3. The notes under account "408, Taxes other than income taxes," are amended by adding a new Note F immediately following Note E to read as follows:

408 Taxes other than income taxes.

* * * * *

NOTE F: Ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point shall be charged to Account 151, Fuel Stock.

4. The list of items under account "501, Fuel," is amended by adding immediately following the heading "Materials and Expenses:" new items 7 and 8, and by renumbering items "7. Cost of fuel including freight, demurrage and other transportation charges," through item "13. Residual disposal expenses less any proceeds from sale of residuals," respectively as items 9 through 15. New items 7 and 8 to read as follows:

501 Fuel.

* * * * *

ITEMS

* * * * *

Materials and Expenses:

* * * * *

7. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.

8. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

* * * * *

(B) Effective January 1, 1971, subparagraph (a) (3) in § 35.14 Fuel cost adjustment clauses, in Part 35 of the Commission's Regulations under the Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations, is amended to read as follows:

§ 35.14 Fuel cost adjustment clauses.

(a) * * *

* * * * *

(3) The fuel adjustment shall apply only to that energy supplied from fossil fuel generation.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2095 Filed 2-16-71;8:46 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-39]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE

PART 111—CUSTOMHOUSE BROKERS

Permit To Unlade; Security of Cargo in Unlading Areas

To correct an administrative error, the signature line on TD 71-39 published in the FEDERAL REGISTER of February 3, 1971 (36 F.R. 1891) is hereby amended by inserting the word "Acting" before "Commissioner of Customs".

[SEAL] WILLIAM L. DICKEY,
Acting Assistant Secretary of the Treasury.

[FR Doc.71-2108 Filed 2-16-71;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Bristol Bay, Alaska, and Puget Sound Area, Wash.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and Chapter XIX of the Army Appropriation Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), § 204.222a establishing and governing the use of a danger zone in Bristol Bay, Alaska, is hereby amended with respect to paragraph (a) redesignating the boundaries of the area, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.222a Bristol Bay, Alaska; air-to-air weapon range, Alaskan Air Command, U.S. Air Force.

(a) *The danger zone.* An area in Bristol Bay beginning at latitude 58° 24′ N., longitude 159°10′ W., thence to latitude 57°58′ N., longitude 58°02′ N., longitude 161°40′ W.; and thence to the point of beginning.

* * * * *

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.750 is hereby amended with respect to paragraph (h) revoking a navy seaplane restricted area in Lake Washington at Sand Point, Seattle, Wash., effective upon publication in the FEDERAL REGISTER since the area is no longer needed, as follows:

§ 207.750 Puget Sound Area, Wash.

* * * * *

(h) *Lake Washington; seaplane restricted area, U.S. Naval Air Station, Sand Point, Seattle.* [Revoked.]

* * * * *

[Regs., Jan. 21, 1971, 1522-01 (Bristol Bay, Alaska)—ENGCW-ON; Regs., Jan. 18, 1971, 1522-01 (Puget Sound Area, Wash.)—ENGOW-ON] (Sec. 7, 40 Stat. 226, 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-2107 Filed 2-16-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0B2516), filed by the B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318, and other relevant material, concludes that § 121.2566 of the food additive regulations should be amended to provide for the safe use of 1,3,5-tris(3,5-di-*tert*-butyl-4-hydroxybenzyl)-*s*-triazine-2,4,6(1*H*,3*H*,5*H*)-trione and 1,3,5-tris(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamoyl)hexahydro-*s*-triazine as antioxidants and/or stabilizers in the manufacture of polypropylene, polyethylene, and ethylene-propylene-5-ethylidine-2-norbornene terpolymers for use in articles intended to contact nonfatty foods.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by alphabetically inserting in the list of substances the new items, as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

	Limitations
* * *	* * *
1,3,5-Tris(3,5-di-*tert*-butyl-4-hydroxybenzyl)-*s*-triazine-2,4,6(1*H*,3*H*,5*H*)-trione.	For use only in contact with nonfatty foods: 1. At levels not to exceed 0.25 percent by weight of polypropylene complying with § 121.2501. 2. At levels not to exceed 0.1 percent by weight of polyethylene complying with § 121.2501. 3. At levels not to exceed 0.5 percent by weight of ethylene-propylene-5-ethylidine-2-norbornene terpolymers complying with § 121.2501. The maximum thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
1,3,5-Tris(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamoyl)hexahydro-*s*-triazine.	For use only in contact with nonfatty foods: 1. At levels not to exceed 0.25 percent by weight of polypropylene complying with § 121.2501. 2. At levels not to exceed 0.1 percent by weight of polyethylene complying with § 121.2501. *Limitations* 3. At levels not to exceed 0.5 percent by weight of ethylene-propylene-5-ethylidine-2-norbornene terpolymers complying with § 121.2501. The maximum thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
* * *	

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed 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. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: February 9, 1971.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[FR Doc.71-2071 Filed 2-16-71;8:45 am]

SUBCHAPTER C—DRUGS

[DESI 10410]

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

PART 148i—NEOMYCIN SULFATE

Confirmation of Effective Date of Order Repealing Provisions for Certification of Certain Neomycin Sulfate Containing Drugs

An order was published in the FEDERAL REGISTER of October 7, 1970 (35 F.R. 15750), amending the antibiotic drug regulations to repeal provisions for certification of streptomycin-neomycin powder, dihydrostreptomycin-neomycin powder, and neomycin sulfate-polymyxin B sulfate oral solution. The order revoked §§ 141b.131, 146b.126, 148i.17, and all antibiotic certificates issued thereunder.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly, the amendments promulgated thereby became effective November 16, 1970.

Firms affected by the order will be allowed 30 days after publication hereof in the FEDERAL REGISTER to recall outstanding stocks of the affected drugs. Certification of new stocks has been discontinued.

Dated: January 26, 1971.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[FR Doc.71-2075 Filed 2-16-71;8:45 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-(O,O-Diisopropyl Phosphorodithioate) of *N*-(2-Mercaptoethyl)Benzenesulfonamide

A petition (PP 0F1006) was filed with the Food and Drug Administration, DHEW, by Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804,

in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a) proposing establishment of tolerances for negligible residues of the herbicide *S*-(*O*,*O*-diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide including its oxygen analog in or on the raw agricultural commodity winter squash at 0.1 part per million.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(1) of that Act (21 U.S.C. 346a(1)) were also transferred to the Administrator of the Environmental Protection Agency. Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.241 is revised to read as follows to establish the new tolerance:

§ 420.241 *S*-(*O*,*O*-Diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-(*O*,*O*-diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide including its oxygen analog *S*-(*O*,*O*-diisopropyl phosphorothioate) of *N*-(2-mercaptoethyl) benzenesulfonamide in or on the raw agricultural commodities cottonseed, cucumbers, fruiting vegetables, leafy vegetables, melons, pumpkins, summer squash, and winter squash at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed 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. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2117 Filed 2-16-71;8:48 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Pentachloronitrobenzene

A petition (PP 9F0754) was filed with the Food and Drug Administration, DHEW, by Olin Chemicals, 745 Fifth Avenue, New York, NY 10022, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of tolerances for residues of the fungicide pentachloronitrobenzene in or on various raw agricultural commodities.

Subsequently, the petitioner amended the petition by withdrawing the request for all of the proposed tolerances except the tolerance of 0.1 part per million for negligible residues in or on cottonseed.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(1) of the Act were also transferred to the Administrator. Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to the tolerance.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the fungicide in meat, milk, eggs, or poultry from the feed use of gin trash, meal, or hulls from treated cottonseed. This use is in the category specified in § 420.6(a)(3).

2. No residues are expected to result in refined cottonseed oil.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), Part 420 is amended by adding a new section as follows:

§ 420.291 Pentachloronitrobenzene; tolerance for residues.

A tolerance of 0.1 part per million is established for negligible residues of the fungicide pentachloronitrobenzene in or on the raw agricultural commodity cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed 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. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effecive on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2118 Filed 2-16-71;8:48 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phorate

A petition (PP 0F0938) was filed with the Food and Drug Administration, DHEW, by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act

(21 U.S.C. 346a), proposing establishment of tolerances for combined residues of the insecticide phorate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities wheat (green forage) at 1 part per million and cottonseed, wheat grain, and wheat straw at 0.05 part per million (negligible residue).

Subsequently the petitioner amended the petition by proposing tolerances of 1.5 parts per million for residues in or on wheat (green fodder) and 0.05 part per million in or on cottonseed, wheat grain, and wheat straw.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(l) of the Act were also transferred to the Administrator. Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. Adequate tolerances are currently established to cover any residues that may result in meat, milk, eggs, and poultry from the proposed and established uses.

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.206 is amended by inserting a new paragraph "1.5 parts per million * * *" after the paragraph "3 parts per million * * *" and by inserting a new paragraph "0.05 part per million * * *" after paragraph "0.1 part per million * * *", as follows:

§ 420.206 Phorate; tolerances for residues.

* * * * *

1.5 parts per million in or on wheat (green fodder).

* * * * *

0.05 part per million in or on cottonseed, wheat grain and wheat straw.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed 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. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2119 Filed 2-16-71;8:48 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phosphamidon

A petition (PP 0F0974) was filed with the Food and Drug Administration, DHEW, by Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a) proposing establishment of a tolerance for residues of the insecticide phosphamidon (2-chloro- 2 -diethylcarbamoyl- 1 -methylvinyl dimethyl phosphate) in or on the raw agricultural commodities cottonseed, potatoes, sugarcane, and tomatoes at 0.1 part per million.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(l) of the Act were also transferred to the Administrator. Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed uses are not reasonably expected to result in residues in meat, milk, poultry, and eggs. The uses are in the category specified in § 420.6(a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.239 is amended to establish the new tolerances by revising the paragraph "0.1 part per million * * *" to read as follows:

§ 420.239 Phosphamidon; tolerances for residues.

* * * * *

0.1 part per million in or on cottonseed, potatoes, sugarcane, tomatoes and walnuts.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed 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. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2120 Filed 2-16-71;8:48 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Bitter Lake National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Bitter Lake National Wildlife Refuge, N. Mex., is permitted from April 1 through October 15, 1971, inclusive, only on the areas designated by signs as open to fishing. These open areas, comprising approximately 600 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The use of boats or floating devices is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 15, 1971.

LAWRENCE G. KLINE,
Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.

FEBRUARY 3, 1971.

[FR Doc.71-2079 Filed 2-16-71;8:45 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Contra Costa	Lafayette	E 06 013 1779 01 through E 06 013 1779 08	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Manager, City of Lafayette, 975 Oakland St., Lafayette, CA 94549.	Feb. 12, 1971.
Do	Ventura	Camarillo	E 06 111 0538 01 through E 06 111 0538 04	do	Office of the Planning Director, 67 Palm Dr., Post Office Box 248, Camarillo, CA 93010.	Do.
Florida	Broward	Lauderdale by the Sea.	E 12 011 1780 01	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Lauderdale by the Sea, Town Hall, 4501 Ocean Dr., Lauderdale by the Sea, FL 33308.	Do.
Do	Escambia	Pensacola	E 12 033 2490 01 E 12 033 2490 02	do	Pensacola City Planning Department, City Hall, 330 South Jefferson St., Pensacola, FL 32502.	Do.
Tennessee	Cocke	Newport	E 47 029 1780 01	Office of Federal and Urban Affairs, 321 7th Ave. North, Nashville, TN. 37219. Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, TN 37219, and Upper East Tennessee Office, 323 West Walnut St., Johnson City, TN 37601. State Insurance Commission, R-114, State Office Bldg., Nashville, TN 37219.	Office of the City Recorder, Post Office Box 390, Town of Newport, Newport, TN 37821.	Do.
Texas	Harris	La Porte	I 48 201 3890 02 I 48 201 3890 03	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Clerk, City Hall, 124 South 2d St., La Porte, TX 77571.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: February 13, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-2061 Filed 1-16-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Contra Costa	Lafayette	T 06 013 1779 01 through T 06 013 1799 08	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Manager, City of Lafayette, 975 Oakland St., Lafayette, CA 94549.	Feb. 12, 1971.
Do	Ventura	Camarillo	T 06 111 0538 01 through T 06 111 0538 04	do	Office of the Planning Director, 67 Palm Dr., Post Office Box 248, Camarillo, CA 93010.	Do.
Florida	Broward	Lauderdale by the Sea.	T 12 011 1780 01	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Lauderdale by the Sea, Town Hall, 4501 Ocean Dr., Lauderdale by the Sea, FL 33308.	Do.
Do	Escambia	Pensacola	T 12 033 2490 01 T 12 033 2490 02	do	Pensacola City Planning Department, City Hall, 330 South Jefferson St., Pensacola, FL 32502.	Do.
Tennessee	Cocke	Newport	T 47 029 1780 01	Office of Federal and Urban Affairs, 321 7th Ave. North, Nashville, TN 37219. Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, TN 37219, and Upper East Tennessee Office, 323 West Walnut St., Johnson City, TN 37601. State Insurance Commission, R-114, State Office Bldg., Nashville, TN 37219.	Office of the City Recorder, Post Office Box 390, Town of Newport, Newport, TN 37821.	Do.
Texas	Harris	La Porte	H 48 201 3890 02 H 48 201 3890 03	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Clerk, City Hall, 124 South 2d St., La Porte, TX 77571.	Aug. 27, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: February 13, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-2062 Filed 2-16-71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7088]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Interest and Penalties in Case of Certain Taxable Years

On August 1, 1970, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to changes made by section 946 of the Tax Reform Act of 1969 (83 Stat. 729) was published in the FEDERAL REGISTER (35 F.R. 12342). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: February 11, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 946 of the Tax Reform Act of 1969 (83 Stat. 729), such regulations are amended as follows:

PARAGRAPH 1. There are inserted immediately after § 1.9005–5 the following new sections:

TAX REFORM ACT OF 1969

§ 1.9006 Statutory provisions; Tax Reform Act of 1969.

Section 946 of the Tax Reform Act of 1969 (83 Stat. 729) provides as follows:

SEC. 946. *Interest and penalties in case of certain taxable years*—(a) *Interest on underpayment.* Notwithstanding section 6601 of the Internal Revenue Code of 1954, in the case of any taxable year ending before the date of the enactment of this Act, no interest on any underpayment of tax, to the extent such underpayment is attributable to the amendments made by this Act, shall be assessed or collected for any period before the 90th day after such date.

(b) *Declarations of estimated tax.* In the case of a taxable year beginning before the date of the enactment of this Act, if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by this Act, such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after the 30th day after such date of enactment. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015, 6154, 6654, and 6655 of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by this Act. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 or 6154 of such Code (whichever is applicable), an installment payment of estimated tax is required to be made by the taxpayer.

§ 1.9006–1 **Interest and penalties in case of certain taxable years.**

(a) *Interest on underpayment.* The Internal Revenue Code of 1954 was amended in many important respects by the Tax Reform Act of 1969. Certain of these amendments affect taxable years ending prior to December 30, 1969 (the date of enactment of the Act) and thereby may cause underpayments of tax by a number of taxpayers for those years. Under section 6601(a) of the Code, interest at the rate of 6 percent per annum is imposed upon the amount of any such underpayment. The effect of section 946(a) of the Act is to prevent the assessment or collection of interest on an underpayment of tax for any taxable year ending before December 30, 1969, if such underpayment is attributable to any amendment made by such Act, for the period from the due date for payment until March 30, 1970. Thus, the taxpayer is afforded an interest-free period of 90 days from the date of enactment of such Act within which to account for the changes in the law affecting him and to remit the amount of such underpayment. If, on or after March 30, 1970, the amount of any underpayment (or portion thereof) attributable to an amendment made by the Act remains unpaid, then, as of such date, such underpayment (or portion thereof) shall be subject to interest as provided by section 6601 of the Code, to be computed from such date. However, if a corporation or farmers' cooperative elects to pay its final tax in two installments under section 6152 of the Code and if the second installment is due after March 30, 1970, then, in order to escape the imposition of interest under section 6601, such corporation or cooperative need pay only one-half of the additional tax arising from an amendment made by the Act before March 30, 1970, with the remaining one-half payable as part of the second installment on the regular due date for that installment. In the case of an underpayment of tax which is only partly attributable to an amendment made by the Act, section 946(a) of such Act shall apply only to the extent that such underpayment is so attributable.

(b) *Declarations and payments of estimated tax.* (1) In the case of a taxable year beginning before December 30, 1969, section 946(b) of the Tax Reform Act of 1969 provides transitional rules with respect to the payment of estimated tax and, in the case of an individual, the filing of a declaration of estimated tax. Under such section 946(b) in the case of such a year, if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by the Act, such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after February 15, 1970. For purposes of section 946(b) of such Act and this section, the term "installment date" means any date on which, under section 6153 or 6154 of the Code (whichever is applicable), an installment payment of estimated tax is required to be made by the taxpayer.

(2) With respect to any declaration or payment of estimated tax before February 15, 1970, sections 6015, 6153, 6154, 6654, and 6655 of the Code shall be applied without regard to the amendments made by such Act. Therefore, any underpayment which occurs solely by reason of the amendments made by such Act shall not be treated as an underpayment in the case of installment dates before February 15, 1970. Similarly, in the case of a taxpayer all of whose installment dates occur prior to February 15, 1970, no payment of estimated tax need be made to reflect the amendments made by such Act.

(3) The following example illustrates the application of the provisions of subparagraphs (1) and (2) of this paragraph:

Example. A, a fiscal year taxpayer with a taxable year from July 1, 1969, through June 30, 1970, had, without regard to the enactment of the Tax Reform Act of 1969, a total tax liability, which would have been shown on his return, of $500. A is not a farmer or fisherman described in section 6037(b). A's tax liability is increased by $20 to $520, attributable to an amendment made by such Act. A makes an installment payment of estimated tax of $90 on each of the following four installment dates: October 15, 1969; December 15, 1969; March 15, 1970; and July 15, 1970. Assume that A is unaffected by the exceptions provided in section 6654(d). Therefore, A is underpaid by $10 on both October 15 and December 15, and by $18 on both March 15 and July 15. Such underpayments are computed as follows:

(a) October 15 and December 15 installment dates:	
(1) Tax without regard to Tax Reform Act of 1969	$500
(2) 80% of item (1)	400
(3) Minimum payment to avoid underpayment, determined without regard to Act:	
October 15, 1969 (25% of item (2))	100
December 15, 1969 (25% of item (2))	100
(4) Actual payment:	
October 15, 1969	90
December 15, 1969	90
(5) Amount of underpayment:	
October 15, 1969 ($100—$90)	10
December 15, 1969 ($100—$90)	10
(b) March 15 and July 15 installment dates:	
(1) Tax with regard to Act	520
(2) 80% of item (1)	416
(3) Less total of minimum payments to avoid underpayment, determined without regard to Act for October 15, 1969 and December 15, 1969 ($100+$100)	200
(4) Difference of items (2) and (3)	216
(5) Minimum payment to avoid underpayment, determined with regard to Act:	
March 15 (50% of $216)	108
July 15 (50% of $216)	108
(6) Actual payment:	
March 15	90
July 15	90
(7) Amount of underpayment:	
March 15 ($108—$90)	18
July 15 ($108—$90)	18

(c) *Cross references.* (1) Taxpayers affected by the following sections, among others, of the Tax Reform Act of 1969 may be subject to the provisions of section 946 (a) or (b) (whichever is applicable) of such Act:

(i) Act section 201(a), which adds section 170(f)(2) to the Code and which applies to gifts made after July 31, 1969.

(ii) Act section 201(c), which repeals section 673(b) of the Code and which applies to transfers in trust made after April 22, 1969.

(iii) Act section 212(c), which amends section 1031 of the Code and which applies to taxable years to which the 1954 Code applies.

(iv) Act section 332, which amends section 677 of the Code and which applies to property transferred in trust after October 9, 1969.

(v) Act section 411(a), which adds section 279 to the Code and which applies to interest paid or incurred on an indebtedness incurred after October 9, 1969.

(vi) Act sections 412 (a) and (b), which adds section 453(b)(3) to the Code and which apply to sales or other dispositions occurring after May 27, 1969, which are not made pursuant to a contract entered into on or before that date.

(vii) Act section 413, which amends sections 1232(a), 1232(b)(2), and 6049 of the Code and which applies to bonds and other evidences of indebtedness issued after May 27, 1969.

(viii) Act section 414, which adds section 249 to the Code and which applies to convertible bonds or other convertible evidences of indebtedness repurchased after April 22, 1969.

(ix) Act section 421(a), which amends section 305 of the Code and which applies to distributions made after January 10, 1969.

(x) Act sections 516 (a) and (d), which add section 1001(e) to the Code and which apply to sales of life estates made after October 9, 1969.

(xi) Act section 601, which amends section 103 of the Code and which applies to obligations issued after October 9, 1969.

(xii) Act section 703 which amends sections 46(b) and 47(a) of the Code and which applies to section 38 property built or acquired after April 18, 1969.

(xiii) Act section 905, which adds section 311(d) to the Code and which applies to distributions made after November 30, 1969.

(2) In addition to the references in subparagraph (1) of this paragraph, section 946(b) of the Tax Reform Act of 1969 may apply to taxpayers affected by the following sections, among others, of such Act:

(i) Act section 201(a), which adds section 170(e) to the Code and which applies to contributions paid after December 31, 1969.

(ii) Act sections 501 (a) and (b), which amend section 613 of the Code and which apply to taxable years beginning after October 9, 1969.

(iii) Act sections 516 (c) and (d) which add section 1253 to the Code and

which apply to transfers after December 31, 1969.

(iv) Act section 701(a), which amends section 51 of the Code and which applies to taxable years ending after December 31, 1969, and beginning before July 1, 1970.

[FR Doc.71-2161 Filed 2-16-71;8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of Title 41 is amended as follows:

PART 5A-74—SPECIAL PURCHASE PROGRAMS

The table of contents of Part 5A-74 is amended to delete §§ 5A-74.408-1 and 5A-74.408-2, and to add the following new entry:

Sec.
5A-74.409 GSA export packing facilities.

Subpart 5A-74.4—Overseas Supply Support Program

1. Section 5A-74.408 is revised as follows:

§ 5A-74.408 Direct delivery of stores stock items.

See HB, Supply Operations, Volume 2, Procurement, 11-7 (FSS P 2900.2).

2. Section 5A-74.409 is added as follows:

§ 5A-74.409 GSA export packing facilities.

For list of GSA export packing facilities see § 5A-76.304.

PART 5A-76—EXHIBITS

The table of contents of Part 5A-76 is amended by adding the following entry:

Sec.
5A-76.304 GSA export packing facilities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (2-17-71).

Dated: February 2, 1971.

H. A. ABERSFELLER,
Commissioner,
Federal Supply Service.

[FR Doc. 71-2083 Filed 2-16-71;8:46 am]

Chapter 29—Department of Labor

PART 29-1—GENERAL

Pursuant to the authorities contained in 5 U.S.C. 301, Reorganization Plan No. 6 of 1950 (64 Stat. 1263), I hereby amend Chapter 29 of Subtitle A of Title 41 of the Code of Federal Regulations by adding a new Part 29-1 to read as set forth below. As these regulations relate solely to grants and public contracts and rules of agency procedure, the requirement of 5 U.S.C. 553 as to notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable. I do not believe such procedure will serve a useful purpose here. Accordingly, these regulations shall become effective upon publication in the FEDERAL REGISTER, February 17, 1971.

Sec.
29-1.000 Scope of part.

Subpart 29-1.0—Regulation System

29-1.001 Scope of subpart.
29-1.002 Purpose.
29-1.003 Authority.
29-1.004 Applicability.
29-1.006 Issuance.
29-1.006-1 Code arrangement.
29-1.006-2 Publication.
29-1.006-3 Copies.
29-1.006-4 Coordination.
29-1.007 Arrangement.
29-1.007-1 General plan.
29-1.007-2 Numbering.
29-1.008 Agency implementation.
29-1.008-50 Administration or office implementation.
29-1.009 Deviation.
29-1.009-2 Procedure.

Subpart 29-1.2—Definition of Terms

29-1.204 Head of the agency.

Subpart 29-1.3—General Policies

29-1.302 Procurement sources.
29-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
29-1.302-50 Contracts between the Government and former Government employees.
29-1.303 Approval signatures.
29-1.305 Specifications.
29-1.305-3 Deviations from Federal Specifications.
29-1.310 Responsible prospective contractor.
29-1.310-4 General policy.
29-1.315 Use of liquidated damages provisions in procurement contracts.
29-1.315-2 Policy.
29-1.318 Disputes clause.
29-1.318-1 Contracting officer's decision under a Disputes clause.
29-1.350 Buying in.
29-1.351 Refunds from contractors.
29-1.352 Sole source procurement.
29-1.353 Standards of conduct.
29-1.354 Violations of law.

Subpart 29-1.4—Procurement Responsibility and Authority

29-1.400 Scope of subpart.
29-1.401 Responsibility of the head of the procuring activity.
29-1.402 Authority of contracting officers.
29-1.404 Selection, designation, and termination of designation of contracting officers.
29-1.404-1 Selection.
29-1.404-2 Designation.
29-1.404-50 Modification of authority.
29-1.404-51 Continuity of responsibility.
29-1.405 Ratification of unauthorized contract awards.
Sec.
29-1.450 Contracting officers representatives.
29-1.451 Regional administrative officer purchasing authority.
29-1.452 Responsibility of procurement officials to question requirements and reaffirm their validity.
29-1.454 Independence of procurement officials to carry out responsibilities.

Subpart 29-1.5—Contingent Fees

29-1.508 Enforcement.
29-1.508-1 Failure or refusal to furnish representation and agreement.
29-1.508-2 Failure or refusal to furnish Standard Form 119.
29-1.508-3 Misrepresentations or violations of the covenant against contingent fees.

Subpart 29-1.6—Debarred, Suspended, and Ineligible Bidders

29-1.600 Scope of subpart.
29-1.601 General.
29-1.601-1 Definitions.
29-1.602 Establishment and maintenance of list of concerns or individuals debarred, suspended, or declared ineligible.
29-1.604 Causes and conditions applicable to determination of debarment by an executive agency.
29-1.604-1 Procedural requirements relating to the imposition of debarment.

Subpart 29-1.7—Small Business Concerns

29-1.702 Small business policies.
29-1.706-2 Review of SBA set-aside proposals.
29-1.708 Certificate of competency program.
29-1.708-2 Applicability and procedure.
29-1.708-3 Conclusiveness of certificate of competency.
29-1.709 Records and reports.

Subpart 29-1.10—Publicizing Procurement Actions

29-1.1001 General policy.
29-1.1002 Availability of invitations for bids and requests for proposals.
29-1.1002-50 Other publicity concerning procurements.

AUTHORITY: The provisions of this Part 29-1 issued under 80 Stat. 379, 5 U.S.C. 301, 63 Stat. 389, 40 U.S.C. 486(c).

§ 29-1.000 Scope of part.

This part establishes a system of procurement regulations and procedures applicable to procurement of property and services necessary to the operations of the Department of Labor (DOL). This system is based upon the Federal Property and Administrative Services Act of 1949, as amended, and is comprised of the Federal Procurement Regulations (i.e., Chapter 1 of Title 41 of the Code of Federal Regulations and referred to herein as FPR), and Department of Labor Procurement Regulations (i.e., Chapter 29 of Title 41 of the Code of Federal Regulations and referred to herein as DOLPR), which are herein established. This part describes the method and contains the policies and

procedures by which DOL implements, supplements, and may deviate from the FPR.

Subpart 29–1.0—Regulation System

§ 29–1.001 Scope of subpart.

This subpart sets forth introductory information pertaining to the DOLPR. It explains the purpose of the DOLPR, the authority under which they are issued, their relationship to the FPR, and their applicability, method of issuance, exclusions, and arrangement. This subpart also outlines procedures for implementing, supplementing, and deviating from the FPR.

§ 29–1.002 Purpose.

This subpart establishes the system for the codification and publication of uniform policies and procedures that shall constitute the DOLPR.

§ 29–1.003 Authority.

DOLPR are authorized by Federal statute and implementing administrative regulations. Specific authority is provided by 5 U.S.C. 301; section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486 (c)); the FPR; and 33 F.R. 12600, September 5, 1968 (See § 29–1.204).

§ 29–1.004 Applicability.

(a) The FPR and DOLPR apply to all DOL procurement (hereinafter referred to as "contracts") including contracts, agreements, purchases, orders, or similar instruments which obligate funds for the purposes of obtaining property and services for the Department of Labor or third parties or for the purpose of promoting Departmental programs or objectives through financial assistance. Unless otherwise specifically stated, DOLPR does not apply to grants.

(b) The DOLPR implement and supplement the FPR. Material published in the FPR, which has Government-wide applicability, becomes applicable to all DOL contracting upon the effective date of the particular FPR material. Such material generally will not be repeated, paraphrased, or otherwise restated in the DOLPR. The absence of a corresponding part, subpart, section, or subsection in the DOLPR indicates that the FPR, as written, is applicable to all DOL contracts.

(c) Implementing material is that which expands upon related FPR material. It will treat a similarly numbered portion of the FPR in greater detail or indicate the manner of compliance or deviation.

(d) Supplementing material is that for which there is no counterpart in the FPR.

§ 29–1.006 Issuance.

§ 29–1.006–1 Code arrangement.

Chapter 1 of Title 41 of the Code of Federal Regulations contains procurement regulations for general application to all agencies. Specific succeeding chapters are assigned to the various agencies for their implementing and supplementing material. DOL is exclusively assigned Chapter 29 for its contracting material.

§ 29–1.006–2 Publication.

The DOLPR appear in the Code of Federal Regulations as Chapter 29 of Title 41, Public Contracts and Property Management. The DOLPR are published, as they are issued in the daily issues of the FEDERAL REGISTER and in cumulated form in the annually published Code of Federal Regulations.

§ 29–1.006–3 Copies.

Copies of the DOLPR in both the FEDERAL REGISTER and the Code of Federal Regulations form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 29–1.006–4 Coordination.

Responsibility for the development of the DOLPR is assigned to the Assistant Secretary for Administration. In developing those regulations, the Assistant Secretary will solicit the views of the administrations and offices concerned. In addition to his responsibilities imposed by statute and regulation, the Solicitor is responsible for determining the legality of all proposed regulations and policy and for making arrangements for the publication of those regulations and any subsequent implementation thereof in the FEDERAL REGISTER.

§ 29–1.007 Arrangement.

§ 29–1.007–1 General Plan.

The DOLPR employ the same general numbering system and nomenclature used in the FPR.

§ 29–1.007–2 Numbering.

(a) A particular procurement policy or procedure is identified by the same number in both the FPR and DOLPR except that the number preceding the particular part, subpart, section, or subsection is either "1" if the reference is to FPR or "29" if the reference is to DOLPR.

(b) Where Chapter 29 implements a part, subpart, section, or subsection of the FPR, the implementing part, subpart, section, or subsection of Chapter 29 will be numbered (and captioned) to correspond to the FPR part, subpart, section, or subsection.

(c) Where Chapter 29 supplements the FPR and thus deals with subject matter not contained in the FPR, numbers in the group 50 through 99 will be assigned to the respective supplementing part, subpart, section, or subsection.

(d) Where the subject matter contained in the part, subpart, section, or subsection of the FPR requires no implementation, the DOLPR will contain no corresponding part, subpart, section, or subsection. Thus, there may be gaps in the DOLPR of part, subpart, section, or subsection numbers. In such cases, reference must be made to the FPR for policy and procedure applicable to all DOL contracts.

§ 29–1.008 Agency implementation.

§ 29–1.008–50 Administration or office implementation.

Administrations and offices may supplement or implement the FPR or DOLPR with internal instructions whose applicability is not DOL-wide but nevertheless necessary to implement or supplement the FPR or DOLPR. Administrations and offices may even request publication in the DOLPR of procurement instructions and other procurement material considered of interest to the general public. Such instructions shall not extensively repeat, paraphrase, or otherwise restate the FPR or DOLPR and shall be numbered in accordance with § 1–1.007–2 except that the numbers prescribed there and in § 29–1.007–2 shall be suffixed by the alphabetic abbreviation or other symbol of the respective administration or office issuing such instructions. Whether the instructions are to be published as part of the DOLPR or not, such proposed instructions and material that supplement or implement the DOLPR or the FPR must be submitted, prior to their publication, for the review and concurrence of the Assistant Secretary for Administration and the Solicitor. In the case of internal procurement instructions, the purpose of such review is to ascertain that such instructions are consistent with the FPR and DOLPR and that they do not contain material which should be issued as DOLPR. In the case of instructions or other material submitted for inclusion in the DOLPR, after concurrence by interested administrations and offices, the necessary arrangements will be made for publication of such instructions or other material in the FEDERAL REGISTER.

§ 29–1.009 Deviation.

§ 29–1.009–2 Procedure.

Deviations (as described in § 1–1.009–1 of this title) shall be kept to a minimum and shall be controlled as follows:

(a) Deviations from either the FPR or the DOLPR in both individual cases and classes of cases must be approved in advance by the Assistant Secretary for Administration. Requests for approval of such deviations may be initiated by contracting officers. Requests shall be submitted, in writing, to the Assistant Secretary for Administration either directly or with such prior preliminary approvals as may be required by the internal procedures of the contracting officer's administration or office. Such requests shall be submitted as far in advance as the exigencies of the situation will permit. Each request for a deviation shall contain the following:

(1) A clear statement of the deviation desired;

(2) The reasons the deviation is considered necessary and would be in the best interest of the Government;

(3) The name of the contractor and identification of the contract affected, if applicable;

(4) A statement as to whether the deviation has been requested previously,

and, if so, the circumstances and disposition of the previous request; and

(5) Any pertinent background information which will contribute to a full understanding of the desired deviation including, but not limited to, the identification of the specific programs affected together with suitable notation that appropriate notice, including information copies of the request for deviation, has been given to the director or other chief official of the program or activity affected.

(b) If a requested deviation is considered appropriate, approval will be provided where the deviation applies to an individual case by memorandum addressed to the requesting office with copies to interested offices. The requesting office shall retain a copy of each request for approval and the disposition made thereon in its contract files.

(c) Where the deviation is from the FPR and applies to a class of cases, if time permits, necessary coordination with the General Services Administration will be effected by the Assistant Secretary for Administration. Such class deviations shall be issued as a part of the DOLPR. Where time does not permit, the Assistant Secretary for Administration may authorize a deviation, and by telephone, if need be, with later confirmation in writing. In such an instance, he will later inform GSA of the deviation and circumstances under which it was required. Whenever a requested deviation is disapproved, the notice thereof shall be in writing, by the Assistant Secretary for Administration, with copies to other interested offices.

(d) When a deviation in a contract form or provision is authorized, physical alteration or change may not be made in the printed form itself but shall be made by appropriate written notation in the schedule, specification, or elsewhere, under an appropriate title (e.g., under a part of a schedule entitled, "Alteration to General Provisions") which directs the reader's attention to the change in a manner that permanently fixes the extent of the change for a particular transaction or instrument.

(e) New FPR issuances should be carefully reviewed upon receipt so that requests for deviations can be acted upon prior to the effective date, whenever practicable.

(f) A central record of deviations, including copies of requests, approvals, and disapprovals, will be maintained by the Assistant Secretary for Administration.

Subpart 29–1.2—Definition of Terms

§ 29–1.204 Head of the agency.

Where the FPR and the DOLPR refer to the "head of the agency" or "agency head" as a level of approval, such a reference shall mean the Assistant Secretary for Administration.

Subpart 29–1.3—General Policies

§ 29–1.302 Procurement sources.

§ 29–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

(a) No contracts, including those for rental of real or personal property, shall be let under the circumstances set out in § 1–1.302–3(a) of this title, except as provided in the FPR and DOLPR. Nor shall contracts knowingly be entered into, subject to the same exception, which will result in subcontracts, regardless of tier, with employees of the Government or business concerns or organizations which are substantially owned or controlled by Government employees.

(b) Approval of a decision to grant an exception as provided from § 29–1.302–3(a) shall be obtained, in writing, from the Assistant Secretary for Administration by the head of the procuring activity.

§ 29–1.302–50 Contracts between the Government and former Government employees.

Negotiated contracts or grants or amendments to existing contracts or grants which constitute new procurement (including those for the rental of real or personal property), except for contracts or grants of the type described in Subpart 29–61.1 of this title, may be entered into with former employees of DOL or with firms in which former employees are known to have a substantial interest, within a period of 1 year subsequent to the termination of the individual's employment by DOL, only with the prior written approval of the Assistant Secretary for Administration.

§ 29–1.303 Approval signatures.

Contracting officers will personally sign all contracts and modifications thereto. Duly authorized contracting officer representatives for purposes of administering and monitoring contracts may sign contract correspondence while acting within the scope of the authority delegated to them. The signing of contractual instruments, including modifications, will not be accomplished by facsimile stamps.

§ 29–1.305 Specifications.

§ 29–1.305–3 Deviations from Federal Specifications.

Any deviation from a Federal specification contemplated under § 1–1.305–3 of this title shall be submitted, prior to its use, for approval to the head of the procuring activity who shall be the designated official within the meaning of § 1–1.305–3 of this title. The request shall include a statement describing the deviation being requested together with any justification and, where applicable, a recommendation for revision or amendment of the specification itself.

§ 29–1.310 Responsible prospective contractor.

§ 29–1.310–4 General policy.

(a) A contracting officer's duty to contract only with a responsible contractor does not preclude his disclosing to the contractor those actions the contractor might take to become "responsible" within the meaning of § 1–1.310 of this title. The contracting officer should consider the use of DOL staff in order to qualify a contractor as responsible, especially when such assistance is within the spirit of the Small Business Administration's program objectives or the only way a marginal organization, for which there is no substitute in a given geographic area, can be made eligible, such as in a program for the disadvantaged.

(b) Such DOL staff assistance can take many forms. In cases of borderline financial responsibility, the contracting officer should encourage the contractor's use of available financing techniques, whether or not provided in the FPR. These include, but are not limited to, performance guarantees, advance payments, or Small Business Administration loans. In cases where either the inadequacy of a contractor's accounting system or the contractor's inability to conform to the requirements of the Equal Opportunity Clause is a barrier to the award of a contract, the contracting officer should consider, on a case-by-case basis, the practicality of arranging for assistance to the contractor. Such assistance may take the form of either staff assistance from the Department or, in instances of an equal opportunity problem, the assistance of the applicable Compliance Agency. In this manner, the services of specialists could be made available to the contractor, when appropriate, to overcome the obstacle to award.

(c) Nothing herein, however, shall be construed, directly or indirectly, as placing on the contracting officer the burden of always finding a contractor "responsible" or, alternatively, initiating and pursuing a course of action which, with the help of the Department's staff, will lead to a finding of responsibility. Rather, only where the situation warrants it, is it the policy of DOL to encourage positive involvement of a contracting officer in assisting a contractor to become responsible. Where the circumstances clearly warrant a finding of nonresponsibility and also indicate the impracticality of the DOL's attempting to take steps to cure the contractor's deficiencies, it is the policy of DOL that the contracting officer make a finding of nonresponsibility.

§ 29–1.315 Use of liquidated damages provisions in procurement contracts.

§ 29–1.315–2 Policy.

(a) Determination as to the use of liquidated damages provisions in a contract, and of the rate of such damages, is solely the responsibility of the contracting officer. In making the determination,

he shall obtain essential facts from the requisitioning office and be guided by a strict application of the criteria set forth in § 1-1.315-2 of this title and by the following general policies:

(1) Liquidated damages provisions will not be used routinely in DOL contracts, but they may be used when failure to meet the completion or delivery schedule will likely cause DOL to suffer substantial damages, the amount of which is difficult or impossible to determine or prove.

(2) Where the quantity of an item being procured includes a number of items the need for which is urgent, care shall be taken to have the liquidated damages provisions apply only to the urgently needed quantity. However, where rates are applied to quantities or groups, assessment of damages will not be prorated for delay of partial quantities.

(3) Liquidated damages provisions generally should not be used: (i) In contracts for supplies or services required for routine administrative purposes; (ii) in contracts for standard commercial or "off-the-shelf" items; (iii) in any contract where time of performance is not a primary factor; (iv) in small purchases (under $2,500); (v) in study, experimental, development, or research contracts including equipment contracts requiring developmental work; and (vi) where the delivery schedule does not reflect the date the item is actually needed but the date the item is desired.

(4) A fixed formula, based on percentage of value, shall not be used to establish the rate of damages. Consideration shall be given to the following factors in establishing the rate of damages: (i) The number of programs affected; (ii) the importance of the item in relation to the program for which it is intended; (iii) the relative importance of the program or programs in the overall mission of DOL; (iv) the reasonableness of the lead time for delivery in the contract schedule; and (v) any unusual damages that can be anticipated.

(5) Unless it is clear that partial delivery will proportionately reduce the extent of probable damages, rates shall not be applied to individual units of an item, but rather to quantities of an item or to groups of items which are required for delivery or completion at the same time. Rates should generally be expressed in terms of even dollars per day of delay per unit of the quantity of units to which the clause is applicable. When making partial or progress payments due anytime after the delivery date has passed for undelivered items covered by a liquidated damages provision, deductions for liquidated damages should be made for the actual number of days of delay that have elapsed from the time of the scheduled delivery to the time the partial or progress payment was due to the contractor.

(b) Any contract providing for liquidated damages shall contain a maximum dollar limitation on contractor's total liability as a result of the liquidated damages clause, which limit shall be appropriate for the circumstances of the particular procurement. In no event, however, shall such a dollar limit exceed the total amount of dollars the Government would have owed the contractor for full, complete, timely, and satisfactory performance.

(c) When liquidated damages provisions are used in a contract, the contracting officer is responsible for the adequacy of documentation in the file showing why delivery is critical, the nature of the damage that would be suffered by the Government if the contractor failed to make delivery and why the amount of such damages is either impossible to ascertain or prove either at the time the contract is awarded or within a reasonable time thereafter.

(d) Where liquidated damage provisions are used, they shall be strictly enforced. In such cases where the contractor's delay was clearly caused, at least in part, by the Government which contributed, substantially if not exclusively, to the contractor's delayed delivery, the contracting officer shall take such matters into consideration as well as any other legal excuse of the contractor and shall make findings appropriate to the situation. However, it shall be the contractor's responsibility to give notice of delays in connection with any request for contract time extension or request for remission of damages, in whole or in part. In either event, the request shall be amply documented by the contractor. If it is determined that the liquidated damages are applicable, the contracting officer shall have no authority to waive any Government rights in the matter. This does not preclude the contracting officer's initiating recommendations for remission of liquidated damages by the Comptroller General.

(e) A submission to the Comptroller General recommending the remission of liquidated damages in accordance with 41 U.S.C. 256a shall be prepared for the signature of the Assistant Secretary for Administration. All relevant facts and documents shall accompany the submission, e.g. (1) Conditions which prompted the assessment of damages, (2) findings and decisions of the contracting officer, and (3) the decision of the Board of Contract Appeals, if any.

(f) On a default termination of a fixed price supply contract, liquidated damages continue to accrue, even after default, until the DOL can reasonably obtain delivery of the items through reprocurement. This is in addition to any other DOL remedy under the Default provision for recovering the excess costs to DOL of reprocuring from other sources the items that were to have been obtained in the terminated contract. If, however, the DOL does not reprocure the items, liquidated damages shall not be assessed against the contractor.

§ 29-1.318 Disputes clause.

§ 29-1.318-1 Contracting officer's decision under a Disputes clause.

When a final decision of the contracting officer involves a dispute that is or may be subject to the Disputes clause, the paragraph set forth below shall be included in the decision:

This decision is made in accordance with the Disputes clause and shall be final and conclusive as provided therein, unless within 30 days from the date of receipt of this decision, a written notice of appeal (in triplicate) addressed to the Secretary of Labor is mailed or otherwise furnished to the Contracting Officer. The notice of appeal, which is to be signed by you as the contractor, or by an attorney acting on your behalf, and which may be in letter form, should indicate that an appeal is intended, shall refer to this decision, and shall identify the contract by number. The notice of appeal should include a statement of the reasons why the decision is considered to be erroneous, a concise specification of the errors complained of, and a statement of the relief sought.

§ 29-1.350 Buying in.

"Buying in" refers to the practice, in some procurements involving price competition, of a contractor's attempting to obtain a contract award by knowingly offering a price lower than the contractor's anticipated cost of performance. The usual motive is the expectation by the contractor of either (a) increasing the contract price during the period of performance through change orders or other means, or (b) receiving future "follow-on" contracts at prices high enough to recover any losses on the original "buy-in" contract. It occurs sometimes in response to requests for proposals for cost reimbursement type contracts. While the contractor's deliberately understating anticipated costs may not, in itself, result in a contract award, nevertheless it can exert a favorable influence toward that contractor's selection. Such a practice is not illegal. However, it should not be encouraged since any apparent savings offered are frequently illusory, especially where its long term effect may diminish competition or where it may lead to poor contract performance resulting from the stinting use of the contractor's resources in his attempting to minimize losses resulting from the award. Where there is reason to believe that "buying in" has occurred, contracting officers shall assure that amounts thereby excluded in the contractor's development of the original contract price are not recovered in the pricing of change orders or in follow-on procurements subject to cost analysis. In cases of suspected "buying in," the contracting officer shall attempt to eliminate the contractor's motive for "buying in." Failing that, the contracting officer shall substantially reduce the contractor's benefit from the practice. Some techniques for neutralizing a contractor's benefit from "buying in" include: analyzing future needs for recurring items to determine if either the techniques of "multiyear procurement" or the inclusion within the contract of priced options for the purchase by the Government of additional quantities is warranted; pricing out with extreme care any change orders or any noncompetitive procurement for additional quantities from the same contractor; attempting to continue competition for new quantities of the same item; insuring that direct costs incurred by the contractor

are not subsequently borne indirectly in the form of overhead or other indirect costs; and initially negotiating the specification and details of the contractor's performance as specifically as possible.

§ 29–1.351 Refunds from contractors.

(a) *General.* A refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor. A refund is processed either as a separate payment or as an adjustment under one or more contracts or subcontracts. Refunds can be made wholly at the initiative of the contractor or solicited by the Department. The refund could arise during or after contract performance. It could be based on compensating the Government for: an overcharge to the Government; failure by the contractor or subcontractor to adequately compensate the Government for the use of Government-owned property; proceeds from the disposition of contractor inventory; or otherwise, where retention of the money by the contractor or subcontractor would be contrary to good conscience and equity. Prior to the solicitation of a refund or the acceptance of a voluntary refund initiated by the contractor, the head of the procuring activity responsible for administering the contract shall first obtain the advice of the Solicitor to determine whether the Government's rights would be jeopardized or impaired by the contracting officer's proposed action.

(b) *Disposition of refunds.* (1) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(2) In cases where the refund is to be made by check separate from, rather than by an adjustment in, the contract price, the check shall be made payable to the Department of Labor and shall be forwarded immediately to the disbursing office, the address of which shall be supplied by the contracting officer responsible for administering the contract. When forwarded, the check shall be accompanied by a letter from the contractor identifying it as a voluntary refund, giving the number of the contract or contracts involved and, where possible, giving the account number of the appropriation to which the refund should be credited.

§ 29–1.352 Sole source procurement.

It is a basic Department of Labor procurement policy that the selection of contractors shall be based on competition between responsible suppliers. The requirement for competition exists whether the procurement is formally advertised or negotiated. Negotiated procurements must be competitive to the fullest practical extent. To insure that DOL procurements conform fully with the basic policy prescribing competitive procurement, any proposed sole source procurement must be fully justified and approved in accordance with and in the manner prescribed by the limitations on such procurements in § 1–3.210 of this title. Where follow-on contracts are anticipated, sufficient data should be obtained to permit competition on later contracts. In study or research contracts, where practical, the contractor's work papers shall be stipulated as a deliverable end product along with the final report. Work papers may supply sufficient background so that competition may be possible for future procurements of research effort based on a previously delivered final report of a study or research contract.

§ 29–1.353 Standards of conduct.

All DOL personnel engaged in activities related to procurement shall conduct such activities in a manner above reproach in every respect. See Part 0 of Title 29 CFR. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. See § 29–1.302 for requirements concerning "arms-length" dealings.

§ 29–1.354 Violations of law.

In the event DOL procurement personnel have reason to believe there is evidence of a violation of law of any nature whatsoever in bids or proposals received, including a violation of the antitrust laws, they shall prepare, for the signature of the head of the procuring activity, a complete report addressed to the Solicitor. In the case of a possible violation of antitrust laws, a report from procurement personnel through the same channels shall be prepared for the Attorney General, complying with the requirements of Subpart 1–1.9 of this title.

Subpart 29–1.4—Procurement Responsibility and Authority

§ 29–1.400 Scope of subpart.

This subpart deals with the procurement responsibility and authority of the head of the agency as defined in § 29–1.204, and also the head of the procuring activity and contracting officer, the selection of the latter, their designation and the degree and manner with which procurement authority is delegated to them and their right of redelegation.

§ 29–1.401 Responsibility of the head of the procuring activity.

(a) *First tier delegation.* In the DOL, contracting officer authority and procurement responsibility have been delegated from the Secretary of Labor through the Assistant Secretary for Administration only to the following four officials or officers acting in their behalf:

(1) The Assistant Secretary for Manpower.

(2) The Commissioner, Bureau of Labor Statistics.

(3) The Deputy Under Secretary for International Affairs.

(4) The Director, Office of Administrative Services, Office of the Assistant Secretary for Administration.

(b) *Delegation and limitations.* The exercise of the delegations noted in (a) above may be further redelegated by these officers and are described as follows:

(1) *The Assistant Secretary for Manpower,* or an officer acting in that capacity, is assigned responsibility for the procurement of program-oriented property and services, except for those excluded under subparagraphs (4) (i) and (ii), of this paragraph, required to fulfill the statutory and regulatory responsibilities delegated to the Assistant Secretary for Manpower.

(2) *The Commissioner, Bureau of Labor Statistics,* or an officer acting in that capacity, is assigned responsibility for:

(i) Procurement of statistical and economic research services, except for those excluded under subparagraphs (4) (i) and (ii) of this paragraph, required to fulfill the statutory and regulatory responsibilities delegated to the Commissioner, Bureau of Labor Statistics.

(ii) Sale of special statistics developed by the Bureau of Labor Statistics in accordance with 29 U.S.C. 9.

(3) *Deputy Under Secretary for International Affairs,* or an officer acting in that capcity, is assigned responsibility for procurement of property and services, except those excluded under subparagraphs (4) (i) and (ii) of this paragraph, required for execution of international programs, including those under the Foreign Assistance Act of 1961, as amended, required to fulfill the statutory and regulatory responsibilities delegated to the Administrator, Bureau of International Labor Affairs.

(4) The Director, Office of Administrative Services, Office of the Assistant Secretary for Administration, or an officer acting in that capacity, is assigned responsibility for:

(i) Procurement of all property and services required for the operation of the Department of Labor, except for those program-oriented, procurement actions specifically delegated to other officials in subparagraphs (1), (2), and (3), of this paragraph, including, but not limited to, imprest fund purchases, rentals, and the purchase of advertisements.

(ii) Procurement of all property and services which are obtained through formal advertising, regardless of whether or not the responsibility for the procurement of a particular item would have been delegated under subparagraphs (1), (2), and (3), of this paragraph, but for the use of the formal advertising method of procurement.

(c) *Policy responsibility reservations.* The Assistant Secretary for Administration shall remain responsible: for the development and maintenance of necessary uniform procurement policies, procedures and standards; for providing technical assistance and advice to the above-named officials in their capacity as heads of their procuring activities; for keeping the Secretary of Labor fully informed on procurement matters which should be brought to his attention; and for making recommendations necessary to achieve any of these objectives.

§ 29–1.402 Authority of contracting officers.

Contracting officers, in the DOL, within the limits of their contracting officer delegation, have the responsibility and the authorty for:

(a) Executing and administering contracts in such a manner as to safeguard the interest of the United States in contractual relationships and making necessary determinations and findings under contracts;

(b) Providing the contractor written notice as provided in § 29–1.450 of the name of the contracting officer's representative or any "on-site" or other technical representative either designated to provide technical surveillance of the work being performed at a particular site or any other service in behalf of the contracting officer and the extent of such representative's authority.

(c) Using standard contract forms, when required by the FPR and DOLPR;

(d) Obtaining all necessary approvals and otherwise complying with applicable contracting directives.

(e) Personally sigining all contracts and modifications entered into by them in accordance with § 29–1.303;

(f) Exercising care, skill, and judgment in all of their actions;

(g) Assuring that funds are available and that their actions are within the scope of their authority.

(h) Maintaining necessary review with respect to contract performance on the part of the contractor;

(i) Securing where required, the advice of legal, technical, and administrative staffs of DOL as to the sufficiency of contracts prior to their execution;

(j) Initiating any appropriate action necessary to properly assure satisfactory contract performance;

§ 29–1.404 Selection, designation, and termination of designation of contracting officers.

§ 29–1.404–1 Selection.

All selections of individuals shall be made with care and on the basis of criteria set out in § 1–1.404–1 of this title.

§ 29–1.404–2 Designation.

All designations and terminations or designations of contracting officers shall be made in writing with two copies forwarded to the Assistant Secretary for Administration, who shall maintain a file of all employees currently designated to act as contracting officers and of the instruments of their designation.

§ 29–1.404–50 Modification of authority.

To effect modification of a contracting officer's authority, his present appointment (designation) shall be revoked, and a new designation issued.

§ 29–1.404–51 Continuity of responsibility.

Designated contracting officers who relieve or succeed previously designated contracting officers will assume responsibility for the administration of contracts entered into by the previously designated contracting officers. Each contracting officer succession requires a new written designation.

§ 29–1.405 Ratification of unauthorized contract awards.

Except in compliance with the ratification limitation of §§ 1–1.405 and 29–3.450, no liability shall be incurred by the Government as a result of any individual's entry into any informal or unauthorized arrangement for the reimbursement of a contractor's precontract or anticipatory costs even if such costs were incurred by the contractor while "proceeding at the contractor's own risk," until the occurring of some contingency, e.g., "subject to the availability of funds."

§ 29–1.450 Contracting officers representatives.

(a) Contracting officers may designate other Government employees to act as their authorized representatives for certain specific purposes of contract administration. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative has been delegated authority to take action for the contracting officer. Such designation shall not contain authority to sign contractual documents. Such designation may include authority for the review and approval of all or some of the following: the preliminary approach to contract performance, a research plan, research techniques, progress reports, invoices, and final reports, and/or other functions of a technical nature not involving a change in the scope, price, terms, or conditions of the contract or order. The designation of the contracting officer's representative and the responsibilities delegated to him shall be made known to the contractor, in writing, as set forth in paragraph (c) of this section, preferably by including it in the contract at time of award. However, if the designation is not known at the time of award, it should be included, when known, in the contract by amendment. Letter notice, while permissible, is nevertheless not as desirable as notice that becomes part of the contract.

(b) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require written designation as a representative of the contracting officer nor designation in a contractual document to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in the latter's behalf and, as such, has the authority and responsibility to perform, under the terms and conditions of his employment, acts as assigned by the latter. The contracting officer, however, shall not authorize his employees, as part of their duties, to sign any contractual document or letter in those instances where the signature of a contracting officer is required.

(c) The contracting officer shall use a contract clause substantially similar to the one below to make known his designation of a representative and shall include in such designation authority to perform those administrative actions in (b) of the clause as may be applicable.

IDENTITY AND AUTHORITY OF THE CONTRACTING OFFICER'S REPRESENTATIVE

(a) The authorized representative of the contracting officer is _____, whose authority to act on behalf of the contracting officer is limited to the extent set forth in (b) below. Under no circumstances is _____ authorized to sign any contractual documents or approve any alteration to the contract involving a change in the scope, price, terms or conditions of the contract or order.

(b) _____ is authorized to review and approve:

(1) Preliminary approaches in the work scope.

(2) The research plan in a research, development or evaluation contract.

(3) Research techniques.

(4) Progress reports.

(5) Invoices.

(6) Final reports.

§ 29–1.451 Regional administrative officer purchasing authority.

Purchasing authority (see § 29–3.602–50) is the authority to perform the functions of a contracting officer on a limited basis. The authority is ordinarily implicit in any general delegation of contracting officer authority. Nevertheless, when standing alone as it does when it is delegated to the DOL's Regional Administrative Officers (RAO's), it constitutes a separate limited authority to make small purchases (i.e., not in excess of $2,500 which do not involve the solicitation and acceptance of bids or signing of agreements or contracts) and, when delegated authority, to issue purchase orders against a Federal Supply Schedule. This limited decentralization of the procurement function is intended to facilitate the procurement for DOL operations, by providing limited procurement authority as closely as practicable to the points at which the services are needed. Typically, some administrations and offices limit RAO procurement of items in order to impose national office procurement controls. Also, where there exists a blanket Departmental purchase order for a particular item, RAO's should be notified to make no further purchase of the item.

§ 29–1.452 Responsibility of procurement officials to question requirements and reaffirm their validity.

Procurement officials are responsible for questioning the need for and the validity of any contemplated procurement action particularly under any of the circumstances described below:

(a) Where requisitions for unusually large quantities of an item or requisitions for untimely or otherwise unusual purchases are received immediately prior to the end of the fiscal year in which the funds may be obligated ("June Buying");

(b) Where the request for procurement of goods and services requires development by the supplier of a special item when suitable off-the-shelf items are available;

(c) Where the specification furnished by the using activity appears to be either more or less restrictive than necessary to assure satisfactory performance for the purpose for which the item is being procured.

(d) Where sufficient quality-assurance offered by the supplier's data appears to be lacking.

(e) Where award on a proposed procurement has been prolonged to the extent of raising a question as to its ultimate need;

(f) Where during the processing of the procurement the description of the supplies or services or the delivery schedule or quantity continue to undergo change or matters are otherwise disclosed which raise a question as to the necessity for the requirement or, at least, its magnitude, in the form being procured.

(g) Where the procurement appears to delegate, to contractors and others, any of those decision-making responsibilities or prerogatives of the Government that are improper to delegate from the standpoint of "public policy."

(h) Where the procurement may result in unnecessarily isolating the supplier from future competition, thus creating an expensive, restrictive dependency on that supplier to fill future needs.

(i) Where the benefits accruing to the contractor as a result of the contract are so large that the contractor should be required to share costs and/or make other concessions to the Government.

(j) Where proposals or bids for performing the work required in the procurement appear to be solicited from an unreasonably small number of suppliers.

(k) Where the Government does not reserve the royalty-free right to publish or have published the publications and reports which are the deliverable end products of the procurement.

(l) Where the procurement would place the contractor's employees under the direct supervision and control of DOL officials and employees.

(m) Where there appears to be inadequate security to safeguard Government funds or property.

(n) Where the procurement provides no description or definition of what constitutes satisfactory performance on the part of the contractor.

(o) Where the scope of the contractor's performance includes not only research performance but evaluation of that research performance. This type of contract has as its basic characteristic a combination of functions that inherently make for a conflict of interests, e.g., when a feasibility study is combined with performance, or performance is combined with performance evaluation, as part of the same effort.

(p) Where the procurement otherwise appears to violate statutes, regulations, or the Department's policies and procedures.

§ 29–1.454 Independence of procurement officials to carry out responsibilities.

The heads of the procuring activities shall take necessary measures to insure the independence of the judgment of contracting officers. This includes the provision of a suitable location within the procuring activity so that contracting officers can fulfill objectively the responsibilities set out in § 29–1.402. In this connection, it is the policy of DOL to place procurement officials to the maximum practical extent outside the direct supervision of program operating officials.

Subpart 29–1.5—Contingent Fees

§ 29–1.503 Enforcement.

§ 29–1.503–1 Failure or refusal to furnish representation and agreement.

In all cases of negotiated procurement where the SF 119 is required, the contracting officer shall determine whether negotiations will be suspended pending receipt of the executed SF 119.

§ 29–1.503–2 Failure or refusal to furnish Standard Form 119.

The contracting officer may, on his own initiative, take any of the actions authorized in § 1–1.508–2 of this title provided he documents the contract file to justify the action taken.

§ 29–1.503–3 Misrepresentations or violations of the covenant against contingent fees.

(a) The head of a procuring activity, only with the advice and consent of the Solicitor first obtained, can take any of the actions authorized by § 1–1.508–3 (a), (b), and (c) of this title.

(b) The Solicitor will make the determination required by § 1–1.508–3(d) of this title.

Subpart 29–1.6—Debarred, Suspended, and Ineligible Bidders

§ 29–1.600 Scope of subpart.

This subpart prescribes policies and procedures concerning the establishment, maintenance and use of a list of debarred, suspended, and ineligible bidders and contractors.

§ 29–1.601 General.

§ 29–1.601–1 Definitions.

"Debarring Officer" means the Assistant Secretary for Administration who is the DOL official authorized to invoke debarment or suspension measures as authorized by § 1–1.602–1 (d), (f), and (g) of this title and to include on the "DOL Debarred, Suspended, and Ineligible Bidders' List," defined below, those concerns and individuals determined to be subject to such measures in accordance with § 1–1.602–1 (a), (b), (c), (e), and (h) of this title.

§ 29–1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Debarring Officer shall establish and maintain a list of concerns and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited for contracts with the DOL. The list shall be designated as the "DOL Debarred, Suspended, and Ineligible Bidders' List" and compliance with its use throughout DOL is mandatory. The Debarring Officer shall keep the list current and publish and distribute it bi-monthly to heads of DOL procuring activities who shall be responsible for its redistribution. The list shall be marked "For Official Use Only" to reduce inspection of its contents by other than DOL personnel required to have access thereto. The head of an administration or office may request, in writing, on his own initiative or by endorsement of recommendations of a contracting officer under his jurisdiction, that a concern or individual be placed on the DOL Debarred, Suspended, and Ineligible Bidders' List in accordance with the procedures of this subpart. If all necessary information is not readily available, a preliminary report concerning actions that may warrant debarment may be submitted to be followed as soon thereafter as practicable by a completely documented report. The Debarring Officer, based on the preliminary report, may determine that a suspension is warranted. The Debarring Officer will also be responsible for making for DOL, the determinations, administrative and otherwise, which are permitted under § 1–1.602–1 (d), (f), and (g), and § 1–1.604 and maintaining liaison with the General Services Administration and otherwise comply with § 1–1.606 of this title. Upon a showing by the head of an administration or office that it would be in the public's best interest to make an exception for a particular procurement action and allow an award to a debarred concern or individual, the Debarring Officer may determine that an exception is warranted.

§ 29–1.604 Causes and conditions applicable to determination of debarment by an executive agency.

§ 29–1.604–1 Procedural requirements relating to the imposition of debarment.

(a) Initiation of debarment action. The Debarring Officer shall determine if the request for debarment has sufficient merit to warrant further processing. He shall communicate his decision to the head of the Administration or office recommending debarment.

(1) *Notice to contractors.* If the Debarring Officer decides further action in the matter is warranted, he shall send a letter by registered mail, return receipt requested, to notify the concern or individual that debarment is being proposed, stating as a minimum, in addition to the items required in § 1–1.604–1 of this title, the following:

(i) The scope of the proposed debarment as to any known affiliates, if any;

(ii) The period of the proposed debarment;

(iii) The extent of the proposed debarment, e.g., whether it is Department-wide;

(iv) That the debarment determination shall become final and effective 30 days after receipt by the concern or individual of such letter, unless the concern or individual mails or otherwise furnishes written information to show why there should not be a decision to

debar or furnishes to the Debarring Officer a written request for hearing addressed to the Secretary of Labor in accordance with § 29–60, prior to the scheduled effective date.

(v) Whether the concern or individual is temporarily suspended pending the disposition made of the proposed debarment.

(2) *Contractor response to notice.* The following shall apply with regard to the response of the concern or individual in question:

(i) *No reply received.* When no reply is received to the notice of proposed debarment within the time limit stated in the notification, the case shall be decided on the information available, i.e., without a hearing.

(ii) *Reply received.* Where written information is received, but no hearing requested, such written information shall be taken into consideration in the final determination of the case by the Debarring Officer.

(iii) *Reply received and hearing requested.* When a hearing is requested, the Debarring Officer shall forward the request for hearing to the Secretary of Labor.

Subpart 29–1.7—Small Business Concerns

§ 29–1.702 Small business policies.

It is DOL's policy to establish and maintain a strong and viable small business program consistent with Subpart 1–1.7 of this title, designed to further the small business policies.

§ 29–1.706–2 Review of SBA set-aside proposals.

The head of the procuring activity will furnish to SBA a copy of the justification prepared in accordance with § 1–1.706–2 (a) (1) of this title.

§ 29–1.708 Certificate of competency program.

§ 29–1.708–2 Applicability and procedure.

If a contracting officer has doubt as to whether the unsatisfactory record of performance can reasonably be attributed solely to lack of capacity and credit, he shall forward all pertinent data, along with his recommendations, to the head of his procuring activity for his decision.

§ 29–1.708–3 Conclusiveness of certificate of competency.

If a contracting officer has doubt as to a firm's ability to perform, notwithstanding the issuance of a Certificate of Competency he shall refer the matter, with his recommendation, to the head of the procuring activity for his decision.

§ 29–1.709 Records and reports.

A semiannual small business report shall be prepared by each procuring activity in accordance with § 1–16.804–3 of this title and shall be forwarded to the Chief, Division of Procurement, Office of Administrative Services, Office of the Assistant Secretary for Administration, not later than the 25th day following the end of the 6-month and 12-month periods covered respectively by the report.

Subpart 29–1.10—Publicizing Procurement Actions

§ 29–1.1001 General policy.

Whenever possible, it is DOL policy to increase competition by publicizing procurements which offer competitive opportunities for prospective prime contractors or subcontractors, resolving all doubts as to whether or not to publicize, in a particular procurement, in favor of publicizing. The requirements of Subpart 1–1.10 of this title and Subpart 29–1.10 shall be interpreted in a manner consistent with this policy.

§ 29–1.1002 Availability of invitations for bids and requests for proposals.

A contracting officer may limit the availability of publicized unclassified invitations for bids and requests for proposals provided he makes them available for perusal at the issuing office and provided further that he:

(a) States in the synopsis or publicizing notice required by § 1–1.1003 of this title that the number of available "bid sets" is limited, what that limited number is, and that the bid sets will be available on a "first-come-first-served" basis;

(b) States in the synopsis whether only written requests for bid sets will be honored or whether they may be requested by phone and providing, if the latter, the name and phone number of the DOL employee to be contacted; and

(c) Makes available a total of 100 bid sets over and above the number mailed initially or a cumulative total of 150 (counting initial mailing) whichever is less, to concerns and individuals on the bidders mailing list or who are otherwise known to be interested (regardless of whether or not the full bidders mailing list is used).

(d) Obtains a deviation as to the number of "bid sets" required in paragraph (c) of this section, from the head of the procuring activity based on unreasonableness of the standard in paragraph (c) of this section for the particular procurement.

§ 29–1.1002–50 Other publicity concerning procurements.

Where without cost to the Government, the procuring activity can effect the publication of procurement solicitation information, it is encouraged to do so. Such publication may result from its own initiative or in conjunction with one of the DOL information offices. The solicitation may either be current or proposed, but the publication of such information must be consistent with § 1–1.1003–1(b) of this title. The publication of other information, however, shall not relieve a procuring activity from the requirement for compliance with §§ 1–1.1003–1, 1–2.202–3(b) and 29–2.203 of this title. Paid advertisements may only be used as provided in § 29–2.203–3.

Signed at Washington, D.C., this 9th day of February 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71–2128 Filed 2–16–71;8:49 am]

PART 29–2—PROCUREMENT BY FORMAL ADVERTISING

Pursuant to the authorities contained in 5 U.S.C. 301, Reorganization Plan No. 6 of 1950 (64 Stat. 1263), I hereby amend Chapter 29 of Subtitle A of Title 41 of the Code of Federal Regulations by adding a new Part 29–2 to read as set forth below. As these regulations relate solely to grants and public contracts and rules of agency procedure, the requirements of 5 U.S.C. 553 as to notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable. I do not believe such procedure will serve a useful purpose here. Accordingly, these regulations shall become effective upon publication in the FEDERAL REGISTER.

Subpart 29–2.1—Use of Formal Advertising

Subpart 29–2.2—Solicitation of Bids

Subpart 29–2.3—Submission of Bids

Subpart 29–2.4—Opening of Bids and Award of Contract

AUTHORITY: The provisions of this Part 29–2 issued under 80 Stat. 379, 5 U.S.C. 301, 63 Stat. 389, 40 U.S.C. 486(c).

Subpart 29–2.1—Use of Formal Advertising

§ 29–2.101 Meaning of formal advertising.

Formal advertising is both by statute and policy the basic and preferred method of procuring supplies and services. Contracts entered into by DOL shall be made by formal advertising in all cases in which the use of such method is feasible and practical under the existing circumstances. Formal advertising has two basic objectives. One is to gain for the Government the benefits of full and free competition. The other is to afford all qualified sources the same opportunity to bid competitively. Since the procedures of formal advertising are, in general, established by law and regulations, there is seldom, if ever, opportunity for deviation. The contracting officer is responsible for complying with such laws and regulations and for exercising sound judgment with regard to any allowable exceptions consistent with above two basic objectives of formal advertising.

§ 29–2.102 Policy.

Mere lack of time in terms of managerial or operational convenience shall not operate to exclude the use of the formal advertising method for effecting a particular procurement. There must be a compelling urgency for the supplies or services to justify the use of the negotiation exception permitted in section 302(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended. The need for haste in the obligation of annual funds before the end of the fiscal year to avoid the loss of their use does not fall within the statutory exception cited in this § 29–2.102.

§ 29–2.102–50 Limitation on procurement by formal advertising.

In DOL, the authority to procure by formal advertising has not been delegated outside of the Office of the Assistant Secretary for Administration (See § 29–1.401(b)(4)(ii)). Heads of procuring activities shall forward to the Director, Office of Administrative Services, OASA, their requirements which can be fulfilled by formal advertising.

§ 29–2.102–51 Specification requirement.

The adequacy of specifications is a critical factor in the use of formal advertising procedures. If the qualitative requirements of the desired item or services are not defined well enough to permit all bidders to bid on the basis of supplying identical items, then the procurement should not have been by formal advertising. Thus, invariably, research and development effort cannot be procured through formal advertising.

Contracting officers are responsible for determining when formal advertising is impractical or otherwise unsuitable. When such a decision is made, it is documented in the form of a determination and finding and processed in accordance with Subpart 29–3.3.

§ 29–2.105 Solicitation for informational or planning purposes.

Formal solicitation of bids and competitive bid procedures shall not be used on an "exploratory" basis for the purpose of testing the market. This does not mean that bids may not be rejected on the basis of an administrative determination that rejection is in the public interest. Where technical data, information on new and improved products, or price and delivery information is required for planning and budgetary purposes, such information shall be solicited in accordance with § 1–1.314 of this title.

Subpart 29–2.2—Solicitation of Bids

§ 29–2.202 Miscellaneous rules for solicitation of bids.

§ 29–2.202–1 Bidding time.

The minimum bidding times set forth in § 1–2.202–1 of this title should not be construed also to be maximum or automatic bidding times. The bidding time permitted under each procurement shall reflect the considered judgment of the contracting officer, taking into account all of the facts surrounding the procurement, with recognition that doubts should be resolved in favor of a longer rather than a shorter bidding time. If the bidding time for any procurement is reduced below the minimum periods of 15 or 30 days, as applicable, the reduction shall be fully justified, approved in writing by the Deputy Assistant Secretary for Administration, and documented in the contract file by the contracting officer.

§ 29–2.202–2 Telegraphic bids.

Unless telegraphic bids are specifically allowed by the invitation, they shall be rejected. The contracting officer may provide for them under the circumstances indicated in § 1–2.202–2 of this title. When such bids are authorized, the schedule of the invitation will contain the following provision:

> Telegraphic bids may be submitted in response to this Invitation for Bids. Telegraphic bids must be received in this office prior to the time specified for opening of bids. If you elect to bid by telegraph, your bid shall: Specifically refer to this Invitation for Bids; include the items or subitems, quantities, and unit prices for which your bid is submitted and he time and place of delivery; and contain your statement that you agree to all the terms, conditions, and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the Invitation for Bids may necessitate rejection of the bid. Signed copies of the Invitation for Bids in confirmation of the telegraphic bid must be furnished by the bidder to the contracting officer within 5 calendar days of the latter's request therefor.

§ 29–2.202–3 Place and method of delivery of supplies.

To the maximum extent practical, invitations for bids issued by DOL shall stipulate "f.o.b. destination." Only where the contracting officer determines it to be in the Government's best interest may he deviate from this policy.

§ 29–2.202–50 Incorporation by reference.

There should be shown on the face of the invitation for bids or, if that sheet is not the primary one provided for the bidder's signature, on the primary sheet that is so provided, a listing of attachments which are to form a part of the bid invitation and resulting contract, as follows:

> The following attachments hereto form a part of this Invitation for Bids and any resulting contract: (list attachments).

§ 29–2.202–51 Grouping of items to facilitate award.

While invitations usually stipulate "all or none" bids, if the circumstances warrant, invitations may provide that awards will be made by items or by groups of items. In such a case, care must be exercised by the contracting officer to avoid the elimination of suppliers whose capacity would be taxed by unusually large groupings. The use of reasonable groupings of inexpensive items has the following advantages:

(a) It eliminates unwarranted administrative expense by reducing the number of awards which must be made by the Government.

(b) It encourages prospective bidders to bid at prices more favorable to the Government by making larger awards possible.

§ 29–2.202–52 Discussions with bidders prior to opening date.

(a) One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, during the interval between the mailing of invitations for bids and the making of awards, discussions of the procurement with prospective bidders will be conducted only by, or with the knowledge and approval of, the contracting officer. Neither the contracting officer nor other personnel he has authorized to communicate with the bidder shall furnish any information to a potential supplier which alone, or taken together with other information, may afford that supplier an advantage over others. However, general information which would not be prejudicial to other bidders may be furnished upon request, e.g., explanation of a particular clause or provision in the invitation for bids.

(b) If discussions with prospective bidders reveal any ambiguities or inconsistencies in the invitation which, if not corrected, may result in the receipt of nonresponsive bids, such ambiguities or inconsistencies shall be corrected. Such correction shall be achieved, prior to the opening date, by issuing a timely amendment to the invitation for bids or by canceling the invitation, as appropriate.

§ 29–2.202–53 Prebid conference.

(a) *General.* A prebid conference is a procedure, generally reserved for complex procurements, whereby prospective suppliers (and their subcontractors, if known) are invited to a meeting, presided over by the contracting officer, where there is discussed unusual aspects of a particular procurement for which

an invitation for bids (IFB) or an RFP has been issued. Whenever the contracting officer deems it in the DOL's best interest (but only, in the case of IFBs, after approval of the Director, Office of Administrative Services, Office of the Assistant Secretary for Administration) is a prebid conference authorized.

(b) *Format.* The typical format of a prebid conference is a formal presentation by the Government followed by a question and answer period. When held, a prebid conference shall be scheduled sufficiently in advance of the date set for bid or proposal opening as to permit suppliers to use the information obtained in the preparation of their bids or proposals.

(c) *Purpose.* There are two primary objectives of prebid conferences: (1) To impart information that removes areas of performance uncertainties which, unless removed, result in higher prices to DOL, i.e., by the supplier's inclusion of an amount for the uncertainty or contingency in the bid or proposed price or estimated cost; (2) To avoid postaward performance problems about which the supplier could have been made aware at the time of bid or proposal preparation. Changes or substantial clarifications found to be necessary as a result of the prebid conference shall be communicated to suppliers and take the form of formal written amendments to the soliciting documents. Such amendments shall contain, where warranted, an appropriate extension of the closing date for the receipt of bids or proposals.

(d) *Limited application.* An important premise for procurement by formal advertising is the need for the invitation itself and its specification to be sufficiently clear and complete to insure that all bidders are bidding on the same basis. Therefore, the need for prebid conferences in advertised procurement should be infrequent. The prebid conference shall in no event be used as a substitute for formally amending a defective or ambiguous solicitation or to disseminate additional specification requirements.

§ 29–2.202–54 Bid envelopes.

Mailing labels, tags, or envelopes, bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, Optional Form 17, "Sealed Bid Label," illustrated in § 1–16.902–OF17 of this title and obtained from the General Services Administration, shall be furnished with each bid set to provide the bidder with a means of marking the envelope or other container enclosing his bid.

§ 29–2.202–55 Alternate bids.

An alternate bid is one that offers a suitable substitute for the requirements set forth in the invitation. The Government can accept an alternate bid only when the invitation specifically allows it. Contracting officer should not use this technique except where a clear benefit to DOL would result from its use and two-step formal advertising is not applicable. In deciding whether to grant such permission, the contracting officer must weigh the advantage of flexibility which the use of alternative bids offers against the difficulties in bid evaluation that result from this technique.

§ 29–2.203 Methods of soliciting bids.

§ 29–2.203–3 Publicity in newspapers and trade journals.

(a) *Paid advertisements.* Paid advertisements in newspapers and trade journals and similar advertising media may be used in conjunction with invitations for bids (or RFPs) where DOL would not otherwise obtain the full benefit of available competition. Prices paid for advertising shall not exceed commercial rates charged to private individuals. Only Standard Form SF 1143a, "Public Voucher for Advertising Order," shall be used to place these orders. In placing official advertising no favoritism shall be shown to any publication and there shall be no discrimination either for or against any publication because of its editorial attitude. The sole consideration to govern in the placing of advertising shall be whether the use of such medium is authorized and the adequacy of the medium for achieving the objective of the advertising.

§ 29–2.205 Bidders mailing lists.

§ 29–2.205–50 Release of bidders mailing lists.

Except as provided in §§ 1–1.1003–4 and 1–2.205–5(b) of this title, no information concerning the identity of the specific sources solicited in a particular procurement shall be made available to the public prior to award.

Subpart 29–2.3—Submission of Bids

§ 29–2.301 Responsiveness of bids.

Any bid which is not signed by the bidder or his authorized representative shall be disregarded, except when it is accompanied by other evidence which demonstrates the bidder's intention to be bound by the unsigned bid document. Examples of such evidence are a bid guarantee or a letter (which does not qualify or otherwise render the bid nonresponsive) signed by the bidder referring to and clearly identifying the bid itself. In such a case, the contracting officer may waive the deficiency as a minor informality or irregularity (see § 1–2.405 of this title) and shall document the file to so indicate. Under no circumstances shall a bid be rejected at bid opening merely because it bears insufficient postage.

§ 29–2.302 Time of bid submission.

In order to comply with §§ 1–2.302 and 1–2.303–4 of this title, where a telegraphic bid is otherwise authorized by § 29–2.202–2 and is received by telephone under the circumstances described in § 1–2.302 of this title, the identify of the telegraph office employee calling in the bidder's message by telephone shall be obtained and recorded in the invitation for bid file.

§ 29–2.303 Late bids.

§ 29–2.303–1 General.

The contracting officer may not alter the late bid regulations and procedures of § 1–2.303 of this title or in this § 29–2.303 in response to a bidder's argument either that his bid is only slightly late (e.g., several minutes) or that none of the other bidders has been prejudiced by his late bid.

§ 29–2.303–4 Telegraphic bids.

See § 29–2.302.

§ 29–2.303–7 Disposition of late bids.

A late bid returned to the bidder shall be accompanied by a brief statement from the contracting officer that the bid was not considered because of its late receipt. This statement is required even though the contracting officer has previously notified the bidder, in compliance with § 1–2.303–6 of this title, that the bid is not being considered. In addition, if the late bid had to be opened for identification or was opened by mistake, that fact shall be included in the statement from the contracting officer accompanying the returned bid. The envelope, in that case, shall be retained in accordance with § 29–2.401.

Subpart 29–2.4—Opening of Bids and Award of Contract

§ 29–2.401 Receipt and safeguarding of bids.

To preserve bidders' confidence in the integrity of DOL's bidding system, the contracting officer shall retain in the file the envelope, wrapper, or other container (bearing the required documentation) of a bid which was opened by mistake or which was opened for purposes of identification.

§ 29–2.402 Opening of bids.

The place selected for the opening of bids should be large enough to permit the attendance of any bidder who desires to be present at the opening. Where circumstances warrant, the contracting officer may limit contractor representation to one representative per supplier. At the bid opening, the person opening the bids shall not discuss the relative merits of any bid with the bidders, their representative, or with casual observers. The individuals designated by DOL to conduct the bid opening are discouraged from making statements at the bid opening in response to inquiries concerning the award, e.g., DOL's intent with regard to the disposition of a bid irregularity, potential readvertisement and mistake in bid. Such questions shall instead be subsequently referred to the contracting officer for his disposition. Bidders are cautioned that information obtained at bid openings from other than the contracting officer may only be relied upon by the bidder at the bidder's own risk. After the bids have been opened and read aloud to the bidders present, an announcement shall be made that the opening of bids has been completed. Where feasible, all bidders will be notified, in writing and as soon as conveniently possible, regarding the award.

§ 29–2.402–50 Firm-bid rule.

Under the "firm-bid rule," a bidder is bound by his bid after the bid opening

and may not, in the absence of the exceptions provided in the mistake in bid procedures of § 1–2.406 of this title, withdraw his bid prior to the time of award or until after the expiration of the period provided in the bid for bid acceptance. It is the Department's policy, on the other hand, that it will not be bound by its invitation for bids, except that if it does make an award based on bids submitted in response to its invitation, it must award to that responsible supplier submitting the lowest responsive bid. Aside from that, however, the Department will not be bound by any bid it receives. The Department's preferred position is justified judicially on the basis that laws concerning the advertising and award of public contracts may be construed as primarily for the Government's own benefit and protection. Therefore, no bidder acquires any enforceable rights from the Department until the valid acceptance of his bid by an official authorized to do so. The mere submission of a bid does not, in and of itself, bestow a right or grant an interest in any prospective procurement.

§ 29–2.402–51 Marking of bids.

Under no circumstances will any individual make any marks or notation on the bid or its accompanying documents, except as authorized in § 29–2.401. If, through error or for some other reason, marks are made on a bid or its accompanying documents, the markings should not be erased or eradicated; instead, the individual so marking the bid shall prepare a signed explanation of the marking for insertion in the file for future reference, showing when, how, and why the notation or markings were made. If the marked bid is accepted, explanation with regard thereto should be made on the statement of award.

§ 29–2.402–52 Postponement of bid opening before time set for opening.

(a) The contracting officer shall attempt to reach his decision of postponement sufficiently in advance of the time set for opening so as to permit at least telephone notice to bidders of the postponement and avoid their further inconvenience. Telephone notice of a changed opening date must be confirmed by written amendment in accordance with § 1–2.207 of this title.

(b) Bid openings shall be postponed when a substantial portion of prospective bidders requests additional time for filing their bids, or the contracting officer has reason to believe that the specified opening date is not appropriate or is not conductive to the maximum practicable competition.

(c) Bid openings may be considered for postponement by the contracting officer when he has reason to believe that the bids from a substantial portion of bidders have been delayed in the mails for causes beyond their control and without their fault or negligence, such as flood, fire, accident, heavy snow, or strikes.

§ 29–2.402–53 Timing of acceptance and withdrawals.

A bidder's letter withdrawing a bid is not effective until it is received by the Government whereas the Government's letter accepting the bid, when written acceptance is required, is effective when mailed. Therefore, a binding contract is effected where acceptance has been mailed by the contracting officer before the letter from the bidder advising of withdrawal of the bid is received. This applies even though the bidder can furnish evidence that the letter of withdrawal was mailed prior to the time set for bid opening as set forth in § 1–2.304 of this title.

§ 29–2.404 Rejection of bids.

§ 29–2.404–1 Cancellation of invitation after opening.

If all of the bids for any item have been rejected, the contracting officer may readvertise for that item using the same specifications or modified specifications, or he may negotiate under the circumstances discussed in §§ 1–3.210 and 1–3.214 of this title.

§ 29–2.404–5 All or none qualifications.

The invitation for bids shall stipulate that all bids are solicited on an "all or none" basis except in highly unusual cases where the contracting officer can demonstrate with appropriate file documentation that it is in the Government's best interest to do otherwise. Generally, the Government's loss in flexibility when it includes this renunciation of its right to award on less than the full quantity bid upon, is more than offset by the Government's gain from the elimination of bidder uncertainty concerning the quantity to be awarded. A consequence of the elimination of this uncertainty is the elimination of any contingency factor in the price the bidder bids.

§ 29–2.404–50 Multiple bidding.

When more than one bid is received from a person or firm, or affiliates thereof, in response to an invitation for bids, such bids shall be considered for award if responsive and otherwise acceptable. If the contracting officer determines that these bids would give such a bidder an unfair advantage over other bidders or would otherwise be prejudicial to the best interest of the Government, such bids shall be rejected. In a tie bid situation, only one of the multiple bids shall be considered in applying § 1–2.407–6 of this title.

§ 29–2.406 Mistakes in bids.

§ 29–2.406–3 Other mistakes disclosed before award.

The Deputy Assistant Secretary for Administration is delegated authority to make the administrative determinations described in § 1–2.406–3 of this title.

§ 29–2.406–4 Disclosure of mistakes after award.

The Deputy Assistant Secretary for Administration is delegated authority to make the administrative determinations described in 1–2.406–4 of this title.

§ 29–2.407 Award.

§ 29–2.407–3 Discounts.

Invitations for bids or requests for proposals involving the prospects of a trade-in, allowance, rebate, or credit due from the bidder to the Government shall provide that, when a prompt payment discount is offered, the discount will be computed on the gross purchase price, i.e., the price that obtains before reduction because of any amount due from the bidder to the Government.

§ 29–2.407–8 Protests against award.

(a) *Protests before award.* If, after bid opening but prior to award, a protest against award has been lodged and it is necessary to make an award before the matter is resolved, the contracting officer shall obtain and place in the file the written approval of the head of the agency. Prior to making an award, the head of the agency will inform the Comptroller General of the Department's intent to award and obtain his advice concerning the status of the protest in accordance with § 1–2.407–8(b) of this title.

(b) *Protests after award.* In the event of a protest after award, consideration of its merit and a determination regarding its resolution, including any required reports to the Comptroller General, shall be made by the head of the agency and, where required, he shall obtain assistance from the Solicitor.

§ 29–2.407–50 Award when only one bid is received.

When only one bid is received in response to an invitation for bids, such bid may be considered and accepted if the contracting officer makes a written determination that (a) the specifications used in the invitation were not unduly restrictive, (b) adequate competition was solicited and it could have been reasonably assumed that more than one bid would have been submitted, (c) the price is reasonable, and (d) the bid is otherwise in accordance with the invitation for bids. Such a determination shall be placed in the file.

Signed at Washington, D.C., this 9th day of February 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71–2129 Filed 2–16–71;8:49 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69–31; Notice No. 2]

PART 573—DEFECT REPORTS

On December 24, 1969, a notice of proposed rulemaking entitled, "Defect Reports", was published in the FEDERAL REGISTER (34 F.R. 20212). The notice proposed requirements for reports and information regarding defects in motor vehicles, to be submitted to the National Highway Traffic Safety Administration by manufacturers of motor vehicles pursuant to sections 112, 113, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1402, and 1407).

The notice requested comments on the proposed requirements. All comments received have been considered and some are discussed below.

Several comments asked whether both the fabricating manufacturer and the importer of imported vehicles were required to comply with all the proposed requirements. A similar question was asked in regard to manufacturers of incomplete vehicles and subsequent manufacturers of the same vehicles. In response to the comments, § 573.3 provides that in the case of imported vehicles, compliance by either the fabricating manufacturer or the importer of the imported vehicle with §§ 573.4 and 573.5 of this part, with respect to a particular defect, shall be considered compliance by both. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle or one of the subsequent manufacturers of the vehicle with §§ 573.4 and 573.5 of this part, with respect to a particular defect, shall be considered compliance by both the incomplete vehicle manufacturer and the subsequent manufacturers.

Many comments requested that the time for the initial filing of the direct information report be increased to allow opportunity for the extensive and complex testing often necessary to determine whether a defect is safety-related. As proposed, the time for initially filing the report was within 5 days after the discovery of a defect that the manufacturer subsequently determined to be safety-related. In response to these comments, § 573.4(b) provides that the report shall be submitted by the manufacturer not more than 5 days after he or the Administrator has determined that a defect in the manufacturer's vehicles relates to motor vehicle safety.

Several comments requested the deletion of one or more items of information proposed for inclusion in the defect information report. Objections to providing an evaluation of the risk of accident due to the defect, a list of all incidents related to the defect, and an analysis of the cause of the defect were based on the ground that the information would be inherently speculative. The proposed requirements for these three items of information have been deleted. In place of the list of incidents, § 573.4(c)(6) requires a chronology of all principal events that were the basis for the determination of the existence of a safety-related defect. In accordance with the deletion of the list of incidents, the provision in the proposal requiring quarterly reports to contain information concerning previously unreported incidents has also been deleted.

Several comments stated that the requirement in the proposal for the submission of a copy of all communications sent to dealers and purchasers concerning a safety-related defect would create an unreasonable burden on the manufacturers. The comments reported that the manufacturers would be required to submit to the Administration a large volume of useless correspondence between the manufacturers and individual dealers or purchasers. To mitigate this problem, § 573.4(c)(8) provides that the manufacturers shall submit to the Administration only those communications that are sent to more than one dealer or purchaser. For the same reason, the requirement in § 573.7 that a manufacturer submit a copy of all communications, other than those required under § 573.4(c)(8), regarding any defect, whether or not safety-related, in his vehicles, is also limited to communications sent to more than one person.

Many comments requested that a regular schedule for submitting quarterly reports be established. They suggested that this be accomplished by requiring that the first quarter for submitting a quarterly report with respect to a particular defect be the calendar quarter in which the defect information report for the defect is initially submitted. As proposed, the first quarter began on the date on which the defect information report was initially submitted. Several of these comments also objected to the proposed requirements for submitting both quarterly reports and annual defect summaries on the ground that the latter would be partially redundant. In response to these comments, the proposed requirement for filing a separate series of quarterly reports for each defect notification campaign has been deleted. Instead, § 573.5(a) requires that each manufacturer submit a quarterly report not more than 25 working days after the close of each calendar quarter. The information specified in § 573.5(c) is required to be provided with respect to each notification campaign, beginning with the quarter in which the campaign was initiated. Unless otherwise directed by the Administration, the information for each campaign is to be included in the quarterly reports for six consecutive quarters or until corrective action has been completed on all defective vehicles involved in the campaign, whichever occurs sooner.

The proposed requirement for filing annual summaries has been deleted. Instead, § 573.5(d) requires that the figures provided in the quarterly reports under paragraph (c) (5), (6), (7), and (8) of § 573.5 be cumulative. In addition, § 573.5(b) requires that each quarterly report contain the total number of vehicles produced during the quarter for which the report is submitted.

Several changes have been made for the purpose of clarification. § 573.4(c)(8) requires that manufacturers submit three copies of the communications specified in that section. In response to questions concerning the use of computers for maintaining owner lists, a reference to computer information storage devices and card files has been added to § 573.6 to indicate that they are suitable. A reference to first purchasers and subsequent purchasers to whom a warranty has been transferred, and any other owners known to the manufacturer, has been added to the same section to make clear that the owner list is required to include both types of purchasers as well as other known owners.

In consideration of the above, Title 49 of the Code of Federal Regulations is amended by the addition of a new Part 573—Defect Reports, as set forth below.

Effective date: August 16, 1971.

Issued on February 10, 1971.

DOUGLAS W. TOMS,
Acting Administrator, National Highway Traffic Safety Administration.

Sec.

AUTHORITY: The provisions of this Part 573 issued under secs. 112, 113, and 119, National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1401, 1402, 1407; delegation of authority at 49 CFR 1.51, 35 F.R. 4955.

§ 573.1 Scope.

This part specifies manufacturer requirements for reporting safety-related defects to the National Highway Traffic Safety Administration, providing quarterly reports on defect notification campaigns and vehicle production, providing copies of communications with dealers and purchasers concerning defects, and maintaining owner lists.

§ 573.2 Purpose.

The purpose of this part is to enable the Administration to conduct a continuing analysis of the adequacy of manufacturers' defect notifications and corrective action, and the owner response, and to compare the defect incidence rate among different groups of motor vehicles.

§ 573.3 Application.

This part applies to all manufacturers of complete or incomplete motor vehicles. In the case of vehicles manufactured outside the United States, the term "vehicles" herein refers to vehicles imported into the United States, and compliance by either the fabricating manufacturer or the importer of the vehicle with §§ 573.4 and 573.5, with respect to a particular defect, shall be considered compliance by both. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle or one of the subsequent manufacturers of the vehicle with §§ 573.4 and 573.5, with respect to a particular defect, shall be considered compliance by both the incomplete vehicle manufacturer and the subsequent manufacturers.

§ 573.4 Defect information report.

(a) Each manufacturer shall furnish a defect information report to the Administration for each defect in his vehicles that he or the Administrator determines to be related to motor vehicle safety.

(b) Defect information reports required under paragraph (a) of this section shall be submitted not more than 5 working days after a defect in a vehicle has been determined to be safety-related. Items of information required by paragraph (c) of this section that are not available within that period shall be submitted as they become available. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number, after such number has been assigned by the Administration.

(c) Except as provided in paragraph (b) of this section, each defect information report shall contain the following information:

(1) Name of manufacturer: The full corporate or individual name of the fabricating manufacturer of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. In the case of imported vehicles the corporate or individual name of the agent designated by the fabricating manufacturer pursuant to section 110(e) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1399(e)) shall also be indicated. If the fabricating manufacturer is a corporation that is controlled by another corporation that assumes responsibility for compliance with all requirements of this part, the name of the controlling corporation may be used.

(2) Identifying classifications of the vehicles potentially affected by the defect, including make, model, model year if appropriate, any other data necessary to describe the affected vehicles, and the inclusive dates (month and year) of manufacture.

(3) Total number of vehicles potentially affected by the defect, and the number in each classification set forth under subparagraph (2) of this paragraph.

(4) Estimated percentage of the potentially affected vehicles that contains the defect.

(5) Description of defect, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location of the defect.

(6) Chronology of all principal events that were the basis for the determination of the existence of a safety defect, including all warranty claims, field service bulletins and other information, with their dates of receipt.

(7) Statement of measures to be taken to repair the defect.

(8) Three copies of all notices, bulletins, and other communications that are sent to more than one dealer or purchaser and relate directly to the defect. These copies shall be submitted to the Administration not later than the time at which they are initially sent to dealers or purchasers.

§ 573.5 Quarterly reports.

(a) Each manufacturer shall submit to the Administration a quarterly report not more than 25 working days after the close of each calendar quarter.

(b) Each report shall contain the total number of the manufacturer's vehicles by make, model, and model year if appropriate, produced or imported during that quarter.

(c) The following information shall be included in the quarterly reports, under the numbers and headings indicated, with respect to each notification campaign for the period of time specified in paragraph (e) of this section:

(1) Notification campaign number.

(2) Date owner notification begun, and date completed.

(3) Number of vehicles involved in notification campaign.

(4) Number of vehicles known or estimated to contain the defect.

(5) Number of vehicles inspected by or at the direction of the manufacturer.

(6) Number of inspected vehicles found to contain the defect.

(7) Number of vehicles for which corrective measures have been completed.

(8) Number of vehicles determined to be unreachable for inspection due to exportation, theft, scrapping or for other reasons (specify).

(d) If the manufacturer determines that the original answers for paragraph (c) (3) and (4) of this section are incorrect, revised figures and an explanatory note shall be submitted. If the nature of the defect prevents determination of the number of inspected vehicles that are defective, the manufacturer shall submit a brief explanation. Answers to paragraph (c) (5), (6), (7), and (8) of this section shall be cumulative totals.

(e) Unless otherwise directed by the Administration, the information specified in paragraph (c) of the section shall be included in the quarterly reports, with respect to each notification campaign, for six consecutive quarters beginning with the quarter in which the campaign was initiated, or until corrective action has been completed on all defective vehicles involved in the campaign, whichever occurs sooner.

§ 573.6 Owner lists.

Each manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, a list of the names and addresses of first purchasers or subsequent purchasers to whom a warranty has been transferred, and of any other owners known to the manufacturer, and the vehicle identification numbers for all his vehicles involved in each safety defect notification campaign initiated after the effective date of this part. The list shall show the status of inspection and defect correction with respect to each vehicle involved in each campaign, updated as of the end of each quarterly reporting period required in paragraph (e) of § 573.5. The completed list shall be retained for 5 years after the date on which the defect information report is initially submitted to the Administration.

§ 573.7 Notices, bulletins and other communications.

Each manufacturer shall furnish the Administration a copy of all notices, bulletins, and other communications, other than those required to be submitted under § 573.4(c)(8), sent to more than one dealer or purchaser of his vehicles regarding any defect, whether or not safety-related, in such vehicles. These copies shall be submitted monthly not more than 5 working days after the close of each month.

§ 573.8 Address for submitting all required reports and other information.

All required reports and other information shall be submitted to: Office of Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20591.

[FR Doc. 71-2138 Filed 2-16-71;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

EXEMPT ORGANIZATIONS AND CERTAIN TRUSTS

Additional Amounts and Penalties Regarding Filing of Returns, Etc.

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Additional amounts and penalties regarding the filing of returns, etc., by exempt organizations and certain trusts and penalties with respect to Chapter 42.

In order to conform the regulations on procedure and Administration (26 CFR Part 301) under sections 6652, 6684, 6685, and 7207 of the Internal Revenue Code of 1954 to sections 101 (c), (d)(4), (e)(4), and (e)(5) of the Tax Reform Act of 1969 (83 Stat. 519, 522, 524), such regulations are amended as follows:

PARAGRAPH 1. Section 301.6652 is amended by redesignating paragraph (d) of section 6652 as (e) and by adding a new paragraph (d) to section 6652 and by revising the historical note. These amended and added provisions read as follows:

§ 301.6652 Statutory provisions; failure to file certain information returns.

SEC. 6652. *Failure to file certain information returns.*

* * * * *

(d) *Returns by exempt organizations and by certain trusts—(1) Penalty on organization or trust.* In the case of a failure to file a return required under section 6033 (relating to returns by exempt organizations), section 6034 (relating to returns by certain trusts), or section 6043(b) (relating to exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the exempt organization or trust failing so to file, $10 for each day during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed $5,000.

(2) *Managers.* The Secretary or his delegate may make written demand upon an organization failing to file under paragraph (1) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed $5,000. If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(3) *Annual reports.* In the case of a failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file or meet the publicity requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure to file or comply with the requirements of section 6104(d) with regard to any one annual report shall not exceed $5,000. If more than one person is liable under this paragraph for a failure to file or comply with the requirements of section 6104(d), all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) *Alcohol and tobacco taxes.* For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

[Sec. 6652 as amended by sec. 85, Technical Amendments Act 1958 (72 Stat. 1664); sec. 19(d), Rev. Act 1962 (76 Stat. 1057); sec. 221(b)(2), Rev. Act 1964 (78 Stat. 74); sec. 313(e)(2)(B) and (3), Social Security Amendments, 1965 (79 Stat. 385); sec. 101(d)(4), Tax Reform Act of 1969 (83 Stat. 522)]

PAR. 2. Section 301.6652–1 is amended by revising paragraphs (e) and (f) to read as follows:

§ 301.6652–1 Failure to file certain information returns.

* * * * *

(e) *Manner of payment.* The amount imposed under subsection (a), (b), or (c) of section 6652 and this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(f) *Showing of reasonable cause.* The amount imposed by subsection (a), (b), or (c) of section 6652 shall not apply with respect to a failure to file a statement within the time prescribed if it is established to the satisfaction of the district director or the director of the internal revenue service center that such failure was due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause.

* * * * *

PAR. 3. Immediately following § 301.6652–1 there is added a new § 301.6652–2 which reads as follows:

§ 301.6652–2 Failure by exempt organizations and certain trusts to file certain returns or annual reports or to comply with section 6104(d) for taxable years beginning after December 31, 1969.

(a) *Exempt organization or trust.* In the case of a failure to file a return required by—

(1) Section 6033, relating to returns by exempt organizations,

(2) Section 6034, relating to returns by certain trusts, or

(3) Section 6043(b), relating to returns regarding the liquidation, dissolution, termination, or substantial contraction of an exempt organization,

within the time and in the manner prescribed for filing such return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid by the exempt organization or trust failing to file such return $10 for each day during which such failure continues. However, the total amount imposed on any exempt organization or trust under this paragraph for such failure with regard to any one return shall not exceed $5,000.

(b) *Managers.* If an exempt organization or trust fails to file under section 6652(d)(1), the Commissioner may, by

written demand, request that such organization or trust file the delinquent return within 90 days after the date of mailing of such demand, or within such additional period as the Commissioner shall determine is reasonable under the circumstances. If such organization or trust does not so file on or before the date specified in such demand, there shall be paid by the person or persons responsible for such failure to file $10 for each day after such date during which such failure continues, unless it is shown that such failure is due to reasonable cause. However, the total amount imposed under this paragraph on all persons responsible for such failure with regard to any one return shall not exceed $5,000.

(c) *Annual reports*—(1) *In general.* In the case of a failure—

(i) To file the annual report required under section 6056, relating to annual reports by private foundations, or

(ii) To comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual reports,

within the time and in the manner prescribed for filing such report or complying with section 6104(d) (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid by the person or persons responsible for failing to file such report or to comply with section 6104(d) $10 for each day during which such failure continues. However, the total amount imposed under this subparagraph on all persons responsible for any such failure with regard to any one annual report shall not exceed $5,000.

(2) *Amount imposed.* The amount imposed under section 6652(d)(3) is $10 per day for a failure to file the annual report and $10 per day for a failure to comply with section 6104(d). For example, assume that an annual report must be filed by X private foundation on or before May 15, 1972, for calendar year 1971. Such foundation without reasonable cause does not file the report until May 29, 1972. Further, the foundation without reasonable cause does not comply with section 6104(d) by publishing notice of the availability of the annual report until July 30, 1972. In this case, the person failing to file the report and to comply with section 6104(d) within the prescribed time is required to pay $900, $140 for filing the report 14 days late, and $760 for complying with section 6104(d) 76 days late.

(3) *Cross reference.* For the penalty for willful failure to file the annual report and notice required under section 6056 or to comply with section 6104(d), see § 301.6685–1.

(d) *Special rules.* For purposes of section 6652(d) and this section—

(1) *Person.* The term "person" means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the violation occurs.

(2) *Liability.* If more than one person (as defined in subparagraph (1) of this paragraph) is liable for a failure to file or to comply with section 6652(d)(2) or (3), all such persons shall be jointly and severally liable with respect to such failure.

(e) *Manner of payment.* The amount imposed under section 6652(d) and this section on any exempt organization, trust, or person (as defined in paragraph (d)(1) of this section) shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(f) *Showing of reasonable cause.* No amount imposed by section 6652(d) shall apply with respect to a failure to file or comply under this section if it is established to the satisfaction of the Commissioner that such failure was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by the appropriate person (as defined in paragraph (d)(1) of this section) that it is made under the penalties of perjury, setting forth all the facts alleged as reasonable cause.

(g) *Group returns.* If a central organization is authorized to file a group return on behalf of two or more of its local organizations for the taxable year in accordance with paragraph (d) of § 1.6033–2 (Income Tax Regulations), the responsibility for timely filing of such a return is placed upon the central organization for purposes of this section. Consequently, the amount imposed by section 6652(d)(1) for failure to file the group return shall be paid by the central organization and the amount imposed by section 6652(d)(2) for failure to file the group return within the time prescribed by the Commissioner shall be paid by the person or persons responsible for filing the group return.

(h) *Effective date.* This section shall apply for taxable years beginning after December 31, 1969.

PAR. 4. A new § 301.6684 and an historical note are added immediately before new § 301.6684–1. These added provisions read as follows:

§ 301.6684 Statutory provisions; assessable penalties with respect to liability for tax under chapter 42.

SEC. 6684. *Assessable penalties with respect to liability for tax under chapter 42.* If any person becomes liable for tax under any section of chapter 42 (relating to private foundations) by reason of any act or failure to act which is not due to reasonable cause and either—

(1) Such person has theretofore been liable for tax under such chapter, or

(2) Such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

[Sec. 6684 as added by sec. 101(c), Tax Reform Act 1969 (83 Stat. 519)]

PAR. 5. A new § 301.6684–1 is added immediately before new § 301.6685 and reads as follows:

§ 301.6684–1 Assessable penalties with respect to liability for tax under chapter 42.

(a) *In general.* If any person (as defined in section 7701(a)(1)) becomes liable for tax under any section of chapter 42 (other than section 4940 or 4948(a)), relating to private foundations, by reason of any act or failure to act which is not due to reasonable cause and either—

(1) Such person has theretofore (at any time) been liable for tax under any section of such chapter (other than section 4940 or 4948(a)), or

(2) Such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(b) *Showing of reasonable cause.* The penalty imposed by section 6684 shall not apply to any person with respect to a violation of any section of chapter 42 if it is established to the satisfaction of the Commissioner that such violation was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by such person that it is made under the penalties of perjury, setting forth all the facts alleged as reasonable cause.

(c) *Willful and flagrant.* For purposes of this section, the term "willful and flagrant" has the same meaning as such term possesses in section 507(a)(2)(A) and the regulations thereunder.

(d) *Effective date.* This section shall take effect on January 1, 1970.

PAR. 6. A new § 301.6685 and an historical note are added immediately before new § 301.6685–1. These added provisions read as follows:

§ 301.6685 Statutory provisions; assessable penalties with respect to private foundation annual reports.

SEC. 6685. *Assessable penalties with respect to private foundation annual reports.* In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports) and who fails so to file or comply, if such failure is willful, shall pay a penalty of $1,000 with respect to each such report or notice.

[Sec. 6685 as added by sec. 101(e)(4), Tax Reform Act 1969 (83 Stat. 524)]

PAR. 7. A new § 301.6685–1 is added immediately before § 301.6801 and reads as follows:

§ 301.6685–1 Assessable penalties with respect to private foundation annual reports.

(a) *In general.* In addition to the penalty imposed by section 7207, relating to fraudulent returns, statements, or other documents, any person (as defined in paragraph (b) of this section) who is required to file the annual report and the notice of availability of such report required under section 6056, relating to annual reports by private foundations, or to comply with the requirements of section 6104(d), relating to public inspection of private foundations' annual reports, and who fails so to file or comply, if such failure is willful, shall pay a penalty of $1,000 with respect to each

such report or notice with respect to which there is a failure so to file or comply.

(b) *Person.* For purposes of this section, the term "person" means any officer, director, trustee, employee, member, or other individual whose duty it is to perform the act in respect of which the failure occurs.

(c) *Effective date.* This section shall take effect on January 1, 1970.

(d) *Cross reference.* For the amount imposed for failure to file the annual report required by section 6056 or to comply with section 6104(d), see paragraph (c) of § 301.6652–2.

PAR. 8. Section 301.7207 is amended by revising section 7207 and by revising the historical note to read as follows:

§ 301.7207 Statutory provisions: fraudulent returns, statements, or other documents.

SEC. 7207. *Fraudulent returns, statements, or other documents.* Any person who willfully delivers or discloses to the Secretary or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to sections 6047 (b) or (c), 6056, or 6104(d) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

[Sec. 7207, as amended by sec. 7(m)(3), Self Employed Individuals Tax Retirement Act 1962 (76 Stat. 831); sec. 101(e)(5), Tax Reform Act 1969 (83 Stat. 524)]

PAR. 9. Section 301.7207–1 is amended to read as follows:

§ 301.7207–1 Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Internal Revenue Service any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) or, after December 31, 1969, section 6056 or 6104(d), to furnish information to any officer or employee of the Internal Revenue Service or any other person who willfully furnishes to such officer or employee of the Internal Revenue Service or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

[FR Doc.71–2162 Filed 2–16–71;8:52 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Notice of Determinations To Be Made and Action To Be Taken With Respect to Termination of Marketing Quotas on Cigar-Binder (Types 51 and 52) Tobacco for the 1971–72 Marketing Year

Pursuant to and in accordance with section 371(a) of the Agricultural Adjustment Act of 1938, as amended (referred to hereinafter as the "Act"), an investigation is being made to determine whether the operation of farm marketing quotas in effect on Cigar-binder (types 51 and 52) tobacco for the 1971–72 marketing year will cause the amount of such kind of tobacco which will be free of marketing restrictions to be less than the normal supply for such kind of tobacco for such marketing year.

If, upon the basis of such investigation the Secretary finds the existence of such fact, he will proclaim the same and in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such kind of tobacco which will be free of marketing restrictions for the 1971–72 marketing year equal to the normal supply.

The Secretary proclaimed marketing quotas to be in effect on Cigar-binder (types 51 and 52) tobacco for the 1969–70, 1970–71, and 1971–72 marketing years and announced the national marketing quota for the 1969–70 marketing year (34 F.R. 1629). The Secretary announced a referendum of farmers on marketing quotas for such 3 marketing years (34 F.R. 1699), and such marketing quotas were approved by 92 percent of the farmers voting in such referendum (34 F.R. 5903). The Secretary announced the national marketing quota for the 1970–71 marketing year (35 F.R. 2506). The Secretary terminated marketing quotas for the 1970–71 marketing year pursuant to section 371(a) of the Act (35 F.R. 7361).

The Secretary announced the national marketing quota for the 1971–72 marketing year (36 F.R. 2397). As required by existing law, the Secretary will in due course proclaim national marketing quotas for the 1972–73, 1973–74, and 1974–75 marketing years, determine and announce the amount of the national marketing quota for the 1972–73 marketing year, and hold a referendum of farmers to determine whether they favor or oppose quotas for the 3 marketing years. Present law requires that this be done regardless of (1) whether he terminates marketing quotas for the 1971–72 marketing year and (2) whether he might in due course terminate marketing quotas for the 1972–73 marketing year or subsequent years. Under present law, the termination of marketing quotas for any given marketing year would be limited in application and effect to that year only.

Under section 106 of the Agricultural Act of 1949, as amended, price support would be available on the 1971 crop of Cigar-binder (types 51 and 52) tobacco even if marketing quotas are terminated for such year since producers did not disapprove quotas for such year. Further, as authorized by section 101 of such Act, price support will be made available on all Cigar-binder (types 51 and 52) tobacco produced in 1971 if marketing quotas are terminated.

Data show that total disappearance (domestic use plus exports) of Cigar-binder (types 51 and 52) tobacco has decreased from 26 million pounds during the 1955–56 marketing year, prior to the advent of reconstituted binder sheet, to 4.2 million pounds during the 1969–70 marketing year, and to an estimated 3.8 million pounds during the 1970–71 marketing year. This has necessitated drastic adjustments in production. Producers have used the Soil Bank and the Cropland Adjustment Programs extensively in making these adjustments. In addition, the allotted acreages has been reduced from 17,643 acres in the 1955–56 marketing year to 5,954 acres in 1969.

Total disappearance (domestic use plus exports) has exceeded production materially every year since 1955, and the excessive supplies have been used up, resulting in less than normal supplies at the end of the 1969–70 marketing year. In 1968, 36.5 percent of the allotted acreage was harvested. In 1969, acreage allotments were increased 50 percent and the harvested acreage as a percent of the allotted acreage declined to 26.4. In 1970, allotments were increased 15 percent and the harvested acreage as a percent of the allotted acreage held at 26.4 with quotas being terminated. In 1971, allotments were increased 10 percent and it is doubtful that the percent harvested would equal the percent harvested in 1969 and 1970 if quotas are not terminated. If 26.4 percent of the 1971 allotted acreage should be harvested, and if a yield per acre about equal to the average of the 1968, 1969, and 1970 per acre yields were obtained, the amount produced would likely not exceed 3 million pounds. A 3-million-pound crop and a carryover (estimated) of 6.3 million pounds would provide a total supply for the 1971–72 marketing year of 9.3 million pounds. The normal supply is 16.3 million pounds.

Section 371(a) of the Act provides that in the course of the investigation conducted by the Secretary, due notice and opportunity for hearing shall be given to interested persons. Accordingly, consideration will be given to data, views, and recommendations pertaining to the determinations and actions described in this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions made pursuant to this notice will be made available for public inspection at such time and in a manner convenient to the public business (7 CFR 1.27(b)). All submissions must, in order to be considered, be postmarked not later than 10 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on February 11, 1971.

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

[FR Doc.71-2198 Filed 2-12-71;11:30 am]

Consumer and Marketing Service

[7 CFR Part 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Proposed Rule Making With Respect to Expenses and Rate of Assessment and Carryover of Unexpended Funds and Establishment of Reserve

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907; 35 F.R. 16359) regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof: (1) That the expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period from November 1, 1970, through October 31, 1971, will amount to $334,700; (2) that there be fixed, at $0.013 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order; (3) that the Secretary approve the establishment of a reserve, which reserve shall not exceed approximately one-half of a fiscal year's operational expenses, as appropriate for the maintenance and functioning of the said committee under the aforesaid marketing agreement and order; and (4) that unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1970, in the amount of $35,000, be carried over as a reserve in accordance with § 907.42 of the said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. 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)).

Dated: February 11, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-2156 Filed 2-16-71;8:51 am]

[7 CFR Part 1065]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the remainder of 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be 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 provisions proposed to be suspended are as follows:

In § 1065.71, delete paragraphs (h) through (l) in their entirety.

Statement of Consideration. Suspension of the "takeout-payback" plan of paying producers was requested by the Central States Division of Mid-America Dairymen, a cooperative association representing a major portion of the producers supplying the market.

The proposed action would suspend, for 1971, the takeout-payback plan for paying producers, which provides for withholding from the pool 8 percent of the adjusted value of producer milk in each of the months of April, May, and June, for distribution to producers during September, October, and November according to their deliveries in these latter months. The purpose of the plan is to reduce seasonality of milk production for the market. The basis for the request is that seasonality of production has been reduced substantially and the operation of the takeout-payback plan for 1971 would not serve the purpose for which it was instituted in the order. Also, suspension of the plan, as requested, will assure that the relationship of uniform prices to pay prices of nearby manufacturing plants during the coming months will not disrupt milk procurement at regulated plants.

Signed at Washington, D.C., on: February 11, 1971.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.71-2158 Filed 2-16-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Sterility Tests and Use of Spore-Bearing Organisms

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by revising § 73.501(e)(2) Spore-bearing organisms for supplemental sterilization procedure control test and § 73.730 Sterility.

Inquiries may be addressed and data, views and arguments may be presented by interested parties in writing, in triplicate, to the Director, National Institutes of Health, Public Health Service, 9000 Rockville Pike, Bethesda, Maryland 20014. All relevant material received not later than 30 days after publication of this notice of proposed rule making in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after publication in the FEDERAL REGISTER.

It is therefore proposed to amend Part 73, Subpart A—General Standards as follows:

1. Revise § 73.501(e)(2) to read as follows:

§ 73.501 Physical establishment, equipment, animals, and care.

* * * * *

(e) * * *

(2) *Spore-bearing organisms for supplemental sterilization procedure control test.* Spore-bearing organisms used as an additional control in sterilization procedures may be introduced into areas used for the manufacture of products, only for the purposes of the test and only immediately before use for such purposes: *Provided*, That (i) the organism

is not pathogenic for man or animals and does not produce pyrogens or toxins, (ii) the culture is demonstrated to be pure, (iii) test cultures are not transferred to culture media in areas used for the manufacture of products, (iv) each culture be labeled with the name of the micro-organism and the statement "Caution: microbial spores. See directions for storage, use and disposition," and (v) the container of each such culture is designed to withstand handling without breaking.

2. Revise § 73.730 to read as follows:

§ 73.730 Sterility.

Except as provided in paragraphs (f) and (g) of this section, the sterility of each lot of each product shall be demonstrated by the performance of the tests prescribed in paragraphs (a) and (b) of this section for both bulk and final container material.

(a) *The test.* Bulk material shall be tested separately from final container material and material from each final container shall be tested in individual test vessels as follows:

(1) *Using Fluid Thioglycollate Medium*—(i) *Bulk and final container material.* The volume of product, as required by paragraph (d) of this section (hereinafter referred to also as the "inoculum"), from samples of both bulk and final container material, shall be inoculated into test vessels of Fluid Thioglycollate Medium. The inoculum and medium shall be mixed thoroughly and incubated at a temperature of 30° to 32° C. for a test period of no less than 14 days and examined visually for evidence of growth on the third or fourth or fifth day and on the seventh or eighth day and on the last day of the test period. Results of each examination shall be recorded. If the inoculum renders the medium turbid so that the absence of growth cannot be determined reliably by visual examination, portions of this turbid medium in amounts of no less than 1.0 ml. shall be transferred on the third or fourth or fifth day of incubation, from each of the test vessels and inoculated into additional vessels of medium. The material in the additional vessels shall be incubated at a temperature of 30° to 32° C. for no less than 14 days. Notwithstanding such transfer of material, examination of the original vessels shall be continued as prescribed above. The additional test vessels shall be examined visually for evidence of growth on the third or fourth or fifth day of incubation and on the seventh or eighth day and on the last day of the incubation period. If growth appears, repeat tests may be performed as prescribed in paragraph (b) of this section and interpreted as specified in paragraph (c) of this section.

(ii) *Final container material containing a mercurial preservative.* In addition to the test prescribed in subparagraph (1)(i) of this paragraph, final container material containing a mercurial preservative shall be tested using Fluid Thioglycollate Medium following the procedures prescribed in such subparagraph, except that the incubation shall be at a temperature of 20° to 25° C.

(2) *Using Soybean-Casein Digest Medium.* Except for products containing a mercurial preservative, a test shall be made on final container material, following the procedures prescribed in subparagraph (1)(i) of this paragraph, except that the medium shall be Soybean-Casein Digest Medium and the incubation shall be at a temperature of 20° to 25° C.

(b) *Repeat tests*—(1) *Repeat bulk test.* If growth appears in the test of the bulk material, the test may be repeated to rule out faulty test procedures by testing at least the same volume of material.

(2) *First repeat final container test.* If growth appears in any test (Fluid Thioglycollate Medium or Soybean-Casein Digest Medium) of final container material, the test may be repeated to rule out faulty test procedures by testing material from a sample of at least the same number of final containers.

(3) *Second repeat final container test.* If growth appears in any first repeat final container test (Fluid Thioglycollate Medium or Soybean-Casein Digest Medium), that test may be repeated provided there was no evidence of growth in any test of the bulk material and material from a sample of twice the number of final containers used in the first test is tested by the same method used in the first test.

(c) *Interpretation of test results.* The results of all tests performed on a lot shall be considered in determining whether or not the lot meets the requirements for sterility, except that tests may be excluded when demonstrated by adequate controls to be invalid. The lot meets the test requirements if no growth appears in the tests prescribed in paragraph (a) of this section. If repeat tests are performed, the lot meets the test requirements if no growth appears in the tests prescribed in paragraph (b)(2) or (b)(3) of this section, whichever is applicable.

(d) *Test samples and volumes*—(1) *Bulk.* Each sample for the bulk sterility test shall be representative of the bulk material and the volume tested shall be no less than 10 ml. (Note exceptions in paragraph (g) of this section.)

(2) *Final containers.* The sample for the final container and first repeat final container test shall be no less than 20 final containers from each filling of each lot, selected to represent all stages of filling from the bulk vessel. If the amount of material in the final container is 1.0 ml. or less, the entire contents shall be tested. If the amount of material in the final container is more than 1.0 ml., the volume tested shall be the largest single dose recommended by the manufacturer or 1.0 ml., whichever is larger, but no more than 10 ml. of material or the entire contents from a single final container need be tested. If more than two filling machines, each with either single or multiple filling stations, are used for filling one lot, no less than 10 filled containers shall be tested from each filling machine, but no more than 100 containers of each lot need be tested. The items tested shall be representative of each filling assembly and shall be selected at random intervals throughout the entire filling operation. (Note exceptions in paragraph (g) of this section.)

(e) *Culture medium*—(1) *Formulae.* (i) The formula for Fluid Thioglycollate Medium is as follows:

FLUID THIOGLYCOLLATE MEDIUM

1-cystine	0.5 Gm.
Sodium chloride	2.5 Gm.
Dextrose ($C_6H_{12}O_6 \cdot H_2O$)	5.5 Gm.
Ganular agar (less than 15% moisture by weight).	0.75 Gm.
Yeast extract (water-soluble)	5.0 Gm.
Pancreatic digest of casein	15.0 Gm.
Purified water	1,000.0 ml.
Sodium thioglycollate (or thioglycollic acid—0.3 ml.).	0.5 Gm.
Resazurin (0.10% solution, freshly prepared).	1.0 Ml.
pH after sterilization 7.1±0.2.	

(ii) The formula for Soybean-Casein Digest Medium is as follows:

SOYBEAN-CASEIN DIGEST MEDIUM

Pancreatic Digest of Casein	17.0 Gm.
Papaic Digest of Soybean Meal.	3.0 Gm.
Sodium Chloride	5.0 Gm.
Dibasic Potassium Phosphate.	2.5 Gm.
Dextrose ($C_6H_{12}O_6 \cdot H_2O$)	2.5 Gm.
Purified Water	1,000.0 ml.
pH after sterilization 7.3±0.2.	

(2) *Culture media requirements*—(i) *Growth promoting qualities.* Each lot of dehydrated medium bearing the manufacturer's identifying number, or each lot of medium prepared from basic ingredients, shall be tested for its growth-promoting qualities using not more than 100 organisms of two or more strains of microorganisms that are exacting in their nutritive and aerobic-anaerobic requirements.

(ii) *Conditions of medium and design of test vessels.* A medium shall not be used if the extent of evaporation affects its fluidity, nor shall it be reused in a sterility test. Fluid Thiogylcollate Medium shall not be used if more than the upper one-third has acquired a pink color. The medium may be restored once by heating on a steam bath or in free-flowing steam until the pink color disappears. The design of the test vessel for Fluid Thioglycollate Medium shall be such as is shown to provide favorable aerobic and anaerobic growth of microorganisms throughout the test period.

(iii) *Ratio of the inoculum to culture medium.* The ratio of the inoculum to the volume of the culture medium resulting in a dilution of the preservative that is not bacteriostatic or fungistatic shall be determined for each product, except for those tested by membrane filtration. Vessels of the product-medium mixture(s) and control vessels of the medium shall be inoculated with dilutions of cultures of bacteria or fungi which are sensitive to the product being tested, and incubated at the appropriate temperature for no less than 7 days. Inhibitors or neutralizers of preservatives may be considered in determining the proper ratio.

(f) *Membrane filtration.* Bulk and final container material of products containing oil or products in water insoluble ointments shall be tested for sterility

using the membrane filtration procedure set forth in The United States Pharmacopeia[1] (18th Revision, 1970), section entitled "Membrane Filtration," pages 853–854, except that (1) the test samples shall conform with paragraph (d) of this section and (2) the temperature of incubation for tests using Fluid Thioglycollate Medium shall be 30° to 32° C. Such Membrane Filtration section is hereby incorporated by reference and deemed published herein. The United States Pharmacopeia is available at most medical and public libraries and copies of the pertinent section will be provided to any manufacturer affected by the provisions of this part upon request to the Director, Division of Biologics Standards or the appropriate Information Center Offices listed in 45 CFR Part 5. In addition, an official historic file of the material incorporated by reference is maintained in the Office of the Director, Division of Biologics Standards.

(g) *Exceptions.* Bulk and final container material shall be tested for sterility as described above in this section, except as follows:

(1) *Different sterility test prescribed.* When different sterility tests are prescribed for a product in this part.

(2) *Alternate incubation temperatures.* Two tests may be performed, in all respects as prescribed in paragraph (a)(1)(i) of this section, one test using an incubation temperature of 18° to 22° C., the other test using an incubation temperature of 35° to 37° C., in lieu of performing one test using an incubation temperature of 30° to 32° C.

(3) *Different tests equal or superior.* A different test may be performed provided that prior to the performance of such test a manufacturer submits data which the Director, National Institutes of Health, finds adequate to establish that the different test is equal or superior to the tests described in paragraphs (a) and (b) of this section in detecting contamination and makes the finding a matter of official record.

(4) *Test precluded or not required.* The tests prescribed in this section need not be performed for Whole Blood (Human), Cryoprecipitated Antihemophilic Factor (Human), Red Blood Cells (Human), Single Donor Plasma (Human), Smallpox Vaccine and other similar products concerning which the Director, National Institutes of Health, finds that the mode of administration, the method of preparation or the special nature of the product precludes or does not require a sterility test.

(5) *Viscid or turbid products.* Alternative Thioglycollate Medium may be used in place of Fluid Thioglycollate Medium for the testing of products that are viscid or turbid or otherwise do not lend themselves to culturing in Fluid Thioglycollate Medium, provided it has been freshly prepared or has been heated on a steam bath or in free-flowing steam and cooled just prior to use and is used in a suitable vessel that will maintain aerobic and anerobic conditions throughout the incubation period. The formula for the Alternative Thioglycollate Medium follows:

Alternative Thioglycollate Medium	
l-cystine	0.5 Gm.
Sodium chloride	2.5 Gm.
Dextrose ($C_6H_{12}O_6 \cdot H_2O$)	5.5 Gm.
Yeast extract (water soluble)	5.0 Gm.
Pancreatic digest of casein	15.0 Gm.
Purified water	1,000.0 ml.
Sodium thioglycollate (or thioglycollic acid—0.3 ml.).	0.5 Gm.
pH after sterilization 7.1±0.2	

(6) *Number of final containers more than 20, less than 200.* If the number of final containers in the filling is more than 20 or less than 200, the sample shall be no less than 10 percent of the containers.

(7) *Number of final containers—20 or less.* If the number of final containers in a filling is 20 or less, the sample shall be two final containers, or the sample need be no more than one final container, provided (i) the bulk material met the sterility test requirements and (ii) after filling, it is demonstrated by testing a simulated sample that all surfaces to which the product was exposed were free of contaminating micro-organisms. The simulated sample shall be prepared by rinsing the filling equipment with sterile 1.0 percent peptone solution, pH 7.1±0.1, which shall be discharged into a final container by the same method used for filing the final containers with the product.

(8) *Samples—large volume of product in final containers.* For Normal Serum Albumin (Human), Normal Human Plasma, Antihemophilic Plasma (Human), Plasma Protein Fraction (Human) and Fibrinogen (Human), when the volume of product in the final container is 50 ml. or more, the final containers selected as the test sample may contain less than the full volume of product in the final containers of the filling from which the sample is taken: *Provided,* That the containers and closures of the sample are identical with those used for the filling to which the test applies and the sample represents all stages of that filling.

(9) *Diagnostic products not intended for injection.* For diagnostic products not intended for injection, (1) only the Thioglycollate Medium test incubated at 30° to 32° C. is required, (2) the volume of material for the bulk test shall be no less than 2.0 ml., and (3) the sample for the final container test shall be no less than three final containers if the total number filled is 100 or less, and, if greater, one additional container for each additional 50 containers or fraction thereof, but the sample need be no more than 10 containers.

(10) *Immune globulin preparations.* For immune globulin preparations, the test samples from the bulk material and from each final container need be no more than 2.0 ml.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216, sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[1] Published by the United States Pharmacopeial Convention, Inc., 4630 Montgomery Avenue, Bethesda, Maryland 20014.

Dated: February 10, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.71-2132 Filed 2-16-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18476]

FM BROADCAST STATIONS

Table of Assignments; Certain Stations in Alabama; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations. (Doniphan, Mo.; Princeton, W. Va.; Auburn, Nebr.; Cayce, S.C.; Sallisaw, Okla.; Heber Springs, Ark.; Preston, Minn.; Barnstable, Nantucket, and Falmouth, Mass.; Mineral Wells, Tex.; Fayette, Hartselle, and Talladega, Ala.; Mariposa, Calif.; Greenville, Hartford, Cadiz, Elizabethtown, Burnside, and Greensburg, Ky.; Flora, Ill.; Jasper, Arab, and Demopolis, Ala.), RM–1356, RM–1359, RM–1360, RM–1364, RM–1368, RM–1373, RM–1374, RM–1376, RM–1377, RM–1378, RM–1379, RM–1382, RM–1383, RM–1389, RM–1390, RM–1391, RM–1414, RM–1417, RM–1496.

1. In a further notice of proposed rule making (36 F.R. 560), adopted January 6, 1971 (FCC 71–22), the Commission invited comments on proposed FM channel changes for Fayette, Hartselle, Talladega, Jasper, Arab, and Demopolis, Ala. The time for filing comments and reply comments was designated as February 16, 1971, and February 26, 1971, respectively.

2. On February 8, 1971, counsel for Radio South, Inc., filed a request for an extension of time in which to file comments and reply comments to March 9, 1971, and March 19, 1971, respectively. Radio South, Inc., states that the requested extension is necessary because of the complexity of the technical and policy questions contained in the various alternative FM assignments presented by the Commission. It also states that counsel for each of the other parties to this proceeding has no objection to the requested extension.

3. We are of the view that the additional time requested is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments and reply comments in this proceeding is extended to and including March 9, 1971, and March 19, 1971, respectively.

4. This action is taken pursuant to authority found in section 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended and § 0.281(d)(8) of the Commission's Rules.

Adopted: February 9, 1971.

Released: February 11, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-2144 Filed 2-16-71;8:50 am]

[47 CFR Part 73]

[Docket No. 19045]

TELEVISION BROADCAST STATIONS

Table of Assignments; Clarksville, Tenn.; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations. (Clarksville, Tenn.), RM-1637.

1. This proceeding was begun by notice of proposed rule making (FCC 70-1099), adopted October 7, 1970, and published in the FEDERAL REGISTER October 15, 1970 (35 F.R. 16181). The dates presently designated for filing comments and reply comments are January 25, 1971, and February 2, 1971, respectively.

2. On February 1, 1971, counsel for Professional Telecasting Systems, Inc. (Professional Telecasting), licensee of Station WBKO, Bowling Green, Ky., filed a request for a 2-week extension of the date for filing reply comments. Professional Telecasting states that due to the short period of time between the dates for filing comments and reply comments and the press of other business, a 2-week extension is necessary. Counsel for Tennessee Televentures, the rule making proponent, has consented to this extension.

3. It appears that the requested extension is warranted and would serve the public interest. *Accordingly, it is ordered,* That the request of Professional Telecasting Systems, Inc., is granted to and including February 19, 1971, for reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: February 10, 1971.

Released: February 11, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-2145 Filed 2-16-71;8:50 am]

Notices

DEPARTMENT OF DEFENSE

Department of the Army

ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARY OF THE ARMY

Notice of a Memorandum of Understanding Providing for Cooperation in the Investigation of Violations of the Refuse Act

FEBRUARY 10, 1971.

Executive Order 11574 (35 F.R. 19627) announced the establishment of a permit program under the Refuse Act, 33 U.S.C. 407, Proposed Corps of Engineers regulations governing the permit program (35 F.R. 20005) and a proposed memorandum of understanding concerning the implementation of the program (36 F.R. 983) have been previously published in the FEDERAL REGISTER. The following memorandum of understanding which pertains to enforcement of and investigations under the Refuse Act rather than to the permit program itself has been executed by both the Administrator of the Environmental Protection Agency and the Secretary of the Army:

MEMORANDUM OF UNDERSTANDING BETWEEN THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARY OF THE ARMY

The Administrator of the Environmental Protection Agency and the Secretary of the Army, recognizing the interrelationship between section 13 of the Act of March 3, 1899 (33 U.S.C. 407) (the "Refuse Act") administered by the Department of the Army and the statutory responsibilities of the Environmental Protection Agency under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.), and further recognizing their responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and their responsibilities under Executive Order 11574 dated December 23, 1970, which directs the Federal Government to implement a permit program under the Refuse Act to control the discharge of pollutants into navigable waters and their tributaries, have entered into this memorandum of understanding to delineate more fully the respective responsibilities of said Agency and Department for water pollution abatement and control, and to establish policies and procedures for interagency cooperation in the enforcement of the Refuse Act.

I. *Responsibilities for water pollution abatement and control.* A. At the Federal level, the Environmental Protection Agency has primary responsibility, pursuant to the Federal Water Pollution Control Act, for the abatement and control of pollution of interstate and navigable waters of the United States.

B. The Department of the Army has primary responsibility for the enforcement of the Refuse Act.

C. Under Executive Order 11574, the Secretary is directed to develop regulations and procedures in consultation with the Administrator governing the issuance of discharge permits under the Refuse Act, and, in connection with the grant, denial, conditioning, revocation and suspension of such permits, to adopt determinations and interpretations of the Administrator respecting water quality standards and compliance therewith.

D. The Department of the Army and the Environmental Protection Agency have in cooperation undertaken to implement the permit authority of the Refuse Act pursuant to a memorandum of understanding dated January, the terms of which are incorporated herein and made a part hereof.

II. *The Refuse Act.* A. The Refuse Act, 33 U.S.C. 407, provides that:

It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of the navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: *Provided,* That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the U.S. officers supervising such improvement or public work: *And, provided further,* That the Secretary of the Army whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful. March 3, 1899, c. 425.

B. Criminal sanctions may be imposed against persons or corporations found guilty of violating provisions of the Refuse Act. As prescribed in 33 U.S.C. 411, the penalty upon conviction is "a fine not exceeding $2,500 nor less than $500, or * * * imprisonment (in the case of a natural person) for not less than 30 days nor more than 1 year, or both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction."

C. Civil proceedings may also be instituted to enjoin conduct which would violate provisions of the Refuse Act. United States v. Republic Steel Corp., 362 U.S. 482 (1960) and Wyandotte Transportation Co. v. United States, 389 U.S. 191 (1967).

III. *Policy with respect to enforcement of Refuse Act.* The policy of the Environmental Protection Agency and the Department of the Army is to utilize the Refuse Act and the authorities contained therein to the fullest extent possible and in a manner consistent with the provisions of the Federal Water Pollution Control Act to insure compliance with applicable water quality standards and otherwise to carry out the purposes of the Federal Water Pollution Control Act. Persons wishing to discharge into or place deposits in navigable waters or tributaries thereof will be required to apply for and obtain a permit from the Department of the Army. Persons without an appropriate permit who discharge into navigable waters or tributaries thereof or who discharge into such waters in violation of the terms of a valid permit may be subjected to legal proceedings under the Refuse Act.

IV. *Inter-agency cooperation.* A. In recognition of the expertise of the Department of the Army and the Corps of Engineers in matters pertaining to the navigability of a waterway, it is agreed that the Department of the Army, acting through the Corps of Engineers, has primary Federal responsibility for identifying and investigating violations of the Refuse Act which have an adverse impact on the navigable capacity of a waterway. Whenever a District Engineer has reason to believe that a discharge has or may have occurred having an adverse impact on water quality, he shall so notify the appropriate Regional Representative of the Environmental Protection Agency and shall provide him with all information, including, if the discharger is the holder of a Refuse Act permit, a copy of said permit and all of the conditions attached thereto. The said Regional Representative shall make such investigation as he deems appropriate and shall advise the District Engineer in a timely manner whether in his opinion a violation of the Refuse Act having an adverse impact on water quality has or may have occurred. If the Regional Representative is of such opinion, he shall make a report to the District Engineer as to the following:

1. The nature and seriousness of the apparent violation (including, if the discharger is the holder of a Refuse Act permit, information as to the conditions of such permit which appear to have been violated).

2. The nature and seriousness of the impact on water quality.

3. The measures, if any, taken or being taken by the discharger to comply with applicable water quality standards or the conditions of a Refuse Act permit, if any.

4. The existence and adequacy of State or local pollution abatement proceedings.

5. The applicability of the Federal Water Pollution Control Act, whether any administrative or judicial proceedings are being taken or contemplated thereunder, and the status of any such proceedings.

6. His recommendations as to the action, if any, which should be taken under the Refuse Act and his reasons therefor. If the discharger is the holder of a Refuse Act permit, such recommended action may include in addition to or in lieu of prosecution under the Refuse Act for one or more of the remedies available thereunder, the suspension or revocation of the permit. A recommendation to suspend shall include a recommendation as to the period and conditions of the suspension.

B. In recognition of the expertise of the Environmental Protection Agency in matters pertaining to water quality, it is agreed that

said Agency has primary Federal responsibility for identifying and investigating cases involving discharges into interstate or navigable waters which have an adverse impact on water quality. District Engineers shall assist Regional Representatives of the Environmental Protection Agency by providing them with such information as may become available concerning known or suspected discharges which may adversely affect water quality (including, if the discharger is the holder of a Refuse Act permit, a copy of said permit and all of the conditions attached thereto), and, to the extent of available resources, shall assist in the conduct of investigations concerning such discharges. Regional Representatives shall be responsible for notifying District Engineers of known or suspected violations of the Refuse Act and for providing District Engineers with timely reports of investigations conducted. Whenever in the opinion of the Regional Representative a violation of the Refuse Act having an adverse impact on water quality has or may have occurred, such report shall include all of the same information and recommendations called for in subparagraphs 1 through 6 of paragraph A with respect to reports submitted under that paragraph.

C. In connection with any remedial action recommended or taken pursuant to this memorandum of understanding, due regard shall be given to the provisions of section 21(b) of the Federal Water Pollution Control Act, and in particular the provisions of sections 21(b)(4), 21(b)(5), and 21(b)(9)(B) relating to the revocation on suspension of permits.

D. In any case in which a Refuse Act permit is suspended, if the District Engineer has reason to believe that the permittee has or may have violated the terms of the suspension, he shall notify the appropriate Regional Representative of the Environmental Protection Agency and provide him with all available information. The Regional Representative shall make such investigation as he deems appropriate and shall make a report to the District Engineer, such report to include, to the extent relevant, the information and recommendations called for in subparagraphs 1 through 6 of paragraph A with respect to reports submitted under that paragraph.

E. If upon review of all reports and information prepared pursuant to this memorandum of understanding and any other available evidence, it is determined by the District Engineer of the Corps or the Regional Representative of EPA to request legal proceedings under the Refuse Act, such District Engineer or Regional Representative shall, in consultation with each other, forward all available evidence and information, including recommendations, if any, of both the Regional Representative and the District Engineer, to the appropriate U.S. attorney. A copy of any covering letter forwarding information and evidence to the appropriate U.S. attorney should be mailed, together with a brief summary of the factual background of the case, to the Assistant Attorney General for Lands and Natural Resources, Department of Justice, Washington, D.C. 20530.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

STANLEY R. RESOR,
Secretary of the Army.

Dated: January 12, 1971.

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-2134 Filed 2-16-71;8:49 am]

DEPARTMENT OF THE INTERIOR

National Park Service

MOUNT RAINIER NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Rainier National Park Co. authorizing it to provide concession facilities and services for the public at Mount Rainier National Park, for a period of 1 year from January 1, 1971 through December 31, 1971.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 26, 1971.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.71-2080 Filed 2-16-71;8:45 am]

YOSEMITE NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Yosemite National Park, proposes to issue a concession permit to Standard Oil Company of California authorizing the company to provide a service station, including all sales and services customary in the trade, at the El Portal Administrative Site, Yosemite National Park, for a period of five (5) years from April 1, 1970 through March 31, 1975.

The foregoing concessioner has performed his obligations under an existing permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Superintendent, Yosemite National Park, for information as to the requirements of the proposed permit.

Dated: September 11, 1970.

RUSSELL K. OLSEN,
Acting Superintendent.

[FR Doc.71-2081 Filed 2-16-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Order Directing That a Referendum Be Conducted; Designation of Referendum Agent To Conduct Such Referendum; and Determination of Representative Period

Pursuant to the applicable provisions of Marketing Agreement No. 132, as amended, and Order No. 922 as amended (7 CFR Part 922), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the producers who, during the period January 1, 1970, through December 31, 1970 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the counties of Okanogan, Chelan, Kittitas, Yakima, and Klickitat in the State of Washington and all of the counties in Washington lying east thereof, in the production of apricots for market to determine whether such producers favor the termination of said marketing agreement and order. Mr. Allan E. Henry of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland, OR 97205, is designated as the referendum agent to conduct said referendum.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR 900.400 et seq.).

Copies of the text of the aforesaid marketing order may be examined in the office of the referendum agent or of the Director, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agent and any appointee hereunder.

Dated: February 11, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc. 71-2157 Filed 2-16-71;8:51 am]

Office of the Secretary

MISSISSIPPI

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following counties in the State of Mississippi natural disasters have caused a general need for agricultural credit:

MISSISSIPPI

Bolivar.	Jefferson.
Calhoun.	Kemper.
Carroll.	Lawrence.
Chickasaw.	Quitman.
Choctaw.	Rankin.
Clay.	Sharkey.
Grenada.	Sunflower.
Humphreys.	Tallahatchie.
Hinds.	Union.
Issaquena.	Webster.
Jasper.	

Emergency loans will not be made in the above-named counties under this designation after June 30, 1971, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 10th day of February 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[FR Doc.71-2112 Filed 2-16-71;8:47 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-334]

TRAMARANCIO, INC.

Notice of Loan Application

FEBRUARY 9, 1971.

Tramarancio, Incorporated, 1516 South Pacific Avenue, San Pedro, CA 90731, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 58-foot length overall steel vessel to engage in the fishery for Pacific mackerel, anchovies, squid, sardine (Pacific), bonito, and tuna.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-2078 Filed 2-16-71;8:45 am]

YELLOWFIN TUNA

1971 Commission Resolutions

The resolutions adopted by the Inter-American Tropical Tuna Commission at its 23d annual meeting held in San Jose, Costa Rica, January 4 to 21, 1971, read as follows:

RESOLUTIONS

THE INTER-AMERICAN TROPICAL TUNA COMMISSION

Taking note that its 21st annual meeting at San Diego, Calif., on March 18, 19, and 22, 1969, the Commission recommended the initiation of a three year program of experimental fishing designed to test present as the experiment, and

Taking note that the apparent changes in the stock during 1969 and 1970 have been within the limits set forth continuation of the experiment, and

Taking note that although the Commission's resolutions adopted at the 21st and 22d annual meetings make provisions for continuation of the experimental catch quota in 1971 certain provisions of the resolutions relating to the catch of yellowfin tuna after the season closure are limited to the years 1969 and 1970 only.

Concludes that it is desirable to continue the program of experimental fishing during 1971:

But, however, because the participating countries desire to discuss further, at a later date, provisions for regulating the catch after the closed season is in force.

Therefore recommends to the High Contracting parties that they take joint action during the interim period from January 1, 1971, to February 16, 1971, to:

(1) Establish the annual catch limit (quota) on the total catch of yellowfin tuna for the calendar year 1971 at 120,000 short tons from the regulatory area defined in the resolution adopted by the Commission on May 17, 1962: *Provided*, That this catch limit of 120,000 short tons can be increased by the Director of Investigations by 20,000 short tons and thereafter by an additional 20,000 short tons, divided into two equal increments, if he determines that such increases will not endanger the stock.

(2) Reserve a portion of the annual yellowfin tuna quota for an allowance for incidental catches of tuna fishing vessels when fishing in the regulatory area for species normally taken mingled with yellowfin tuna, after the closure of the unrestricted fishing for yellowfin tuna. The amount of this portion should be determined by scientific staff of the Commission at such time as the catch of yellowfin tuna approaches the recommended quota for the year.

(3) Open the fishing for yellowfin tuna on January 1st, 1971; during the open season vessels should be permitted to enter the regulatory area with permission to fish for yellowfin tuna without restriction on the quantity until the return of the vessels to port.

(4) Close the fishing for yellowfin tuna in 1971 at such date as the quantity already caught plus the expected catch of yellowfin tuna by vessels which are at sea with permission to fish without restriction reaches 120,000 short tons less the portion received for incidental catches in Item 2 above and for the year 1971 only, the portion reserved for vessels of 400 short tons and less capacity provided for in Item 6 below, such date to be determined by the Director of Investigations.

In order to not curtail their fisheries, those countries whose Governments accept the Commission's recommendations but whose fisheries of yellowfin tuna are not of significance will be exempted of their obligations of compliance with the restrictive measures.

Under present conditions, and according to the information available, an annual capture of 1,000 tons of yellowfin tuna is the upper limit to enjoy said exemption.

After the closure of the yellowfin tuna fishery, the Governments of the Contracting Parties and cooperating countries may permit their flag vessels to land yellowfin tuna without restriction in any country described in the preceding section which has tuna canning facilities until such time as the total amount of yellowfin tuna landed in such country during the current year reaches 1,000 short tons.

In order to avoid congestion of unloading and processing facilities around the date of the season closure and the danger the vessels may put to sea without adequate preparations, any vessel which completes its trip before the closure may sail to fish freely for yellowfin tuna within the regulatory area on any trip which is commenced within 10 days after the closure.

(5) For 1971 only, permit each vessel over 400 short tons capacity (determined from tables prepared by the Commission on the basis of existing information and additional data provided by the various governments, which relate capacity to gross and/or net tonnage) fishing tuna in the regulatory area after the closure date for the yellowfin tuna fishery to land an incidental catch of yellowfin tuna taken in catches of other species in the regulatory area on each trip commenced during such closed season. The amount each vessel is permitted to land as an incidental catch of yellowfin tuna shall be determined by the Government which regulates the fishing activities of such vessel: *Provided, however*, That the aggregate of the incidental catches of yellowfin tuna taken by all such vessels of a country so permitted shall not exceed 15 percent of the combined total catch taken by such vessels during the period these vessels are permitted to land incidental catches of yellowfin tuna.

(6) For 1971 only, permit the flag vessels of each country of 400 short tons capacity and less fishing tuna in the regulatory area after the closure date for the yellowfin tuna fishing to fish freely until 6,000 short tons of yellowfin tuna are taken by such vessels or to fish for yellowfin tuna under such restrictions as may be necessary to limit the catch of yellowfin tuna by such vessels to 6,000 short tons; and thereafter to permit such vessels to land an incidental catch of yellowfin taken in catch of other species in the regulatory area on each trip commenced after 6,000 tons have been caught. The amount each vessel is permitted to land as an incidental catch shall be determined by the Government which regulates the fishing activities of such vessels; provided, however, that the aggregate of the incidental catches

of yellowfin tuna taken by such vessels of each country so permitted shall not exceed 15 percent of the total catch taken by such vessels during trips commenced after 6,000 short tons of yellowfin tuna have been caught.

(7) The species referred to in Items 2, 5, and 6 are: skipjack, bigeye tuna, bluefin tuna, albacore tuna, bonito, billfishes, and sharks.

(8) Obtain by appropriate measures the cooperation of those Governments whose vessels operate in the fishery, but which are not parties to the Convention for the establishment of an Inter-American Tropical Tuna Commission, to put into effect these conservation measures.

Considering the Resolution pertaining to the conservation of yellowfin tuna in the Eastern Pacific Ocean, from the 10th Inter-Governmental meeting for the conservation of yellowfin tuna.

Instructs the Director of Investigations to close the fishery for yellowfin tuna in the Commission's regulatory area during the period from January 1 through February 16, 1971, only if the annual catch rate falls below 3 short tons per standard day's fishing, measured in purse seine units, adjusted to levels of gear efficiency previous to 1962, so as not to exceed the then current estimate of equilibrium yield.

And further resolves that the terms of the Inter-American Tropical Tuna Commission's Resolution for the regulation of the yellowfin tuna fishery in the Commission's regulatory area during 1971 shall not apply after 16 February 1971.

This Notice constitutes the announcement of the annual limitation on the quantity of yellowfin tuna permitted to be taken in the regulatory area, pursuant to the procedure established in 50 CFR 280.3. Closure of the season for yellowfin tuna will be announced in accordance with the procedure established in 50 CFR 280.5.

Issued at Washington, D.C., and dated February 10, 1971.

PHILIP M. ROEDEL,
Director, National Marine Fisheries Service.

[FR Doc.71-2135 Filed 2-16-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 0182 NV]

DIAMOND LABORATORIES, INC.

Drug Product Containing Chlortetracycline, Vitamins, and Minerals; Notice of Drugs Deemed Adulterated

An announcement concerning Proleen 850 Dia-Rum Brand which contains three grams of chlortetracycline hydrochloride plus a guaranteed amount of various vitamins and minerals in each pound of the premix was published in the FEDERAL REGISTER of July 17, 1970 (35 F.R. 11533). The announcement set forth the findings of the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, and the Food and Drug Administration stating that available information does not establish that the drug is effective for treatment of respiratory infections in cattle and sheep and enterotoxemia in lambs.

In their response, the manufacturer, Diamond Laboratories, Inc., Post Office Box 863, Des Moines, IA 50304, furnished no information in support of the efficacy of the premix or animal feed bearing or containing this drug. Therefore, based on information before him, the Commissioner of Food and Drugs concludes that Proleen 850 Dia-Rum Brand is adulterated within the meaning of section 501(a), (5), or (6) of the Federal Food, Drug, and Cosmetic Act. Notice is given to Diamond Laboratories, Inc., and all interested persons that all stocks of Proleen 850 Dia-Rum Brand for use in animal feed and all animal feeds bearing or containing this product within the jurisdiction of the Federal Food, Drug, and Cosmetic Act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a) (5), (6), 512, 52 Stat. 1049, as amended, 82 Stat. 343-351; 21 U.S.C. 351(a) (5) and (6), 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 28, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-2072 Filed 2-16-71;8:45 am]

[DESI 9757V]

CERTAIN DRUG PRODUCTS CONTAINING DIETHYLSTILBESTROL

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations which contain diethylstilbestrol:

1. Stilbestrol premix containing 1 gram of diethylstilbestrol per lb. and Stimplants containing 3 milligrams of diethylstilbestrol per pellet; marketed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, NY 10017.

2. Dawes Destrol premix containing 0.22 percent diethylstilbestrol, Dawes Destrol premix containing 0.44 percent diethylstilbestrol, Dawes Destrol Oil Solution containing 4.4 percent diethylstilbestrol with vegetable oil, and Dawes Destrol Solution containing 4.4 percent diethylstilbestrol with polyethylene glycol 200; marketed by Dawes Laboratories, Inc., 4800 South Richmond Street, Chicago, IL 60632.

3. DiBESTrol containing 20 grams of diethylstilbestrol per lb. and DiBESTrol-C containing 15 milligrams of diethylstilbestrol per pellet; marketed by Hess and Clark, Division of Richardson-Merrell Inc., Ashland, Ohio 44805.

4. Stilbosol premix containing 1.0 gram diethylstilbestrol per pound; marketed by Elanco Products Co., Division of Eli Lilly and Co., Indianapolis, Ind. 46206.

The Academy concludes that these products are effective in promoting faster weight gains and improved feed efficiency when used under appropriate conditions. The word "sterilization" in reference to techniques of administration or equipment care in present labeling should be replaced with the word "disinfection."

The Food and Drug Administration concurs with the Academy's evaluation of "effective". The Administration further concludes that the appropriate indication for use claim on the labeling of growing and finishing rations intended for beef cattle or sheep and for implants intended for administration to beef steers, steer calves, and lambs should be "For increased rate of gain and improved feed efficiency".

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all intereseted persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

The holders of the new animal drug applications for the listed drugs have been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, DC 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, as amended, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 28, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-2073 Filed 2-16-71;8:45 am]

[DESI 9770V]

DIETHYLSTILBESTROL-OXYTETRACYCLINE PREMIX

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Stilbestrol-Oxytetracycline Premix; each pound contains 8 grams of oxytetracycline hydrochloride activity and 0.22 percent diethylstilbestrol; by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

The Academy evaluated this product as effective for faster weight gains and improved feed efficiency under appropriate conditions with respect to this claim for diethylstilbestrol. More information is needed regarding the effectiveness of oxytetracycline hydrochloride for the claims "to increase rate of gain and improve feed efficiency in cattle, and to reduce incidence of liver abscesses in beef animals." The Academy stated that: (1) Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination; and (2) data fails to show that this combination of diethylstilbestrol and oxytetracycline hydrochloride is more effective than if either agent is used alone. No additive or potentiative effect has been demonstrated.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, as amended, 82 Stat. 343–51, 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 27, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-2074 Filed 2-16-71;8:45 am]

[Docket No. FDC-D-271; NDA 1-286 etc.]

CERTAIN PREPARATIONS CONTAINING ATROPINE AND PHENOBARBITAL

Notice of Withdrawal of Approval of New-Drug Applications

In the FEDERAL REGISTER of March 27, 1970 (35 F.R. 5190), the Food and Drug Administration announced (DESI 1286) its conclusions pursuant to evaluating reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group concerning the following preparations:

Atropine and Phenobarbital Tablets, containing ¼-grain phenobarbital and 1/500-grain atropine sulfate; Cole Pharmacal Co., Inc., 3721 Laclede Avenue, St. Louis, Missouri 63108 (NDA 3-452).

Siltrobarb Tablets, containing ⅛-grain phenobarbital, 1/500-grain atropine sulfate, and 8 grains magnesium trisilicate; Cole Pharmacal Co. (NDA 1-286).

The announcement stated that (1) the amount of atropine sulfate in the atropine sulfate-phenobarbital tablet is not a recognized therapeutic dose and that therefore the preparation lacks substantial evidence of effectiveness and (2) the preparation containing atropine sulfate, phenobarbital, and magnesium trisilicate lacks substantial evidence of effectiveness as a fixed-combination. Data were invited pertinent to the announced intention to initiate proceedings to withdraw approval of the new-drug applications. The above-listed firm has advised that the products are no longer marketed and has waived opportunity for hearing on the proposed withdrawal of approval.

In addition to those drugs specifically reviewed by the Academy, the following preparations are affected by the March 27, 1970, announcement:

Belnesium Tablets, containing ⅛ grain phenobarbital, 0.0002 grain atropine sulfate, 0.0008-grain hyoscyamine hydrobromide, and 7 grains magnesium trisilicate; Charles C. Haskell Co., Division of Arner Stone Co., 601 East Kensington Road, Mount Prospect, Illinois 60056 (NDA 2-410).

Silaloid Tablets, containing ⅛-grain phenobarbital, 0.0002 grain atropine sulfate, 0.0008-grain hyoscyamine hydrobromide, and 7 grains magnesium trisilicate; Van Pelt & Brown, Inc., Division of Mallinckrodt Chemical Works, Second and Mallinckrodt Streets, St. Louis, Missouri 63160 (NDA 4-601).

The holders of these new-drug applications were informed by letter that their products are affected and have advised that their products are no longer marketed and have waived opportunity for hearing on the proposed withdrawal of approval.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under the authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to such drugs, evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new-drug applications, and all amendments and supplements thereto, is withdrawn effective on the date of signature of this document. Promulgation of this order may cause any such drug for human use to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

Dated: January 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-2070 Filed 2-16-71;8:45 am]

[DESI 12836]

DIPYRIDAMOLE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following coronary vasodilator drug:

Persantine Tablets, containing dipyridamole; marketed by Geigy Pharmaceuticals Division of Geigy Chemical Corp., Saw Mill River Road, Ardsley, New York 10502 (NDA 12-836).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report and concludes that dipyridamole is possibly effective for long term therapy of chronic angina pectoris.

B. *Marketing status.* 1. Holders of previously approved new-drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness for those indications for which this drug has been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a) (5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

The above named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of the report by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12836, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA Number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–2076 Filed 2–16–71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, REGION VI, FORT WORTH

Redelegation of Authority With Respect to Fair Housing

SECTION A. *Authority with respect to fair housing.* The Assistant Regional Administrator for Equal Opportunity is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90–284 (42 U.S.C. 3601–3619), except the authority to:

1. Issue a subpoena or an interrogatory under section 811 of the Act (42 U.S.C. 3611).

2. Make studies and publish reports under section 808(e) of the Act (42 U.S.C 3608(d)).

3. Issue rules and regulations.

SEC. B. *Authority to redelegate.* The Assistant Regional Administrator for Equal Opportunity is further authorized to redelegate to subordinate employees the authority of the Secretary to administer oaths under section 811(a) of the Act (42 U.S.C. 3611(a)).

SEC. C. *Supersedure.* This redelegation of authority supersedes the redelegation published at 34 F.R. 6869, April 24, 1969.

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective Apr. 30, 1970 (35 F.R. 6877, Apr. 30, 1970))

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER, February 17, 1971.

RICHARD MORGAN,
Regional Administrator, Region VI, Fort Worth.

[FR Doc.71–2137 Filed 2–16–71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Petition-No. 26]

SEABOARD COAST LINE RAILROAD CO.

Petition for Relief From the Requirement of Initial Terminal Road Train Air Brake Tests

By petition filed January 22, 1971, the Seaboard Coast Line Railroad seeks relief from the requirement that an initial terminal inspection and test be required by trains received in interchange at point of interchange in respect to run-through trains interchanged with the St. Louis-San Francisco Railway Co. at Birmingham moving between Memphis, Tenn., and Hamlet, N.C.; with St. Louis-San Francisco Railway Co. interchanged at Birmingham, Ala., moving between Memphis, Tenn., and Jacksonville, Fla.; with the Clinchfield Railroad Co., interchanged at Spartanburg, S.C., moving between Erwin, Tenn., and Savannah, Ga.

Upon consideration of the record, and of the requirements of the statute as to hearings, it is hereby determined that the petition should be assigned for hearing and further proceedings thereon. Accordingly, it should be, and it is hereby, assigned for hearing in Richmond, Va., on March 11, 1971, at 9:30 a.m., eastern standard time, in conference Room 1035, Federal Building, 400 North Eighth Street.

Any party desiring a copy of the petition, or further information, should write to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Washington, D.C., and a copy or additional information will be furnished.

Dated this 9th day of February 1971 in Washington, D.C.

ROBERT R. BOYD,
Director, Office of Hearings and Proceedings, and Hearing Examiner.

[FR Doc.71–2131 Filed 2–16–71;8:49 am]

Office of Pipeline Safety

[Notice No. W–2; Docket No. OPS–8]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition for Waiver of Certain Requirements

The Transcontinental Gas Pipe Line Corp. (Transco) of Houston, Tex., has petitioned for a waiver of the requirements of § 192.65, Title 49, Code of Federal Regulations. § 192.65 provides that where a pipeline is to be operated at a hoop stress of 20 percent or more of SMYS, pipe having an outer diameter-to-wall thickness ratio of 70 to one, or more, transported by railroad, must be transported in accordance with API RP5L1.

Transco has ordered from Bethlehem Steel Corp. quantities of 30 inch pipe. It is considered desirable to utilize 80' lengths of pipe double submerged arc girth welded at the mill. Transco wishes to transport the pipe from the mill in Steeltown, Pa., to its destination in Texas.

However, API RP5L1 prohibits overhang loads in excess of 1½ times the diameter of the pipe being transported. Overhangs in excess of this limitation are necessary since railroad cars of sufficient length to contain 80' lengths of

pipe are not readily available. Transco proposes loading the pipe on 52' cars with a double overhang of approximately 15 feet on idler cars.

Transco states that this method of transporting such pipe has been used with success in Canada, and both Transco and Bethlehem Steel Corp. assert that the method is one which will not result in damage to the pipe.

In accordance with section 3(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672(e)), notice is hereby given that a hearing on the matter of granting a waiver for the purpose stated above will be held at 10 a.m. on March 10, 1971, at the Office of Pipeline Safety, 400 Sixth Street SW., Washington, DC 20590.

Interested persons are invited to present their views at the hearing or to submit them in writing by March 3, 1971, to the Office of Pipeline Safety at the above address.

Issued in Washington, D.C. on February 12, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-2245 Filed 2-16-71;8:52 am]

Office of the Secretary

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Delegation of Authority To Apportion Funds

The National Highway Traffic Safety Administrator is hereby delegated authority to apportion the funds authorized by section 202(f)(1) of the Highway Safety Act of 1970 (Public Law 91-605; 84 Stat. 1741) for carrying out section 402 of title 23 for the fiscal year ending June 30, 1972.

The Federal Highway Administrator is hereby delegated authority to apportion the funds authorized by section 202 (f)(3) of the Highway Safety Act of 1970 (Public Law 91-605; 84 Stat. 1741) for carrying out section 402 of title 23 for the fiscal year ending June 30, 1972.

This action is taken under the authority of section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on February 9, 1971.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.71-2077 Filed 2-16-71;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-329, 50-330]

CONSUMERS POWER CO.

Notice of Availability of Draft Detailed Statement and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Detailed Statement on the Environmental Considerations by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Related to the Proposed Construction of the Midland Plant Units 1 and 2 by the Consumers Power Co." is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room, 1717 H Street NW., Washington, DC; and the office of the Director of the Grace Dow Memorial Library, Midland, Mich.

The Commission hereby requests comments on the proposed action and the Draft Detailed Statement from State and local agencies of any affected State (with respect to matters within their jurisdiction), which are authorized to develop and enforce environmental standards. If the Commission is not provided with comments by any State or local agency within 60 days of the publication of this notice in the FEDERAL REGISTER, the Commission will presume that the agency has no comments to make.

A copy of the Draft Detailed Statement dated February 5, 1971, and available comments thereon of Federal agencies (whose comments are being separately requested by the Commission) will be supplied to any such State or local agency upon request addressed to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 10th day of February 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-2082 Filed 2-16-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22815]

FLYING TIGER LINE INC.

Notice of Prehearing Conference Regarding Proposed Multi-Container Rates

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 4, 1971, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Richard M. Hartsock.

Requests for information and evidence, statements of proposed issues, and proposed procedural dates shall be filed with the Examiner and served on Bureau Counsel and Counsel for The Flying Tiger Line on or before February 24, 1971.

Dated at Washington, D.C., February 10, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71-2140 Filed 2-16-71;8:50 am]

[Docket No. 21238; Order 71-2-56]

ALASKA AIRLINES, INC., AND WIEN CONSOLIDATED AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of February 1971.

By this order the Board proposes to establish new final service rates for the transportation of mail over the intra-Alaska routes of Alaska Airlines, Inc. (Alaska), and Wien Consolidated Airlines, Inc. (Wien), for the past period July 25, 1969, through September 18, 1970, and for the future period beginning September 19, 1970.

This proceeding was initiated by petition of the Postmaster General (PMG) filed July 25, 1969, requesting the Board to reopen the service mail rates for intra-Alaska services and establish new final rates based on more recent operating data. The issues raised by the PMG were set for investigation and hearing.[1] A prehearing conference was held on October 28, 1969, and thereafter the parties submitted the usual evidentiary information. Shortly before May 26, 1970, the date on which the hearing was due to commence, informal discussions began between the Postmaster General and the carriers. When the discussions indicated that the service mail rates could be determined under informal conference procedures, the Board granted the Postmaster General's request for an indefinite postponement of the hearing, after severing two carriers from the case for separate handling.[2] As a result of informal conferences between the PMG and the carriers, agreement was reached with respect to the service mail rates to be established for Alaska and Wien, and by petition filed July 24, 1970, the PMG requested that the agreed rates be established for those carriers.[3]

The final rates agreed upon by the PMG and the carriers are as follows:

1. For the past period July 25, 1969–September 18, 1970, $1.37 per mail ton-mile for Alaska and $1.4569 per mail ton-mile for Wien. As a result of these rates, Alaska and Wien will receive additional mail pay of approximately $127,000 and $720,000, respectively.

2. For the future period beginning September 19, 1970, the following rates per mail ton-mile:

	Alaska	Wien
Priority mail	$1.30	$1.35
Nonpriority mail	1.05	1.05
Combined rate per ton-mile	1.11	1.22

[1] Order 69-8-163, Aug. 29, 1969.

[2] Order 70-5-92, May 19, 1970, severed Kodiak and Western Alaska from Docket 21238.

[3] The rates for the other two carriers in this docket, Reeve Aleutian Airways, Inc., and Western Air Lines, Inc., will be disposed of in separate orders.

Alaska and Wien are presently on closed subsidy rates[4] and have been on temporary service mail rates since July 25, 1969, the date on which the rates were reopened. The carriers' present temporary rate of $1.29 per mail ton-mile is the same as the final service mail rate for intra-Alaska services which was established effective October 1, 1953.[5] This rate does not distinguish between priority and nonpriority mail.

Effective September 19, 1970, the PMG initiated a two-level service within Alaska that would apply to mail transported on and after that date. This two-level service, classified as priority and nonpriority mail on intra-Alaska routes, is explained in Appendix 3 of this order. This appendix sets forth the conditions of service applicable to the transportation of priority and nonpriority mail within the State of Alaska. The PMG's petition also lists the "bush" and "mainline" segments for Alaska Airlines and Wein. These segments, which are set forth in Appendices 1 and 2 of this order, have been identified solely on the basis of scheduled frequencies. Any segment having a frequency of five or more schedules a week has been designated as a mainline segment over which both priority and nonpriority O and D mail[6] transportation will apply.

A bush segment is one for which the mail origin or destination is a bush point. According to the PMG, all bush mail will be provided priority service for the entire transit by air, despite the fact that one of the segments transited may be a mainline segment. Thus, mail originating at or destined to a bush point will remain in continuous air carrier custody during the entire period of air transportation over intra-Alaska routes, and will not, at any time, be subject to a space-available, nonpriority movement.

The proposed rates are based primarily on cost information for the year ended June 30, 1969, with certain adjustments for assignment of additional capacity to cargo, circuitry factors, and a small inflationary factor mutually agreed to among the parties. In effect, the specific rates are the result of arm's length negotiations between the PMG and the carriers. We believe that the agreed rates, which fall well within the zone of reasonableness,[7] constitute the fair and reasonable rates of mail compensation for the past and future intra-Alaska mail services of Alaska and Wien. However, in finding that the agreed rates constitute the fair and reasonable rates for the mail services of these carriers, we have confined our determination to the particular facts of this case. Moreover, we do not pass upon the appropriateness of any particular methodology which may underlie the cost calculations used in arriving at the rates.

The proposed rates for the past period July 25, 1969, through September 18, 1970, are $1.37 per mail ton-mile for Alaska and $1.4569 per mail ton-mile for Wien, and will yield the carriers additional mail revenues of about $127,000 and $720,000, respectively. The additional mail payments are based on the differences between the agreed rates of $1.37 for Alaska and $1.4569 for Wien and the temporary rate of $1.29 per ton-mile, applied to the estimated mail ton-miles for the period July 25, 1969, to September 18, 1970.

The proposed rates for the future year beginning September 19, 1970, are based on a two-level service comprising priority and nonpriority mail. The rates for priority mail are $1.30 per ton-mile for Alaska and $1.35 per ton-mile for Wien. For nonpriority mail, the rate per ton-mile is $1.05 for both carriers. The combination of priority and nonpriority mail produces overall rates per ton-mile of $1.11 for Alaska and $1.22 for Wien. Although mail was not tendered for various classes of service during the base year, the PMG exercised his best efforts to separate priority and nonpriority mail ton-miles. The accuracy of this separation will only be determined by experience under the new two-level system. Since the rates for priority and nonpriority mail were determined on the basis of the estimated volume of each class of mail and were intended to produce the overall rates per great-circle mail ton-mile of $1.11 for Alaska and $1.22 for Wien, the parties have agreed that if the actual overall yields per ton-mile are significantly different from those agreed upon, they will jointly petition the Board to change the rates for each class of mail to produce the agreed-upon combined rates.

Because each carrier will have individual rates, at the request of the parties, the Board will include in this order the usual language authorizing election to equalize rates.

Proposed findings and conclusions. On the basis of the foregoing, the Board tentatively finds that the fair and reasonable rates of compensation to be paid the carriers named below by the Postmaster General, pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, for the transportation of mail by aircraft over their respective intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith are:

1. For the past period July 25, 1969, through September 18, 1970, the rates per great-circle mail ton-mile of $1.37 for Alaska Airlines and $1.4569 for Wien.

2. For the future period beginning September 19, 1970, the following rates per great-circle mail ton-mile:

	Alaska	Wien
Priority mail	$1.30	$1.35
Nonpriority mail	1.05	1.05
Combined rate per ton-mile	1.11	1.22

3. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

4. Provisions for equalization of rates shall be as set forth in Appendix 4 attached hereto.

5. Effective September 19, 1970, the stations included in each of the station classes shall be as specified in Appendices 1 and 2 attached hereto.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the Regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. All interested persons and particularly Alaska Airlines, Inc., Reeve Aleutian Airways, Inc., Western Air Lines, Inc., Wien Consolidated Airlines, Inc., the State of Alaska, Alaska Transportation Commission,[8] and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 30 days after date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein.

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. This order shall be served upon Alaska Airlines, Inc., Reeve Aleutian Airways, Inc., Western Lines, Inc., Wien Consolidated Airlines, Inc., the State of Alaska, Alaska Transportation Commission, and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX 1—ALASKA AIRLINES, INC.

Mail dispatched at any post office point in column A destined for delivery by any post

[4] Alaska Airlines, Inc., Order E-26720, Apr. 29, 1968, and Northern Consolidated Airlines, Inc., Order E-26790, May 14, 1968 (now Wien).

[5] 17 C.A.B. 898 (1953).

[6] O and D mail is mail tendered at origin which will be surrendered at destination for delivery through that postal facility or for rebilling to another carrier.

[7] The computations underlying the agreed rates, as submitted by the parties, are set forth in Appendices 5 and 6, attached hereto.

[8] There is pending a petition by the State of Alaska, Alaska Transportation Commission, filed May 28, 1970, for leave to intervene in this proceeding. We are not now passing on the Commission's petition pending lapse of the period for filing notice of objection and formal answer to this order.

office point in the same column shall be considered as moving over a "mainline" segment and shall be subject to the priority and nonpriority rates. All mail tendered for transport between a post office point in column A, on the one hand, and a point in column B, on the other, or between points in column B shall be subject only to the priority rate, from the point of tender.

COLUMN A—"MAINLINE" STATIONS

Anchorage.
Annette Island.
Cordova.
Craig.
Fairbanks.
Gustavus.
Haines.
Hoonah.
Hydaburg.
Juneau.
Ketchikan.
Klawock.
Kotzebue.
Nome.
Petersburg.
Prince Rupert, B.C.
Sitka.
Skagway.
Unalakleet.
Valdez.
Wrangell.
Yakutat.

COLUMN B "BUSH" STATIONS

Angoon.
Baranof.
Bell Island.
Boswell Bay.
Cape Pole.
Cape Yakataga.
Chatham.
Chisana.
Chitina.
Coffman Cove.
Crafton Island.
Deep Bay.
Deweyville.
Dawson, Y.T.
Dry Pass.
Duncan Canal.
Edna Bay.
Elfin Cove/Port Althorp.
Eliza Harbor.
Excursion Inlet.
Fairmont Island.
False Island.
Funter Bay.
Glacier Creek.
Gulkana.
Hawk Inlet.
Icy Bay.
Kake.
Kasaan.
Kendrik Bay.
Kenny Cove.
Loring.
May Creek.
McCarthy.
Middleton Island.
Myers Chuck.
Northway.
Oceanic.
Peak Island.
Pelican City.
Perry Island.
Point Baker.
Point Knowell.
Port Alice.
Port Alexander.
Port Ashton.
Port Protection.
Port Walter.
Red Bay.
Saginaw Bay.
San Juan.
Seward.
Snettisham.
Soldotna.
Steamboat Bay.
Taku Harbor.
Taku Lodge.
Tatitlek.
Tebenkof Bay.
Tenakee.
Thorne Bay.
Tokeen.
Tuxekan.
Waterfall.
Washington Bay.
Whale Pass.
Yes Bay.

APPENDIX 2—WIEN CONSOLIDATED AIRLINES, INC.

Mail dispatched at any post office point in column A destined for delivery by any post office point in the same column shall be considered as moving over a "mainline" segment and shall be subject to the priority and nonpriority rates. All mail tendered for transport between a post office point in column A, on the one hand, and a point in column B, on the other, or between points in column B shall be subject only to the priority rate from point of tender.

COLUMN A—"MAINLINE" STATIONS

Anchorage.
Barrow.
Bethel.
Dillingham.
Fairbanks.
Fort Yukon.
Galena.
Homer.
Juneau.
Kenai.
King Salmon.
Kodiak.
Kotzebue.
McGrath.
Nome.
Tanana.
Whitehorse.

COLUMN B—"BUSH" STATIONS

Akiachak.
Akiak.
Alakanuk.
Allakaket.
Aniak.
Ambler.
Anaktuvak Pass.
Anvik.
Arctic Village.
Barter Island.
Beaver.
Bettles.
Big Mountain.
Birch Creek.
Bornite.
Boundary.
Brevig/Teller Mission.
Brooks Lake.
Buckland.
Candle.
Cape Lisburne.
Cape Newenham.
Cape Romanzof.
Central.
Chalkyitsik.
Chandalar.
Chena Hot Springs.
Cheevak.
Chicken.
Chifornak.
Circle.
Circle Hot Springs.
Council.
Crooked Creek.
Dahl Creek.
Deering.
Eagle.
Eek.
Elim.
Emmonak.
Farewell.
Flat.
Fortuna Ledge.
Gambell.
Golovin.
Goodnews Bay.
Granite Mountain.
Grayling.
Grosvenor Lake.
Haycock.
Hogatza.
Holy Cross.
Hooper Bay.
Hughes.
Huslia.
Iliamna.
Kalakaket.
Kalskag.
Kaltag.
Katmai Camps.
Kiana.
Kipnuk.
Kivalina.
Kobuk.
Kongiganak.
Kotlik.
Koyuk.
Koyukuk.
Kulik Lake.
Kwethluk.
Kwigillingok.
Kwinhagak.
Lake Minchumina.
Livengood.
Lost River.
Manley Hot Springs.
Medfra.
Mekoryuk.
Minto.
Moses Point.
Mountain Village.
Napakiak.
Napaskiak.
Newtok.
Noatak.
Nonvianuk Lake.
Northeast Cape.
Noorvik.
Nulato.
Nunapitchuk.
Old Crow.
Ophir.
Pilot Station.
Platinum.
Point Hope.
Porcupine Creek.
Port Clarence.
Rampart.
Red Devil.
Ruby.
Russian Mission.
St. Mary's.
St. Michael.
Savoonga.
Scammon Bay.
Selawik.
Shageluk.
Shaktoolik.
Sheldon Point.
Shishmaref.
Shungnak.
Skwentna.
Sleetmute.
Solomon.
Stebbins.
Stevens Village.
Stony River.
Takotna.
Tatalina.
Teller.
Tin City.
Toksook.
Tuluksak.
Tuntatuliak.
Tununak.
Umiat.
Unalakleet.
Utopia Creek.
Venetie.
Wainwright.
Wales.
White Mountain.
Wiseman.
Woodchopper.

APPENDIX 3—CONDITIONS OF SERVICE FOR AIR TRANSPORT OF INTRA-ALASKA MAIL

I. INTRA-ALASKA PRIORITY MAIL SERVICE

A. *Applicability.* The rules and regulations set forth in this part apply only to air carriers engaged in the transportation of mail between points in Alaska under authority granted in their Intra-Alaska certificates as issued by the Civil Aeronautics Board.

B. *Definition of Intra-Alaska Priority Mail Service.* Air mail and first class mail are defined as priority mail and the rules and regulations governing the handling and transportation of this combined class of mail will be identical to that accorded domestic airmail (see Part 531) with the exceptions as contained in this part. Mail to be included under the Intra-Alaska Priority Mail definition include:

1. U.S. air mail.

2. All mail paid at first-class rates, including business reply mail.

3. All official U.S. Government mail endorsed "Air Mail" or "First Class."

4. Second-class publications on which the surcharge has been paid for priority service ("Air Second Class").

In addition to the above categories of mail, all mail moving over segments not designated by CAB order as "Mainline" routes will be transported as priority mail.

C. *Air carriers' responsibilities*—1. *For transporting mail.* Air carriers are required to transport and transfer mail as ordered on dispatch documents and related coding on sack and parcel labels.

2. *For giving priority.* a. Air carriers are required to give the following priority to mail: From each point served, the normal mail load for each trip must be given priority of transportation over all other traffic on each trip designated for transportation of mail.

b. The normal mail load for each mainline segment trip is determined, at the option of the air carrier, for each day of the week on (1) basis of the mail tendered to that trip on the same day of the week for the 5 previous weeks or (2) basis of the weight of mail tendered to the trip on Tuesday, Wednesday, Thursday, and Friday of the preceding week. When a holiday occurs on one of those days, substitute the same day of the second previous week. In either method of computing the average, exclude mail tendered under abnormal conditions. When an air carrier elects to use one of the two methods it must continue to use the selected method on Form 2760, Air Carrier's Reply—Refusal/Removal of Priority Mail.

c. For bush routes, the normal mail load for each trip is based on the load capacity of the type aircraft used and the average space available for mail on the five previous mail carrying trips with the same model aircraft. Form 2760, Air Carrier's Reply—Refusal/Removal of Mail will reflect the revenue load capacity of the aircraft and the number of passengers, and weight of baggage, mail, and freight carried.

d. No part of the mail load, either local boarding or through mail, will be displaced to accommodate local boarding passengers or when a trip requires additional fuel.

e. Mail in excess of normal mail load must be given priority over all other traffic except confirmed revenue passengers and their baggage.

f. In loading, unloading, transferring mail to connecting planes, and delivering mail to the designated postal representatives, mail must be given preference over all other cargo.

g. When it is not possible for the air carrier to move all available mail over a bush route because of unusual heavy mailings or peak volumes, the priority of movement is defined in this order, airmail, first class, newspapers, special handling, perishable parcels, and then bulk mail. Subsequent or special trips of a carrier will continue this priority of movement until the backlogged volume is transported.

3. *For protecting mail.* a. Air carriers are held strictly responsible and accountable for mail in their custody. Mail must not be left exposed on trucks or otherwise subjected to depredation or weather. In transporting mail between point of exchange with the postal unit and aircraft ramp positions, carriers must provide adequate and suitable vehicles that will (1) prevent mail from being lost or dropped en route and (2) protect mail from depredation and weather. Take every precaution to protect mail from fire. Mail handlers must be identified by badges or distinguishing caps or clothing or must be prepared to exhibit their airline identification cards on request of postal employees concerned.

b. When an air carrier discovers a sack or parcel damaged so that loss or depredation could result, the air carrier will turn in the piece to the first possible postal unit for resacking and redispatch. Form 2713-B must accompany the damaged piece to the postal unit.

II. INTRA-ALASKA NONPRIORITY MAIL SERVICE

A. *Definition of Intra-Alaska Nonpriority Mail Service.* The term Intra-Alaska nonpriority mail is used to describe all classes of mail not already included under the description in Part I. It is mail other than air and first class mail which is transported by aircraft over segments or routes within the State of Alaska which have been designated as "Mainline" segments or routes, and moves on a space available nonpriority basis. The designated "Mainline" routes may change from time to time depending upon changes in the factors which were used in making the original selection.

B. *Authority, rates and service*—1. *Civil Aeronautics Board.* The Civil Aeronautics Board establishes the rates to be paid air carriers for the transportation of nonpriority mail.

2. *Service.* Mail may be tendered for interline transfer between Intra-Alaska carriers in only those instances where the originating carrier does not service the destination point. The responsibility for transfer at the interline transfer point shall be with the originating carrier.

C. *Responsibility for nonpriority mail program*—1. *Air carriers*—a. *Transportation on space available basis.* All carriers will transport nonpriority mail on a space available basis over "Mainline" segments to the destination shown on dispatch record and label and once enplaned will not be removed at an intermediate point. It will be transported on a space available basis and will move only after all other forms of traffic have been accommodated.

b. *Notification to postal units.* Air carriers must notify local postal units of any undue delay or inability to transport nonpriority mail which has been tendered. Delay will not be considered undue until the passage of 24 hours after scheduled departure to destination. When an air carrier transports this mail beyond or off-loads it short of the billed destination, the carrier must notify the postal unit and secure instructions for disposing of the mail.

c. *Requirements for transfer of nonpriority mail.* Carriers will make any necessary intraline and interline transfers to provide transportation to the destination listed on the original dispatch.

d. *Delivery requirements.* Delivery of nonpriority mail shall be made without unwarranted delay to the destination postal unit within local time limits set by the Director, Logistics Division, Seattle Region.

e. *Protection of mail.* Air carriers are held strictly responsible and accountable for mail in their custody. Mail must not be left exposed on trucks or otherwise subjected to depredation and weather. In transporting mail between point of exchange with the post office and aircraft ramp positions, carriers must provide adequate and suitable vehicles that will (1) prevent mail from being lost or dropped en route and (2) protect mail from depredation and weather. Take every precaution to protect mail from fire. Mail handlers must be identified by badges or distinguishing caps or clothing or must be prepared to exhibit their airline identification cards on request for postal employees concerned.

* * * * *

SOURCE: U.S. Post Office Department.

APPENDIX 4—EQUALIZATION OF RATES

(a) Any carrier or, pursuant to agreement, any two or more carriers providing service on an interline or interchange basis, may, by notice, elect to transport mail between stated points served by such carrier or carriers at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(b) In the case of equalization of rates by agreement pursuant to (a) above, the agreement shall provide for the proration of the mail compensation by the participating carriers on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of the provisions of paragraph (a).

(c) In the absence of an agreement among carriers, pursuant to (a) above, for equalization of rates for interline shipments between a stated pair of points, any carrier (or two or more carriers jointly) may, by notice, elect to receive as its portion of the total compensation for each such shipment the amount remaining after subtracting from such total compensation the compensation due the other carrier or carriers involved (nonelecting carriers). Such total compensation shall be computed on the basis of the lowest rate then in effect for service between the stated pair of points for any carrier or carriers. The compensation due the nonelecting carrier or carriers shall be determined on the basis of all the provisions of this formula.

In those instances where two or more carriers elect to receive payment under this provision, the total payment due such carriers shall be prorated by them on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of the provisions of this paragraph.

(d) In the event that any carrier is unable to enter into an agreement with any other carrier to transport mail between any stated points at a reduced rate pursuant to paragraphs (a) and (b) and elects initially to accept compensation as provided in paragraph (c), it may file an application with the Board requesting it to determine and fix a different method of apportioning the total compensation for each such shipment of mail between the participating carriers. In reviewing such applications, the Board will consider, among other pertinent factors, the need for the proposed service, the historical participation of the electing carrier or carriers in the transportation of mail between such stated points, the amount of absorption required, and the grounds for refusal by the carrier or carriers to enter into an equalization agreement. After hearing the carriers concerned, either orally or in writing, in those cases where it deems such action appropriate the Board will by order prescribe the method for apportioning the total compensation between such carriers, but in no event shall the carrier or carriers refusing to enter into an agreement to equalize compensation be required to accept less than the compensation which would have been payable if the service were performed under voluntary agreement pursuant to paragraphs (a) and (b).

(e) An original and three copies of each notice of election and agreement and an original and 19 copies of each application, under the preceding paragraph (d) shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notices shall contain a complete description of the reduced charge being established, the routing over which it applies, and how it is constructed and shall similarly describe the charge being equalized with. Applications filed pursuant to paragraph (d) shall not be deemed to reopen the mail rates or rate structure prescribed herein.

(f) Any rate established pursuant to paragraph (a), (b), or (c) shall be effective for the electing carrier or carriers as of the date of filing of the notice required by such paragraphs, or such later date as may be specified in the notice, until said election is terminated. Elections may be terminated by any electing carrier upon 10 days' notice filed with the Board, as aforesaid, and served upon the Postmaster General and each carrier providing service between the stated points.

Applications filed pursuant to paragraph (d) shall conform generally to the provisions of the rules of practice governing the filing of petitions in mail rate cases. Within 7 days after the application is served, any party may file an answer in support of or in opposition to the application together with any documentary material upon which it relies. Any order upon such application pursuant to paragraph (d) shall be effective no earlier than the date of filing of the application with the Board.

APPENDIX 5—SUMMARY OF MAIL VOLUMES, REVENUES, EXPENSES AND PAST AND FUTURE PERIOD RATES FOR ALASKA AND WIEN AIRLINES

Item No.	Base period (year ended 6-30-69)	Alaska	Wien
1	Mail ton-miles as flown	676,306	3,063,354
2	Mail ton-miles as paid	650,294	2,942,511
3	Mail tons originated	2,413	7,916
4	Length of haul	269	372
5	Mail revenue (as reported)	$838,877	$3,795,839
6	Mail expense	$890,903	$4,286,944
7	Revenue per ton-mile	$1.29	$1.29
	PAST PERIOD (JULY 25, 1969-SEPT. 18, 1970)		
8	Expense per ton-mile	$1.3173	$1.3994
9	Rate per ton-mile	1.3700	1.4569
10	Estimated additional mail pay	127,000	720,000
11	Estimated mail volume (lbs).	1,587,500	4,314,950
	FUTURE PERIOD (BEGINNING SEPT. 19, 1970		
	Mail Expense:		
12	Priority mail	$200,897	$2,363,314
13	Nonpriority mail	500,716	1,373,978
14	Total priority and nonpriority.	701,613	3,737,292
	Proposed Rates per Ton-Mile:		
15	Priority mail	$1.30	$1.35
16	Nonpriority mail	1.05	1.05
17	Total priority and nonpriority.	$1.11	$1.22
18	Estimated priority and nonpriority ton-miles.	632,084	3,063,354

Source: U.S. Post Office Department

ALASKA AIRLINES, INC., COMPUTATION OF PAST AND FUTURE PERIOD RATES [1]

Item No.	Past period	Cents per mail ton-mile
1	Bureau Counsel's costing based on space	118.89
2	Correction of BC's costing to reflect assignment of capacity to cargo by ASA (17.57% of (1))	20.88
3	Corrected BC's costing (1)+(2)	139.77
4	BC costing based on weight, as computed by POD	123.20
5	Average of space and weight (3)+(4) ÷2	131.49
6	Allowance for inflation and circuity factors	5.51
7	Past period rate per mail ton-mile (5)+(6)	137.00
	FUTURE PERIOD	
8	POD's costing of priority mail based on arithmetic average of space and weight methods	125.00
9	Allowance for circuity factor 4%	5.00
10	Future period rate for priority mail (8)+(9)	130.00
11	POD's costing of nonpriority mail based on average of weight and space methods	97.00
12	Allowance for circuity 4%	4.00
13	Allowance for Juneau-Anchorage rate equalization	4.00
14	Future period rate for nonpriority mail	105.00

[1] Based on cost data for the 12-month period ended June 30, 1969, including return on investment of 10.50 percent and tax allowance of 48 percent.

WIEN CONSOLIDATED AIRLINES, INC. COMPUTATION OF PAST AND FUTURE PERIOD RATES[1]

Item No.	Past period	Cents per mail ton-mile
1	POD's costing based on space	146.63
2	POD's costing based on weight	126.32
3	Average of space and weight costing	136.48
4	Adjustment for additional capacity allocated to cargo and other factors mutually agreed between carrier and POD	9.21
5	Past period rate per mail ton-mile (3) +(4)	145.69
	FUTURE PERIOD	
6	POD's costing based on space	129.58
7	POD's costing based on weight	112.42
8	Average of space and weight costing	121.00
9	Allowance for differential in mail mix	1.00
10	Future period rate for combined priority and nonpriority mail ton-mile	122.00
11	Rate for nonpriority mail	105.00
12	Rate for priority mail, based on priority mail revenue of $2,363,314 and estimated priority mail ton-miles of 1,750,600	135.00

[1] Based on cost data for the 12-month period ended June 30, 1969, including return on investment of 10.50 percent and tax allowance of 48 percent.

[FR Doc.71-2141 Filed 2-16-71;8:50 am]

[Dockets Nos. 21866, 22784; Order 71-2-55]

UNITED AIR LINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of February 1971.

By tariff revisions[1] marked to become effective February 12, 1971, United Air Lines, Inc. (United), proposes to increase its fares in 22 markets involving the Chicago, New York, and Washington terminals by $0.92 or $1.85. In support of its proposal United alleges losses on all but two of the 22 segments, aggregating $12,012,000 annually. These losses include an allowance for a 10.5 percent return on investment. United asserts that congestion in the 22 markets causes an average delay of approximately 8.5 minutes as compared with noncongested airports, and that the losses were incurred despite a composite load factor on all segments of 61.1 percent, some 10.5 percentage points above its system average of 50.6 percent. United asserts that it does not consider the Board's economic regulations to require that fare increases be justified on a segment by segment basis when an overall system loss is apparent.

United estimates that its proposal will increase revenues by $2,303,000 annually, thereby reducing its losses on the segments in question to $9,700,000. The carrier alleges that it has made an extensive analysis of elasticity and estimates no significant loss of traffic due to the fare increases.

No complaints have been filed.

The proposal here to increase certain coach fares comes within the scope of the Domestic Passenger-Fare Investigation now actively in process and the lawfulness of these fares will be determined in that proceeding. It is anticipated that a decision on the fare level and directly related issues will be reached by about April 1, 1971. The issue now before us is whether to permit to become effective or suspend these proposed fares pending a final determination of their lawfulness in that investigation.

The data provided by United in support of its proposed fare increases is aggregated for all of the markets involved in the filing. There is no way to ascertain the impact of congestion on costs in any individual market. Neither can the profit or loss position of any individual market be identified.

As we have previously stated in numerous orders, trunkline carriers should be permitted interim normal fare increases at this time only where it is reasonably demonstrated that the individual markets involved have characteristics which, but for severe congestion, could be expected to result in profitable operations. Consistent with this policy, the Board has permitted such increases to American Airlines, Inc., Braniff Airways, Inc., and Trans World Airlines, Inc., upon adequate justification. United's supporting data simply does not make the required showing market by market. Moreover, in view of the interim nature of the increases, which are intended to alleviate operating losses attributable to atypical congestion costs, we do not consider it appropriate to include a return element in determining the profitability of each market. The question of proper fare level based on total economic cost is a matter to be resolved in the Domestic Passenger-Fare Investigation. Therefore, the Board has decided to suspend the instant proposal.

Upon consideration of all relevant matters, the Board finds that the proposed military fare increases, which stem from higher basic fares we are herein suspending, may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that these fares should be suspended, together with the other fare increases indicated above, pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the increased YM (Military Reservation) fares and provisions described in Appendix A attached hereto,[2] and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[2] are suspended and their use deferred to and including May 12, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation of the military fares ordered herein is hereby consolidated into Docket 22784; and

4. A copy of this order will be filed with the aforesaid tariff and served upon United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.[3]

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-2142 Filed 2-16-71;8:50 am]

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

[2] Appendix A filed as part of the original document.

[3] Dissenting statement of Vice Chairman Gillilland filed as part of the original document.

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Government Secretary, Virgin Islands.

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

[FR Doc.71-2089 Filed 2-16-71;8:46 am]

GENERAL SERVICES ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Administrator.

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

[FR Doc.71-2090 Filed 2-16-71;8:46 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of

Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Director, Comprehensive Health Services Division, Office of Health Affairs.

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

[FR Doc.71-2091 Filed 2-16-71;8:46 am]

DEPARTMENT OF JUSTICE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Associate Director for Program Direction.

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

[FR Doc.71-2092 Filed 2-16-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Public Affairs, Office of the Secretary, Immediate Office.

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

[FR Doc.71-2093 Filed 2-16-71;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

INTERSTATE WATERS OF ALABAMA

Notice of Standard Setting Conference

The waters of Alabama listed in the last paragraph of this notice and all other coastal and estuarine waters, tidal and nontidal, interstate streams, and interstate tributaries and subtributaries to such waters of the State of Alabama are interstate water.

The water quality standards established by the State of Alabama in accordance with section 10(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 466g(c)(1)) to be applicable to these waters are determined in part not to be consistent with the protection of the public health and welfare, the enhancement of the quality of the water, and the purposes of the Federal Water Pollution Control Act, as provided by section 10(c)(3) of that Act, with particular reference to:

1. Antidegradation;
2. Water use designations;
3. Water quality criteria; and
4. Implementation plans.

Therefore, in accordance with the provisions of section 10(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 466g(c)(2)), I hereby call a conference to consider the establishment of water quality standards applicable to the interstate waters of the State of Alabama.

The conference will convene on April 5, 6, and 7, 1971, at the Midtown Holiday Inn, 924 Madison Avenue, Montgomery, AL, to consider the appropriate water quality standards for the interstate waters of Alabama. I have designated Mr. Murray Stein, Environmental Protection Agency, as Chairman of the conference.

Parties to the conference will be representatives of Federal departments and agencies, interstate agencies, States, municipalities, and industries who are contributing to, affected by, or have an interest in the water quality standards for the waters to be covered by the conference and who register their intent to be parties at the conference sessions, and such other persons whom the Chairman, upon application and good cause shown, admits as parties to the conference.

The waters of Alabama referred to in the first paragraph of this notice are: Hurricane Creek, Mill Creek, Turkey Creek, Suck Branch, Estill Fork, Burks Creek, Larkin Spring Branch, Hall Branch, Pigeon Creek, Marting Branch, Mountain Fork, Jenny River, Hester Creek, Donneby Branch, Flint River, Slate Rock Branch, Walker Creek, Fowler Creek, Copeland Creek, Huckleberry Branch, Brier Fork, Limestone Creek, Tyrone Creek, Davis Branch, Smith Branch, Little Limestone Creek, Piney Creek, Holland Creek, Ragsdale Creek, Cave Branch, Elk River, Jenkins Creek, Shoal Creek, Scarce Grease Branch, Hulsey Branch, Sugar Creek, Appleton Branch, Warren Branch, Polebridge Branch, Birch Branch, Cotts Creek, Second Creek, Crossroads Branch, L. Bluewater Creek, Hurricane Creek, Bluewater Creek, L. Bluewater Creek, Wolf Creek, Shoal Creek, Cole City Creek, Nickajack Creek, Hogjaw Creek, Big Culvert Creek, Tennessee River, Graham Branch, Jones Creek, Long Hollow Branch, Dry Creek, Willis Branch, Crow Creek, Little Crow Creek, Salt River, Kettle Branch, Little Coon Creek, Mancher Creek, Butler Creek, Sour Branch, Little Butler Creek, Little Cypress Creek, Dry Branch, Middle Cypress Creek, May Branch, Greenbrier Branch, Dulin Branch, Cypress Creek, Copper Branch, Threet Creek, Tally Branch, Second Creek, Manbone Creek, Kennedy Branch, Bumpass Creek, Dry Creek, Mill Creek, Bear Creek, Clear Creek, Pennywinkle Creek, Cripple Deer Creek, Johnson Branch, Cedar Creek, Mill Branch, Gibbs Branch, Panther Branch, Rocky Branch, Crossway Branch, Mann Branch, Harris Branch, Fowler Branch, Brumley Branch, Gee Branch, Lookout Creek, Reeves Creek, Buck Creek, Williams Spring Branch, Duncan Creek, Higdon Creek, Bullard Branch, Crawfish Creek, Allison Creek, Red River Branch, Dry Creek, Coosa River, West Fork Little River, East Fork of West Fork of Little River, Cannon Branch, Middle Fork Little River, East Fork Little River, Little River, Mills Creek, Alpine Creek, unnamed tributary to Mills Creek, Panther Creek, Chattooga River, Spring Creek, Mud Creek, Little Terrapin Creek, Terrapin Creek, Duncan Creek, Tallapoosa River, Kemp Creek, Lost Creek, Big Indian Creek, Little Tallapoosa River, Hungry Creek, unnamed tributary to Shoal Creek, Shoal Creek, Alabama River, Bull Mountain Creek, Hurricane Creek, unnamed tributary to Chubby Creek, Chubby Creek, Sipsey Creek, Buttahatchee River, Lost Reed Creek, Yellow Creek, Mud Creek, Luzapalila Creek, Magby Creek, Ellis Creek, Nash Creek, Kincaid Creek, Lindsey Branch, three (3) unnamed tributaries to Tombigbee River in Noxubee County, Miss., Woodwards Creek, Noxubee River, Bodka Creek, Scooba Creek, Hatchet Creek, Sucarnoochee Creek, Sucarnoochee River, Ponta Creek, Toomsuba Creek, Alamuchee Creek, Okatuppa Creek, unnamed tributary to Okatuppa Creek, Yantley Creek, Tuckabum Creek, Boguelichitto Creek, Tombigbee River, Mobile River, Turkey Creek, Red Creek, Bucatuuna Creek, Chickasawhay River, Pascagoula River, Brushy Creek, Pond Creek, Flat Creek, Escatawpa River, Big Creek, Nobodies Creek, Franklin Creek, Apalachicola River, Chatahoochee River, Chipola River, Marshall Creek, Choctawhatchee River, Hurricane Creek, Ten Mile Creek, Wright Creek, Holmes Creek, Yellow River, Blackwater River, Juniper Creek below Sweetwater, Sweetwater Creek, Coldwater Creek below East Fork, East Fork of Coldwater Creek, Escambia River, Perdido River, Brushy Creek, Spring Creek, Alamuchee Creek, Escatawpa River, Big Creek, Brushy Creek, Red Creek, Bear Creek, Cypress Creek, L. Cypress Creek, Butler Creek, Bluewater Creek, Second Creek, Sugar Creek, Elk River, Flint River, Crow Creek, tidal portions of Bay Minette Creek, Tensaw River, Chicasaw Creek, West Fowl River, Fowl River, tidal estuaries of Perdido Bay, Wolf Bay, Oyster Bay, Bon Secour Bay, Mobile Bay, Portersville Bay, Grand Bay, Pelican Bay.

WILLIAM D. RUCKELSHAUS,
Administrator.

FEBRUARY 10, 1971.

[FR Doc.71-2109 Filed 2-16-71;8:47 am]

CHEMAGRO CORP.

Notice of Withdrawal of Petition Regarding Pesticide

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408

(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of Petitions Without Prejudice* of the pesticide procedural regulations (21 CFR 420.8), Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, has withdrawn its petition (PP 0F0976), notice of which was published in the FEDERAL REGISTER of June 9, 1970 (35 F.R. 8896), proposing establishment of tolerances for residues of the insecticide *O,O*-dimethyl - *S* - [4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in or on the raw agricultural commodities corn forage and fodder at 5 parts per million and corn (kernel plus cob with husk removed) at 0.1 part per million.

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2114 Filed 2-16-71;8:48 am]

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1072) has been filed by the Niagara Chemical Division, FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing the establishment of tolerances (21 CFR Part 420) for negligible residues of the fungicide dichlone in or on the raw agricultural commodities almonds and pears at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the fungicide is a gas chromatographic procedure using an electron capture detector.

Dated February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2115 Filed 2-16-71;8:48 am]

HAZELTON LABORATORIES, INC.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with section 420.8 *Withdrawal of Petitions Without Prejudice* of the pesticide procedural regulations (21 CFR Part 120.8), Hazelton Laboratories, Inc., Post Office Box 30, Falls Church, VA 22046, has withdrawn its petition (PP 9F0766), notice of which was published in the FEDERAL REGISTER of December 3, 1968 (33 F.R. 17927/28), proposing the establishment of tolerances for negligible residues of the insecticide rotenone in meat, fat, and meat byproducts of cattle, goats, hogs, and sheep and in milk at 0.04 part per million.

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2116 Filed 2-16-71;8:48 am]

5,6 - DICHLORO - 1 - PHENOXYCARBONYL - 2 - TRIFLUOROMETHYLBENZIMIDAZOLE

Notice of Reextension of Temporary Tolerance

The Fisons Corp., 51 Eames Street, Wilmington, MA 01887 was granted a temporary tolerance of 0.75 part per million for residues of the insecticide 5,6-dichloro-1-phenoxycarbonyl-2-trifluoromethylbenzimidazole in or on the raw agricultural commodity apples on May 28, 1968, and the temporary tolerance was extended to May 21, 1970. The petitioner received reextension of the temporary tolerance at 1 part per million which will expire May 21, 1971.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(1) of that Act (21 U.S.C. 346a(1)) and under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135k) were also transferred to the Administrator.

The firm has requested further reextension to obtain additional experimental data. The Fish and Wildlife Service, U.S. Department of Interior advise that it has no objection to reextension of this temporary tolerance. It is concluded that such a reextension will protect the public health.

A condition under which this temporary tolerance is reextended is that the insecticide will be used in accordance with the temporary permit issued by the Agency. Distribution will be under the Fisons Corp.'s name.

This temporary tolerance reextension will expire January 1, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and pursuant to Reorganization Plan No. 3 of 1970 (35 F.R. 15623) and under authority delegated to the Commissioner or Acting Commissioner, Pesticides Office of the Environmental Protection Agency (36 F.R. 1228).

Dated: February 10, 1971.

RAYMOND E. JOHNSON,
Acting Commissioner.

[FR Doc.71-2113 Filed 2-16-71;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

FEBRUARY 11, 1971.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on March 22, 1971, the following applications by stations KSET and KTUC for increases in daytime power of their Class IV standard broadcast stations, will be considered as ready and available for processing:

BP-18961	KSET, El Paso, Tex. Rio Grande Broadcasting Co. Has: 1340 kc., 250 w., U. Req: 1340 kc., 250 w., 1 kw.-LS, U.
BP-18965	KTUC, Tucson, Ariz. KTUC, Inc. Has: 1400 kc., 250 w., U. Req: 1400 kc., 250 w., 1 kw.-LS, U.

The purpose of this notice is not to invite applications which may conflict with the listed applications, but to apprise any party in interest who desires to file pleadings concerning the applications pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, of the necesssity of complying with § 1.580(i) of the Commission's rules governing the time of filing and other requirements relating to such pleadings.

Adopted: February 9, 1971.

Released: February 11, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-2143 Filed 2-16-71;8:50 am]

[Docket No. 19148; FCC 71-119]

ALL-AMERICA CABLES AND RADIO, INC., ET AL.

Memorandum Opinion and Order Instituting Investigation

In the matter of All-America Cables and Radio, Inc., for authority pursuant to section 214 of the Communications Act to convey, on an indefeasible right of user basis, capacity in the San Juan/Cayey Microwave System for television transmission and in the matter of Cable & Wireless/Western Union International, Inc., ITT World Communications Inc., and RCA Global Communications, Inc., proposed tariff revisions providing for television transmission rates between a satellite and Puerto Rico reflecting the opening of the San Juan International television control center as the point of interconnection.

1. The Commission has before it: (a) An application filed by All-America Cables and Radio, Inc. (AACR), on September 17, 1970, for authority to convey, on an Indefeasible Right of User (IRU) basis, to Cable & Wireless/Western Union International, ITT World Communications and RCA Global Communications (Joint Carriers) capacity in the San Juan/Cayey Microwave System for television transmission and reception; (b) proposed revisions to Joint Tariff FCC No. 2 filed on August 28, 1970, now scheduled to become effective February 11, 1971,[1] providing for revised television

[1] Originally scheduled to become effective Oct. 1, 1970, but now voluntarily extended and revised by the Joint Carriers under Special Tariff Permissions 6035, 6043, 6066, 6111, and 6118.

transmission rates between a satellite and Puerto Rico and establishing San Juan as the interconnection point for television service;[2] (c) petitions filed by WAPA-TV Broadcasting Corp. (WAPA) and Ponce Television Corp. (WRIK) on September 17, 1970, and by Telemundo Inc. (WKAQ), on October 12, 1970, to suspend and investigate the proposed revisions, or in the alternative, to reject the tariff outright; and (d) applications filed by WAPA and WKAQ to be designated as an authorized user to take television service directly from Comsat at the Cayey Earth Station and related petitions in support and opposition of the requests for authorized user status.[3]

2. In our decision in Dockets 18072/18073/18074 (15 FCC 2d 1, 17) granting to AACR the authority to construct the San Juan/Cayey Microwave System, we ordered that before AACR could dispose of any circuit capacity in the system, it must first secure Commission approval. The instant application of AACR is in compliance with this order. However, the application and supportive data supplied to the Commission falls short of providing us with enough information to determine whether the conveyance of the IRU to the Joint Carriers is in the public interest, and whether the interconnection point for Puerto Rican television service should be moved from the Cayey Earth Station to the San Juan Television Control Center. We feel that a hearing is necessary to determine whether it is in the public interest to grant AACR's application and, as a result, change the interconnection point in Puerto Rico.

3. We note that the tariff provisions relating to television service from Cayey will terminate on February 11, 1971, and the Joint Carriers will not have the facilities to operate out of San Juan at the time their proposed tariff revisions are scheduled to take effect. This would act as a discontinuance of television service in Puerto Rico. The Joint Carriers do not have our authorization to discontinue television service in Puerto Rico. Therefore, the Joint Carriers' proposed revisions providing for rates for television service from San Juan are rejected for filing since they would be in violation of the Act and the Joint Carriers are granted permission to extend, without expiration date, the current Cayey rates, pending the outcome of the hearing in this matter or further authorization of the Commission.

4. In the event that we grant AACR's application and the Joint Carriers refile the proposed revisions for service from San Juan, questions have still been raised about the reasonableness of the Joint Carriers' proposed rates from San Juan concerning cost justification, projected usage, and anticipated revenue used in developing the offering. We are unable to determine, at this time, whether the charges contained in the proposed tariff revisions will then be just and reasonable and otherwise lawful within the meaning of section 201(b) of the Communications Act, and therefore, an investigation will also be instituted to determine whether these proposed rates will be lawful, if and when they are allowed to take effect. Since increased charges are involved, the Joint Carriers shall have the burden of proving the justness and reasonableness of the increased charge.

Accordingly, it is ordered, Pursuant to sections 4(i), 201, 204, 205, 214, and 403 of the Communications Act, that an investigation is hereby instituted to determine if it is in the public interest to grant AACR's application to convey by IRU to the Joint Carriers circuit capacity in the San Juan/Cayey Microwave System and thus change the point of interconnection for Puerto Rican television service and to determine the lawfulness of the tariff matter specified in footnote 2 hereinabove and any amendments, cancellations, or successive issuances, thereof, proposed during the pendancy of the investigation;

It is further ordered, That without in any way limiting the scope of the proceeding, it shall include inquiry into the following:

(1) Whether it is in the public interest: (a) to grant AACR's application to convey the IRU to the Joint Carriers and enable television service to be provided from San Juan only, (b) to allow service to be provided, at reasonable rates, from both Cayey and San Juan, or (c) to maintain television service from only Cayey;

(2) Whether the charges contained in the Joint Carriers' proposed revisions are, or will be, just and reasonable and therefore lawful under section 201(b); and, whether the rates currently in effect at Cayey are just and reasonable, and therefore lawful, under section 201(b);

(3) Whether the Commission should prescribe just and reasonable charges to be hereafter followed with respect to service at (a) San Juan, (b) San Juan and Cayey, and (c) Cayey; and, if so, what charges should be prescribed;

(4) Whether the basis of projected demand for service was reasonable;

(5) What service Comsat provides before turning the television signal over to the Joint Carriers, and what the technical specifications and quality of the signal that is turned over to the Joint Carriers are;

(6) What signal quality is required by the broadcasters at Cayey and what must be done by the Joint Carriers to condition the signal received at Cayey from Comsat to reach this required level;

(7) What equipment is necessary to provide this quality requirement;

(8) What costs would be incurred for program transmission by the broadcasters if service were taken from the joint carriers (a) at Cayey and (b) at San Juan;

(9) How many broadcasters have taken or will take service from Cayey and how many broadcasters will take service from San Juan;

(10) How was the price determined for the IRU and related expenses;

(11) Who is responsible for the quality of the signal at the interface between the microwave and the television control center at San Juan; what equipment is necessary to perform this function, what does it cost, and what is the quality level of the signal when it reaches the interface;

(12) What is the quality level of the signal when it reaches the television control center, what quality level is required by the broadcasters, what equipment is necessary to perform this service, and what is its cost;

It is further ordered, That all pleadings filed in this matter are granted to the extent that they are consistent with the above memorandum opinion and order and denied in all other respects.

It is further ordered, That a hearing be held in the proceeding at the Commission's offices in Washington, D.C., at a time to be specified in a subsequent order and that the hearing examiner designated to preside at the hearing shall prepare an initial decision, which shall be subject to the submission of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR §§ 1.276 and 1.277) after which the Commission shall issue its decision as provided in § 1.282 of the rules (47 CFR § 1.282).

It is further ordered, That All America Cables and Radio, Inc., Cable & Wireless/Western Union International, Inc., ITT World Communications, Inc., and RCA Global Communications, Inc., are made parties respondent to this proceeding; and, WAPA-TV Broadcasting Corp., Ponce Television Corp., Telemundo, Inc., and the Chief, Common Carrier Bureau are hereby made parties to this proceeding. The Communications Satellite Corp. is hereby made a party to this proceeding concerning issue No. 5 above.

Adopted: February 3, 1971.

Released: February 10, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-2146 Filed 2-16-71;8:50 am]

[2] The specific tariff pages in issue are 2d Revised Supplement page, 13th Revised page 1, 8th Revised page 10, 11th Revised page 11, and 3d Revised page 13. Also, in issue are 6th Revised page 10, 2d Revised page 11, and 1st Revised page 13.

[3] As for the petitions of WAPA and WKAQ to be designated as an authorized user capable of dealing directly with Comsat for television service and related petitions in support and opposition, they will be held temporarily in abeyance.

[4] Commissioners Burch, chairman; Johnson and Houser not participating.

[Dockets Nos. 18912, 18913; FCC 71R-47]

FOLKWAYS BROADCASTING CO., INC. AND HARRIMAN BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Folkways Broadcasting Co., Inc., Harriman, Tenn., Docket No. 18912, File No. BPH-5495;

F. L. Crowder, trading as Harriman Broadcasting Co., Harriman, Tenn., Docket No. 18913, File No. BPH-5537; for construction permits.

1. This proceeding involves the mutually exclusive applications of Folkways Broadcasting Co., Inc. (Folkways), and F. L. Crowder, trading as Harriman Broadcasting Co. (Harriman) for a permit to construct and operate a new FM broadcast station on Channel 224A in Harriman, Tenn. Folkways is presently the licensee of standard broadcast Station WHBT in Harriman. By Order, FCC 70-736, released July 14, 1970, the Commission designated the two applications for hearing on several issues, including financial qualifications issues directed against both applicants. Subsequently, the Review Board specified a limited § 1.65 issue against Folkways (FCC 70R-363, released October 28, 1970, 26 FCC 2d 175, 20 RR 2d 528 (1970).[1] Presently before the Review Board is a petition to enlarge or modify issues, filed December 4, 1970, by Harriman, seeking enlargement or modification of the § 1.65 issue.[2]

2. In support of its request, petitioner claims that information has recently come to its attention through an amendment request filed November 23, 1970, by Folkways,[3] which requires exploration at the hearing under the already specified § 1.65 issue. First, it asserts that Folkways' ownership reports for Station WHBT are untimely and inaccurate. Harriman avers that Folkways' first ownership report, submitted to the Commission in June 1966, in connection with its WHBT application, revealed no preferred stock outstanding, while the next ownership report, filed on March 21, 1967, specified three persons who had acquired preferred stock interests a full year earlier. Thus, Folkways' instant application, filed in July of 1966, referred to the June 1966 report, which was, according to the petitioner, inaccurate. A further discrepancy, insists Harriman, appears in the April 15, 1970 ownership report wherein no ownership interest is shown for Jess Pearman; yet, a June 5, 1970 amending letter indicates that Pearman had acquired 50 shares of preferred stock more than 3 years earlier. In addition, Harriman claims that Folkways' recent petition for leave to amend revealed for the first time in this proceeding that 250 shares of $100 par value preferred stock are held by five persons; it is this amendment, contends Harriman, which brought to light the heretofore undiscovered information. Thus, Harriman asserts, Folkways' "vague and contradictory" ownership reports, and its failure to keep its instant application up-to-date, warrant a full evidentiary inquiry. Next, petitioner alleges that Folkways' recent submission of additional financial information, i.e., a June 30, 1970 balance sheet, demonstrates that significant and substantial changes have occurred in Folkways' financial position. In comparing Folkways' balance sheets of April 30, 1966, and June 30, 1970, petitioner submits that the stockholders' net worth fell from $85,607.35 to $18,397; that Folkways' long term debt increased almost $60,000; and that its assets decreased by almost $5,000. Further, petitioner asserts, the disassociation from Folkways by Grant E. Roberts and William R. Carrigan (former stockholders) evidences an additional undisclosed change in Folkways' financial position since they were two of the three endorsers of the proposed bank loan. These unreported substantial and significant changes, maintains Harriman, constitute a clear violation of § 1.65. Thus, since the Review Board, in specifying the § 1.65 issue, limited its scope to "matters specifically referred to in [that] Memorandum Opinion and Order", and in light of this newly discovered information, Harriman concludes that the § 1.65 issue should be enlarged or modified in order to permit full exploration of Folkways' alleged violations of the Commission's rules.

3. Folkways opposes the instant request mainly on the ground that it is untimely—nothing, insists Folkways, contained in Harriman's petition was not available and could not be ascertained at the time of its request for the § 1.65 issue (August 3, 1970). Folkways avers that its June 1970 ownership report and a balance sheet filed April 28, 1970, is a part of WHBT's renewal application and specifically names the five individuals holding preferred stock. Further, Folkways asserts that the omissions cited by Harriman were all corrected and brought up-to-date prior to designation. As to its financial position, Folkways submits that the Board, in considering Harriman's first petition to enlarge issues, denied the request for an inquiry into Folkways alleged failure to report changes in its financial situation because it had not been shown that there had been substantial or significant changes in Folkways' financial status. Before the Board at that time, Folkways notes, were the 1966 balance sheet and a balance sheet dated March 31, 1970, filed in connection with Folkways' AM renewal application. According to Folkways, the June 30, 1970 balance sheet shows little change from the March 31st balance sheet which was considered by the Review Board; therefore, Folkways contends, Harriman's comparison of the 1966 balance sheet with the June 1970 balance sheet is simply an attempt to reargue what has already been decided by the Board. Thus, Folkways concludes, petitioner's requests should be denied. The Broadcast Bureau, in its comments, opines that Harriman has satisfactorily raised questions concerning Folkways' change in ownership picture; however, it does not agree that Folkways' financial status requires modification of the § 1.65 issue. The Bureau contends that the bank loan was also endorsed by Kenneth J. Crosthwait and that his commitment on the bank loan is still valid. The Bureau also argues that the change in the shareholders' equity would only be significant if it affects Folkways' ability to finance its proposed stations, and that this question can adequately be explored under the financial issue heretofore designated.

4. Asserting that Folkways' opposition is entirely devoid of any discussion of the substantive questions raised in its petition, Harriman, in reply, reiterates that Folkways has added a new dimension to its FM application. The fact that information concerning the preferred stockholders was included in an ownership report filed by Folkways does not cure the defect, insists petitioner, for such changes must be reported by amending the pending application or by furnishing a statement for the record containing the appropriate information. Therefore, Harriman alleges, Folkways did not properly report the stock transactions. As to the change in financial status, Harriman maintains that the question is not whether Folkways filed current information in the public files of the Commission, but whether it timely amended its instant FM application to indicate that its financial situation had substantially changed. The fact remains, submits Harriman, that 4 years had passed before Folkways revealed the "radical change" in its financial position. Finally, Harriman claims that its request is for a determination of whether Folkways failed to furnish complete and accurate information concerning its financial qualifications, not to determine whether Folkways is financially able to finance the station.

5. The Review Board is of the opinion that the scope of the existing § 1.65 issue should be broadened to include an inquiry into all of the matters brought to our attention by Harriman's petition. Folkways does not deny its failure to keep its application up-to-date regarding its ownership and financial status, but, rather, insists that because this information was on file with the Commission elsewhere and because Harriman did not bring forth this "readily available information" in its previous petition, a § 1.65 inquiry is not required. In our opinion, neither of Folkways' arguments is valid. First, as the Review Board clearly stated in its prior memorandum opinion and order, supra, specifying the § 1.65 issue:

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[1] The issue, which was added at the request of Harriman, reads as follows:

To determine whether the Folkways Broadcasting Co., Inc., has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in matters specifically referred to in this memorandum opinion and order, and, if not, to determine the effect of such noncompliance on the basic and comparative qualifications of Folkways Broadcasting Co., Inc., to be a Commission permittee.

[2] Also before the Board for consideration are: (a) Opposition, filed Dec. 18, 1970, Folkways; (b) comments, filed Dec. 18, 1970, by the Broadcast Bureau; and (c) reply, filed Dec. 23, 1970, by Harriman. The Broadcast Bureau's petition to accept late filed pleading, filed Dec. 18, 1970, will be granted and the Bureau's pleading will be accepted.

[3] Folkways' petition for leave to amend was granted, and the amendment accepted, by the Hearing Examiner by Order, FCC 71M-36, released Jan. 8, 1971.

It is no defense that the application was lying dormant for over 4 years, that the changes are reported elsewhere in the Commission's files, or that the FM application incorporates by reference those files. By its terms, § 1.65 applies "from the time [the application] is accepted for filing by the Commission" (in this case, July 22, 1966), and not from the time of designation for hearing, as Folkways suggests. Dormancy, therefore, is no excuse. Furthermore, it is well established Commission policy that the requirements of § 1.65 are not met by filing information in ownership reports or license files. [26 FCC 2d at 177, 20 RR 2d at 532. See also Hartford County Broadcasting Corp., 9 FCC 2d 698, 701, 10 RR 2d 1083, 1088 (1967).]

Second, while an applicant is required to scrutinize its opponent's application to determine if there are any factors reflecting on its basic or comparative qualifications,[4] it is not obliged to scour the latter's entire history with the Commission to determine whether anything reported with the Commission should be in the now pending application. It is incumbent upon Folkways, not Harriman, to insure that its application is current. Report and Order in Docket 14867 (Reporting of Changed Circumstances), 29 FR 15516, 3 RR 2d 1622 (1964); Lawrence County Broadcasting Corp., 15 FCC 2d 910, 15 RR 2d 482 (1969). Thus, even though Harriman has previously requested a § 1.65 issue, it is not precluded from requesting further inquiry under that issue upon the discovery of facts recently brought to light. Folkways' specific objection against inquiry into its alleged failure to report its changed financial status on the ground that Harriman is "rearguing" its previous request is without merit. In our memorandum opinion and order we held that, absent facts, indicating a substantial and significant change in financial status, Folkways' 4-year old financial showing does not, standing alone, warrant the addition of a § 1.65 issue. However, there we limited our holding to the circumstance where a balance sheet is simply old without any demonstration of change in financial status; and, we did not have before us information concerning the two endorsers of the bank loan who have now left the corporation. As to the latter information, while we agree with the Broadcast Bureau that respondent still has one endorser for the loan, it is not unreasonable to believe that one endorser, when the bank originally required three, may be unacceptable. Thus, the new balance sheet, which is the only one filed in this proceeding since 1966, and the decrease in the number of endorsers, represent, in our view, significant changes in Folkways' application. Cf. Media, Inc., 23 FCC 2d 729, 19 RR 2d 268 (1970). Likewise, the reporting for the first time in its recent amendment that five individuals own preferred stock, heretofore unknown in this proceeding, warrants inquiry under the existing issue. Therefore, in view of the foregoing, Harriman's petition will be granted.[5]

6. *Accordingly, it is ordered,* That the Broadcast Bureau's petition to accept late filed pleading, filed December 18, 1970, is granted, and the accompanying pleading is accepted; and

7. *It is further ordered,* That the petition to enlarge or modify issues, filed December 4, 1970, by Harriman Broadcasting Co., is granted; and

8. *It is further ordered,* That the § 1.65 issue specified in this proceeding, is modified to read as follows:

To determine whether the Folkways Broadcasting Co., Inc., has complied with the provisions of § 1.514 and/or § 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in matters specifically referred to in this memorandum opinion and order and in our previous memorandum opinion and order, 26 FCC 2d 185, 20 RR 2d 528 (1970), and, if not, to determine the effect of such noncompliance on the basic and comparative qualifications of Folkways Broadcasting Co., Inc., to be a Commission permittee.

Adopted: February 9, 1971.

Released: February 10, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-2147 Filed 2-16-71;8:51 am]

[4] Cf. Section 1.229 of the Commission's rules.

[5] Although the conduct in question here is alleged to violate section 1.65 of the rules, it appears that such conduct may also involve section 1.514 of the rules (relating to the contents of applications). The issue will therefore be modified accordingly. Cf. Media, Inc., 25 FCC 2d 625, 20 RR 2d 146 (1970).

[Dockets Nos. 19145, 19146; FCC 71-112]

SOUND, INC., AND PIKEVILLE BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Sound, Inc., of Livingston, Tennessee, Livingston, Tenn., requests: 1110 kc., 250 w., Day, Docket No. 19145, File No. BP-18041; Proctor Upchurch, trading as Pikeville Broadcasting Co., Pikeville, Tenn., Requests: 1110 kc., 250 w., DA-Day; Docket No. 19146, File No. BP-18170; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in prohibited overlap of contours as defined by § 73.37 of the Commission's rules.

2. According to the information in its application, Sound, Inc., would require $73,500 to construct and operate its proposed station for one year without revenue. In order to meet these costs, applicant relies on cash of $24,800 and a prospective bank loan of $50,000. The loan commitment letter, however, in addition to not being current, requires the personal endorsement of "some or all" of the stockholders. However, there has been no showing that the stockholders are willing to make themselves personally liable on the loan. Accordingly, a financial issue will be included.

3. Pikeville Broadcasting Co.'s application indicates that $60,400 would be needed to construct and operate for one year without revenue. To meet these needs the applicant relies on his own resources and a bank loan of $40,000. Although the applicant's total assets are sufficient, his personal balance sheet shows only $5,000 in available liquid assets as defined in the instructions to section III of FCC Form 301. In addition, the bank loan commitment is not current. Furthermore, funds will have to be made available for the leasing of the land and a building. Accordingly, a financial issue is also required for this applicant.

4. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1969), citly of Camden (WCAM), 18 FCC 2d 412 (1969), and more recently our proposed Primer on Ascertainment of Problems by Broadcast Applicant, 34 FR 20282, 20 FCC 2d 880, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. In this case, neither one of the applicants has made more than a cursory attempt to satisfy the Commission's requirements. Neither applicant has supplied any information concerning the composition of its town. The persons consulted either constitute an inadequate sampling or, as in the case of Pikeville Broadcasting, have not even been listed in the application. Neither applicant has conducted a general audience survey. Accordingly, Suburban issues are required as to both applicants.

5. The plot of the radiation pattern submitted by Pikeville Broadcasting Co. appears to contain errors in the values of radiated field, and the scale on the pattern is inconsistent. Accordingly, an appropriate issue in this regard will be included.

6. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary aural (1 mv/m or greater in the case of FM) service to such areas and populations.

(2) To determine whether the $50,000 bank loan to Sound, Inc., is available and

in light thereof whether the applicant is financially qualified to construct and operate its proposed station.

(3) To determine whether Pikeville Broadcasting Co. is financially qualified to construct and operate its proposed station.

(4) To determine the efforts made by Sound, Inc., of Livingston, Tenn., to ascertain the community needs and interests of the area to be served, and the means by which it proposes to meet those needs and interests.

(5) To determine the efforts made by Pikeville Broadcasting Co. to ascertain the community needs and interests of the area to be served, and the means by which it proposes to meet those needs and interests.

(6) To determine whether the antenna radiation pattern submitted by Pikeville Broadcasting Co. accurately depicts values of radiation which would be determined from the proposed antenna parameters.

(7) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(8) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either of the applications should be granted.

8. *It is further ordered*, That, to avail themsleves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is furthered ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: February 3, 1971.

Released: February 9, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-2148 Filed 2-16-71;8:51 am]

[1] Commissioner Houser not participating.

FEDERAL HOME LOAN BANK BOARD

[H. C. No. 88]

IMPERIAL CORPORATION OF AMERICA

Notice of Receipt of Application for Approval of Acquisition of Control of Colonial Savings and Loan Association of the South

FEBRUARY 11, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Imperial Corporation of America, San Diego, Calif., a multiple savings and loan holding company, for approval of acquisition of control of the Colonial Savings and Loan Association of the South, Los Angeles, Calif., an insured institution under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the exchange of the guarantee stock of Colonial Savings and Loan Association of the South for stock of Imperial Corporation of America. Following the proposed acquisition, Imperial Corporation proposes to merge Colonial Savings and Loan Association of the South, into Imperial Savings and Loan Association of Newport-Pasadena, an insured subsidiary of Imperial Corporation. Comments on the proposed acquisitions should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this Notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.

[FR Doc.71-2136 Filed 2-16-71;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. G-11181 etc.]

GAS GATHERING CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

FEBRUARY 8, 1971.

Gas Gathering Corp. and other applicants listed herein, Docket No. G-11181 et al.; Bruce L. Wilson (Operator) et al., Docket No. CI71-493.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued January 28, 1971, and published in the FEDERAL REGISTER February 6, 1971, 36 F.R. 2578, column 1, Docket No. CI71-493: Change filing date to read "12-28-70" in lieu of "12-28-71".

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2096 Filed 2-16-71;8:46 am]

[Docket No. G-4421 etc.]

HASSIE HUNT TRUST ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

FEBRUARY 8, 1971.

Hassie Hunt Trust (Operator) et al. and other applicants listed herein, Docket No. G-4421 et al.; J. M. Huber Corp., Docket No. CI62-552.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued January 20, 1971, and published in the FEDERAL REGISTER January 29, 1971, 36 F.R. 1441, column 1: Change Docket No. "CI62-522" to read "CI62-552".

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2097 Filed 2-16-71;8:46 am]

MOBIL OIL CORP. ET AL.

Findings and Order After Statutory Hearing; Correction

FEBRUARY 3, 1971.

Mobil Oil Corp. (Operator) et al., and other applicants listed herein, Docket No. G-13324, et al.; Ashland Oil, Inc., Docket No. CI71-404.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, canceling docket numbers, amending orders issuing certificates, dismissing application, permitting and approving abandonment of service, terminating certificates, substituting respondent, making successors co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, requiring filing of surety bond, accepting agreement and undertaking for filing and accepting related rate schedules and supplements for filing, issued January 8, 1971, and published in the FEDERAL REGISTER 36 F.R. 642, column 4: Change the date of the contract to read "10-20-70" in lieu of "11-20-70" related to Ashland Oil, Inc., FPC Gas Rate Schedule No. 202, in Docket No. CI71-404.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2098 Filed 2-16-71;8:46 am]

[Docket No. E-7602]

CENTRAL TELEPHONE & UTILITIES CORP.

Notice of Proposed Rate Schedule Changes

FEBRUARY 8, 1971.

Take notice that on January 29, 1971, Central Telephone & Utilities Corp. (Central) filed rate schedule changes with the Commission affecting the rates in its Western Power Division for service to 10 Rural Electric Cooperatives and 13 municipal wholesale customers operating in Kansas.[1]

The filings propose to increase the rates charged for electric service and change the neutral zone of the fuel adjustment clause from 17-19 cents to 24-26 cents per million B.t.u. Central proposes to make the rate changes effective April 1, 1971.

According to Central, based upon a test year ending June 30, 1970, the effect of the rate change would increase Western's revenues by $1,160,622 from the cooperatives and $173,389 from the municipalities. The average charge per kilowatt-hour would be increased from 0.89 cent per kilowatt-hour to 1.53 cents per kilowatt-hour for the cooperatives and from 1.33 cents per kilowatt-hour to 1.93 cents per kilowatt-hour for the municipalities. Central has asked for a rate of return of 8.76 percent on its capital invested in plant and 12 percent on common stock equity based on capitalization at November 30, 1970.

Central states that increases in costs of labor, fuel, taxes, and new debt and preferred stock capital have necessitated this request for rate change.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2100 Filed 2-16-71;8:47 am]

[1] Cooperatives: Ark Valley Electric Cooperative Association, Inc., The C.M.S. Electric Cooperative Association, Inc., The C & W Rural Electric Cooperative Association, Inc., Jewell-Mitchell Cooperative Electric Co., Inc., N.C.K. Electric Cooperative, Inc., The Ninnescah Rural Electric Cooperative Assn., Inc., Norton-Decatur Cooperative Electric Company, Inc., Smoky Hill Electric Cooperative Ass'n., Inc., Sumner-Cowley Electric Cooperative, Inc., Victory Electric Cooperative Ass'n., Inc. Wholesale customers: Cawker City, Cimarron, Coats, Glasco, Glen Elder, Holyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma and Tipton, all in the State of Kansas.

[Docket No. CP71-194]

CITY OF MULBERRY, KANSAS ET AL.

Notice of Application

FEBRUARY 8, 1971.

Take notice that on February 1, 1971, city of Mulberry (Mulberry), Kans. 66756, and city of Liberal (Liberal), Mo. 64762 (applicants), filed in Docket No. CP71-194 an application pursuant to section 7(a) of the Natural Gas Act requesting that Cities Service Gas Co. (respondent) be directed to establish physical connection of its transmission facilities with the facilities to be constructed by applicants and to sell and deliver natural gas to applicants for resale and distribution to meet third year peak day and annual requirements of 965 Mcf and 70,169 Mcf, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicants request the respondent be directed to provide a new delivery point at the end of 4.8 miles of 4.5-inch lateral pipeline to be constructed by respondent from its 6-inch transmission line serving Girard, Kans., to a point approximately 5.4 miles due east of Mulberry, Kans. Applicant, Mulberry, then proposes to construct 9.05 miles of 4.5-inch transmission line from respondent's delivery point to the city of Mulberry and to construct the necessary regulating, odorizing and distributing facilities to introduce natural gas service to the city of Mulberry, Kans. Applicant, Liberal, proposes to construct 5.4 miles of 3.5-inch transmission line from the city of Mulberry to the city of Liberal and to construct the necessary regulating, odorizing and distributing facilities to introduce natural gas service to the city of Liberal, Mo.

Applicants state that each community will own and operate the lateral transmission line and distribution facilities which it will construct. It is further stated that the delivery of gas to Liberal will be made at a metering station to be constructed by Mulberry and that Mulberry will charge Liberal 9 cents per Mcf as a charge for transporting gas for and on behalf of Liberal from the delivery point with respondent to the junction of the Liberal transmission line outside Mulberry. Applicants propose sales of natural gas to rural customers situated along the respective transmission lines.

The estimated cost of the facilities proposed to be constructed by Mulberry is $330,000, and the estimated cost of the facilities proposed to be constructed by Liberal is $220,000. This cost is to be financed, according to the application, by means of Natural Gas Revenue Bonds to be issued by each applicant.

Applicants further state that in projecting their transmission lateral line costs they have reduced these costs in the amount of $91,483, which amount respondent, in 1968, on the basis of its then effective lateral line policy, informally agreed to contribute to construction of the aforementioned 4.8 miles of 4.5-inch lateral line. It is also stated that subsequent to these informal agreements, respondent filed a tariff change, effective October 1, 1968, which provides that it will not make contributions to sales laterals. Applicants request that respondent's present lateral line policy be waived to require construction of the aforementioned 4.8 miles of lateral line by respondent.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2101 Filed 2-16-71;8:47 am]

[Docket No. CP71-9]

LOWELL GAS CO.

Notice of Petition To Amend

FEBRUARY 9, 1971.

Take notice that on February 3, 1971, Lowell Gas Co. (petitioner), 95 East Merrimack Street, Lowell, MA 01853, filed in Docket No. CP71-9 a petition to amend the Commission's order issued pursuant to section 3 of the Natural Gas Act on August 28, 1970, authorizing the importation of liquefied natural gas (LNG) from Canada to the United States, in said docket by authorizing the importation of additional volumes of LNG, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The aforementioned order issued in the subject docket authorized the importation, by petitioner, of a total volume of LNG equivalent to approximately 480,000 Mcf of vaporous gas purchased from Gaz Metropolitain, Inc., in Montreal, Province of Quebec, Canada.

Petitioner proposes herein to purchase and import an additional quantity of LNG equivalent to approximately 150,000 Mcf of vaporous gas. Petitioner states that this volume of LNG will replenish its depleted supply in order to insure a continuity of service to its existing retail customers through the remainder of the 1970-71 winter heating season.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before

March 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2102 Filed 2-16-71;8:47 am]

[Docket No. CP71-195]

MID LOUISIANA GAS CO.

Notice of Application

FEBRUARY 9, 1971.

Take notice that on February 3, 1971, Mid Louisiana Gas Co. (applicant), Post Office Box 1707, Shreveport, LA 71102, filed in Docket No. CP71-195 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $250,000 with no single project costing in excess of $50,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1971, 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,
Acting Secretary.

[FR Doc.71-2103 Filed 2-16-71;8:47 am]

[Docket No. CP71-196]

SOUTHERN NATURAL GAS CO.

Notice of Application

FEBRUARY 9, 1971.

Take notice that on February 3, 1971, Southern Natural Gas Co. (applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-196 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale natural gas reserves and related production facilities located in the Big Point Field, St. Tammany Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell its entire interest in the production facilities located in the Big Point Field, with related leasehold interests, wells and reserves to Schaefer Oil & Gas Co., Inc. (Schaefer). Pursuant to the agreement for sale, natural gas reserves of the lease to be transferred to Schaefer will continue to be dedicated to applicant so long as production continues in commercial quantities. Applicant estimates that as of July 1, 1970, the lease hereinbefore described covered 616,666 Mcf of recoverable gas reserves. Schaefer will pay $78,500.00 for the subject facilities and interests.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2104 Filed 2-16-71;8:47 am]

[Docket No. CP68-248]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

FEBRUARY 9, 1971.

Take notice that on February 2, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (petitioner), Tenneco Building, Houston, Tex. 77002, filed in Docket No. CP68-248 a petition to amend the Commission's order issued on May 24, 1968 (39 FPC 862), as amended by order issued May 5, 1970 (43 FPC 698), issuing a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, in said docket by authorizing the construction and operation of certain additional facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The aforementioned orders issued in the subject docket authorized, inter alia, the sale of natural gas to Midwestern Gas Transmission Co. (Midwestern) at a maximum daily volume of 600,780 Mcf. This gas was to be delivered to Midwestern through two delivery points, one near Portland, Tenn., and the other near Potomac, Ill. In a related proceeding in Docket No. CP68-246, Trunkline Gas Co. (Trunkline) was authorized to transport and deliver natural gas to Midwestern at Potomac, Ill., for Petitioner's account. This transportation service was authorized, pending completion of additional transmission facilities by petitioner, on a decreasing scale with all deliveries by Trunkline to cease on November 1, 1972.

Petitioner states that additional compressor facilities will be necessary to enable it to transport the increased volumes of natural gas heretofore authorized for delivery to Midwestern. Specifically, petitioner proposes to construct and operate 8,000 additional horsepower compressor facilities at Stations Nos. 527 and 538 and 7,500 additional horsepower compressor facilities at Stations Nos. 542,

546, 550, and 555. The estimated cost of these facilities is $16,203,000, which cost is to be financed from general funds or from revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2105 Filed 2-16-71;8:47 am]

[Docket No. CP68-249]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Petition To Amend

FEBRUARY 9, 1971.

Take notice that on February 2, 1971, Midwestern Gas Transmission Co. (petitioner), Chamber of Commerce Building, Houston, Tex. 77002, filed in Docket No. CP68-249 a petition to amend the Commission's order issued on May 24, 1968 (39 FPC 862), issuing a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, in said docket by authorizing the construction and operation of certain additional compressor facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The aforementioned order issued in the subject docket authorized, inter alia, the purchase of natural gas by petitioner from Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), at a maximum daily volume of 600,780 Mcf. This gas was to be delivered to petitioner through two delivery points, one near Portland, Tenn., and the other near Potomac, Ill. In a related proceeding in Docket No. CP68-246, Trunkline Gas Co. (Trunkline) was authorized to transport and deliver natural gas to petitioner at Potomac, Ill., for the account of Tennessee. This transportation service was authorized, pending completion of additional transmission facilities by Petitioner and Tennessee, on a decreasing scale with all deliveries by Trunkline to cease on November 1, 1972.

Petitioner states that additional compressor facilities will be necessary to enable it to receive increased volumes of natural gas from Tennessee at the Portland, Tenn., delivery point. Specifically, petitioner proposes to construct and operate a 4,000 additional horsepower compressor facility at its existing Station No. 2115, and a new 7,500 compressor facility in Ohio County, Ky. The estimated cost of the facilities proposed herein is $4,220,600, which cost is to be financed with cash on hand, sales of temporary investments, and advances from an associated company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-2106 Filed 2-16-71;8:47 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON FEDERAL PAY

Notice of Intention To Appoint Members

Under the Federal Pay Comparability Act of 1970 (Public Law 91-656), interested parties may recommend to the President for his consideration persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy to serve as members of the Advisory Committee on Federal Pay.

Interested parties may submit their recommendations for such membership to the Director of the Office of Management and Budget within 15 days after publication of this notice in the FEDERAL REGISTER.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.71-2130 Filed 2-16-71;8:49 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 799]

HAWAII

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of January 1971, because of the effects of certain disasters, damage resulted to residences and business property located on the Islands of Oahu, Maui, and Hawaii, Hawaii;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated on the aforesaid islands in the State of Hawaii suffered damage or destruction resulting from high winds and flooding occurring on January 28 and 29, 1971.

OFFICE

Small Business Administration District Office, 1149 Bethel Street, Room 402, Honolulu, HI 96813.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 9, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-2124 Filed 2-16-71;8:49 am]

[Declaration of Disaster Loan Area 800]

WASHINGTON

Declaration of Disaster Loan Area

Whereas, it has been reported that during the months of January and February 1971, because of the effects of certain disasters, damage resulted to residences and business property located in Lewis, Grays Harbor, Thurston, and Whatcom Counties, Wash.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the aforesaid counties suffered damage or destruction resulting from flooding occurring on January 26 through February 1, 1971.

OFFICE

Small Business Administration Regional Office, 1206 Smith Tower, 506 Second Avenue, Seattle, WA 98104.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 9, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-2125 Filed 2-16-71;8:49 am]

[Declaration of Disaster Loan Area 801]

MASSACHUSETTS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1971, because of the effects of certain disasters, damage resulted to residences and business property located in the city of Boston, Mass.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the area of Salem Street and North Margin Street in the aforesaid city suffered damage or destruction resulting from fire occurring on February 1, 1971.

OFFICE

Small Business Administration Regional Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 8, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-2126 Filed 2-16-71;8:49 am]

[Declaration of Disaster Loan Area 802]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1971, because of the effects of certain disasters, damage resulted to residences and business property located in Los Angeles County, Calif.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the aforesaid county and areas adjacent thereto suffered damage or destruction resulting from earthquake occurring on February 9, 1971.

OFFICE

Small Business Administration District Office, 849 South Broadway, Los Angeles, CA 90014.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1971.

Dated: February 9, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-2127 Filed 2-16-71;8:49 am]

[Delegation of Authority No. 30-E (Region III), Amdt. 2]

REGIONAL DIVISION CHIEFS, ET AL.

Delegation of Authority To Conduct Program Activities in Region III

Pursuant to the authority delegated to the regional director by Delegation of Authority No. 30-E (35 F.R. 6033), as amended (35 F.R. 15033, 35 F.R. 17156, and 36 F.R. 481), Delegation of Authority No. 30-E (Region III), (35 F.R. 7151), as amended (36 F.R. 653), is hereby further amended by revising Item I.A, Item I.B.1, Item II.A, and Item III.A.2, to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share) and to decline them in any amount.

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
Title of persons signing

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

9. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in section 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business loans, displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

II. *District Directors*—A. *Financing Program.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve or decline displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
District Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent

per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

III. *District Division Chiefs, District Counsel and Staffs—A. Chief, Financing Division.* * * *

2. To approve or decline displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share).

* * * * *

Effective date: January 11, 1971.

RUSSELL HAMILTON, Jr.,
Regional Director, Region III.

[FR Doc.71-2121 Filed 2-16-71;8:48 am]

[Delegation of Authority No. 4.4-1 (Region III) For Designated Disasters]

REGIONAL DIVISION CHIEFS, ET AL.

Delegation of Financial Assistance

Pursuant to the authority delegated to the regional director by Delegation of Authority No. 4.4 (36 F.R. 1297), the following authority is hereby redelegated:

1. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgage, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

a. Chief and Assistant Chief, Regional Financing Division, for the following disasters:

(1) Pennsylvania, Cumberland, Disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

b. District Director and Chief, District Financing Division, Washington, D.C., for the following disasters:

(1) Virginia, Alexandria and adjacent areas, Disaster No. 778.

2. To decline disaster guaranteed loans in any amount and to approve such loans up to $500,000:

a. Chief and Assistant Chief, Regional Financing Division, for the following disasters:

(1) Pennsylvania, Cumberland, Disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

b. District Director, Washington, D.C., for the following disasters:

(1) Virginia, Alexandria and adjacent areas, Disaster No. 778.

3. To decline disaster guaranteed loans in any amount and to approve such loans up to $350,000:

a. Chief, District Financing Division, Washington, D.C., for the following disasters:

(1) Virginia, Alexandria and adjacent areas, Disaster No. 778.

4. To approve or decline disaster loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) not exceeding $50,000 (SBA share):

a. Regional Supervisory Loan Officer (Financing Division), for the following disasters:

(1) Pennsylvania, Cumberland, Disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

5. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices:

a. Chief and Assistant Chief, Regional Financing Division, for the following disasters:

(1) Pennsylvania, Cumberland, Disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

b. District Director, Washington, D.C., for the following disasters:

(1) Virginia, Alexandria and adjacent areas, Disaster No. 778.

Effective date: January 11, 1971.

RUSSELL HAMILTON, Jr.,
Regional Director, Region III.

[FR Doc.71-2122 Filed 2-16-71;8:48 am]

[Delegation of Authority No. 30-F (Region I) Amdt. 3]

REGIONAL DIVISION CHIEFS, ET AL.

Delegation of Authority To Conduct Program Activities in Region I

Pursuant to the authority delegated to the regional director by Delegation of Authority No. 30-F (35 F.R. 6886), as amended (35 F.R. 15033, 35 F.R. 17156, and 36 F.R. 481), Delegation of Authority No. 30-F (Region I) (35 F.R. 8845), as amended (35 F.R. 18351 and 36 F.R. 1298), is hereby further amended by revising Item I.A, Item I.B.1, Item II.A, and Item III.A.2, to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs—A. Chief and Assistant Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve displaced business loans, and coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share) and to decline them in any amount.

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approval loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
Title of person signing.

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

9. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business loans, displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

II. *District Directors—A. Financing Program.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To approve or decline displaced business loans, coal mine health and safety loans and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator.

By ----------
(Name)

District Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in section 120.2(e) of SBA Loan Policy Regulations.

* * * * *

III. *District Division Chiefs, District Councel, and Staffs*—A. *Chief Financing Division.* * * *

2. To approve or decline displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to $350,000 (SBA share).

* * * * *

Effective date: January 11, 1971.

DAVID P. HEILNER,
Regional Director, Region I.

[FR Doc.71-2123 Filed 2-16-71;8:48 am]

TARIFF COMMISSION

[TEA-W-77]

WORKER'S PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISANCE

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers employed at the Emerson Television and Radio Co., 14th and Cole Streets, Jersey City, NJ, the U.S. Tariff Commission, on February 11, 1971, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with television receivers, radios, and phonographs produced by said firm in its plant at said address are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such manufacturing company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: February 11, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-2160 Filed 2-16-71;8:52 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 11, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 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.

LONG-AND-SHORT HAUL

FSA No. 42130—*Alcohol from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-209), for interested rail carriers. Rates on allyl alcohol, octyl alcohol, and hexylene glycol, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Chicago, Ill.; and points taking same rates.

Grounds for relief—Commodity relationship.

Tariff—Supplement 63 to Southwestern Freight Bureau, agent, tariff ICC 4867.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-2149 Filed 2-16-71;8:51 am]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72421. By order of February 8, 1971, Division 3, acting as an Appellate Division, approved the transfer to Schreiber Freight Lines, Inc., Pittsburgh, Pa., of the operating rights in Certificate No. MC-59120 (Sub-No. 11), issued March 26, 1956, to Eazor Express, Inc., Pittsburgh, Pa., authorizing the transportation of general commodities with specified exceptions between Chicago, Ill., and Pittsburgh, Pa., over a regular route serving specified intermediate and off-route points. Gerald S. Lesher, 1018 Frick Building, Pittsburgh, PA 15219, attorney for transferee. Daniel L. Carn, Eazor Square, Pittsburgh, PA 15201, attorney for transferor.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-2150 Filed 2-16-71;8:51 am]

[Notice 647]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72513. By order of February 5, 1971, the Motor Carrier Board approved the transfer to Dan's Transit, Inc., Delmont, Pa., of portion of the operating rights in Certificate No. MC-36889 issued February 6, 1958, to C. Rickard & Sons, Inc., Bridgeport, Conn., authorizing the transportation of commodities, the transportation of which because of size or weight requires the use of special equipment, and related machinery parts and related contractors' materials and supplies, when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, between points in that part of Connecticut west of the Connecticut River, on the one hand, and, on the other, points in Vermont, New Hampshire,

Massachusetts, Rhode Island, New York, New Jersey, and Pennsylvania; and scrap brass, bronze, copper, and cupronickel, loose, in bulk, between Bridgeport, Conn., on the one hand, and, on the other, New York, N.Y., points in Hudson, Bergen, Passaic, Essex, and Union Counties, N.J., points in that part of Middlesex County, N.J., north of the Raritan River, and points in Westchester, Rockland, Nassau and Suffolk Counties, N.Y. Noel F. George, Columbus Center, 100 East Broad Street, Columbus, OH 43215, and Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117, attorneys for applicants.

No. MC–FC–72548. By order of February 2, 1971, Motor Carrier Board approved the transfer to James R. Voss, Route 1, South Sioux City, NE 68776, of the certificate in No. MC–43637 issued October 16, 1950, to Tom Rooney, Hubbard, Nebr. 68741, authorizing transportation of: general commodities, except household goods, commodities in bulk and other specified commodities, between Sioux City, Iowa, on the one hand, and, on the other, Hubbard, Nebr., and points in Nebraska within 25 miles of Hubbard.

No. MC–FC–72598. By order of February 3, 1971, the Motor Carrier Board approved the transfer to Potter Transfer, Inc., Waldorf, Md., of the operating rights in certificates Nos. MC–127147 (Sub-No. 1) and MC–127147 (Sub-No. 2) issued February 14, 1968, and October 26, 1966, respectively, to John Thomas Mattingly doing business as Mattingly Motor Lines, Mechanicsville, Md., authorizing the transportation of lumber from points in Calvert, Charles, and St. Marys Counties, Md., to points in New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia, and hardboard sheets and boards from Farmville, N.C., to Atlanta, Ga., Des Moines, Iowa, Wichita, Kans., Lexington and Louisville, Ky., New Orleans, La., Duluth, Minn., Jackson, Miss., Oklahoma City and Tulsa, Okla., Providence, R.I., and Cudahy and Milwaukee, Wis., and to points in Alabama, Connecticut, Florida, Illinois, Maryland, Massachusetts, Missouri, New Hampshire, New York, Pennsylvania, Texas, Vermont, Virginia, and West Virginia. Francis W. McInerny, Macdonald & McInerny, 1000 16th Street NW., Washington, DC 20036, attorney for applicants.

No. MC–FC–72599. By order of February 3, 1971, the Motor Carrier Board approved the transfer to Donald Boettcher, Kenneth Boettcher, and Richard Boettcher, a partnership, doing business as Boettcher Trucking, Spencer, Nebr. 68777, of certificate No. MC–94780 issued to James Klasna, doing business as Klasna Transfer, Spencer, Nebr. 68777, authorizing the transportation of: Commodities of a general commodity nature, including building materials, fertilizer, etc., between Atkinson, Nebr., and Sioux City, Iowa.

No. MC–FC–72633. By order of February 2, 1971, the Motor Carrier Board approved the transfer to Good-Way, Inc., York, Pa., of the operating rights in certificate No. MC–125588 issued May 22, 1964, to Good's Refrigerated Trucking Service, Inc., York, Pa., authorizing the transportation of meats, meat products, and meat byproducts and articles distributed by meat packinghouses from Broadway, Va., and points within 5 miles thereof to points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Nebraska, Rhode Island, South Carolina, Tennessee, and Wisconsin; frozen foods, except dressed poultry, from Staunton and Winchester, Va., and points in Rockingham County, Va., to points in the above-described destination States, with certain exceptions; and from Staunton and Winchester, Va., and points in Rockingham County, Va., except Broadway, Va., and points within 2 miles thereof to points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, North Carolina, West Virginia, South Carolina, Kentucky, Tennessee, and the District of Columbia. Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005, attorney for applicants.

No. MC–FC–72637. By order of February 2, 1971, the Motor Carrier Board approved the transfer to Conduit Rapid Delivery Co., Inc., New York, N.Y., of the operating rights in certificate No. MC–129000 issued January 17, 1968, to R. & M. Freight, Inc., Passaic, N.J., authorizing the transportation of general commodities, with usual exceptions, between New York, N.Y., on the one hand, and, on the other, Bayonne, Clifton, East Paterson, Edgewater, Haledon, Hawthorne, Jersey City, Passaic, Paterson, Totowa, and Weehawken, N.J. Martin Werner, Werner & Alfano, 2 West 45th Street, New York, NY 10036, attorney for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71–2151 Filed 2–16–71;8:51 am]

[Notice 246]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 11, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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 field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 43144 (Sub-No. 10 TA), filed February 5, 1971. Applicant: GUILFORD TRUCKING, INC., 123 Brook Road, Quincy, MA 02169. Applicant's representative: A. David Millmer, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, scrapped, and *parts of scrapped automobiles*, for the account of D & R Auto Parts, Inc., from Johnston, R.I., to Everett, Mass., for 150 days. Supporting shipper: D & R Auto Parts, Inc., Johnston, R.I. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John Fitzgerald Kennedy Federal Building, Room 2211–B Government Center, Boston, MA 02203.

No. MC 107882 (Sub-No. 19 TA), filed February 5, 1971. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton NJ 08638. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, from Washington, D.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: General Services Administration, Transportation and Communications Service, Washington, D.C. 20405. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 109397 (Sub-No. 250 TA), filed February 5, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, East on Interstate Business, Route 44, Joplin, MO 64801. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Security classified and sensitive materials*, requiring one or more carrier custodians holding a Secret Security Clearance issued pursuant Industrial Security Regulations moving on Government bills of lading, between points and places in the 48 contiguous States and the District of Columbia, for 150 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, DC 20310. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 111401 (Sub-No. 316 TA), filed February 5, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632,

Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk from Ponca City, Okla., to Caldwell, Idaho; and the site of Willis-Shaw Trucking at Boise, Idaho, for 180 days. Supporting shipper: Continental Oil Co., Ponca City, Okla., B. P. Thompson, Transportation Department. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Building, Oklahoma City, OK 73102.

No. MC 113024 (Sub-No. 108 TA), filed February 5, 1971. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery 2, South Du Pont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet articles, baby nurser kits and parts, molded products, and materials and supplies* used in the manufacture thereof, including packing and packaging materials, and displays therefor, from Watervliet, N.Y., to Dover, Del., for the account of International Playtex Corp., Dover, Del., for 180 days. Supporting shipper: J. M. Harrison, Manager, Traffic and Transportation, International Playtex Corp., Post Office Box 631, Playtex Park, Dover, DE 19901. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, 129 East Main Street, Salisbury, MD 21801.

No. MC 115092 (Sub-No. 16 TA), filed February 5, 1971. Applicant: WEISS TRUCKING, INC., Post Office Box O, Vernal, UT 84078, Applicant's representative: William S. Richards, 900 Walker Bank Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Navajo, N. Mex., to points in Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper: Navajo Forest Products, Navajo, N. Mex. (John Emils, Sales Manager). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 127812 (Sub-No. 10 TA), filed February 5, 1971. Applicant: TYSON TRUCK LINES, INC., 185 Fifth Avenue SW., New Brighton, MN 55112. Applicant's representative: Richard L. Tyson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, prepared, from Minneapolis-St. Paul, Minn., to Superior, Wis., for 180 days. Supporting shipper: Kraft Foods, Chicago, Ill. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135299 TA, filed February 5, 1971. Applicant: LEE'S TRUCKING INC., 1, 19th Avenue South, Minneapolis, MN 55404. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, which are at the time moving on bills of lading of freight forwarders from Chicago, Ill., to Minneapolis, Minn., for 180 days. Supporting shipper: Twin City Shippers Association, Inc., 211 Ninth Avenue South, Minneapolis, MN 54415. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135300 TA, filed February 5, 1971. Applicant: WALLY S. METREJEAN, JR., doing business as ALEXANDRIA TRANSFER & STORAGE CO., 3230 Empire Drive, Alexandria, LA 71301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods and personal effects*, from Alexandria, La., to Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapides, Acadia, Caldwell, East Feliciana, Franklin, Point Coupee, St. Landry, Tensas, West Feliciana and Winn Parishes, La., and from these Parishes to Alexandria, La., for 180 days. Supporting shipper: Department of the Air Force, Headquarters 4403D Combat Support Group (TAC), England Air Force Base, LA 71301. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135301 TA, filed February 5, 1971. Applicant: REPUBLIC VAN LINES OF SAN DIEGO, INC., 4909 Pacific Highway, San Diego, CA 92110. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, subject to the "Kingpak" restrictions, between points in Imperial, Orange, Riverside, and San Diego Counties, Calif., for 180 days. Supporting shipper: Perfect Pak Co., 1001 Westlake Avenue North, Seattle, WA 98109. Send protests to: Philip Yallowtiz, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-2152 Filed 2-16-71;8:51 am]

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VOLUME 36 • NUMBER 32

Wednesday, February 17, 1971 • Washington, D.C.

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

•

ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Periodic Medical Review and Medical Inspections in Skilled Nursing Homes and Mental Hospitals

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Subpart A—General Administration

Periodic Medical Review and Medical Inspections in Skilled Nursing Homes and Mental Hospitals

Notice of proposed rule making for periodic medical review and medical inspections in skilled nursing homes and mental hospitals was published in the FEDERAL REGISTER on May 16, 1970 (35 F.R. 7654).

The views of interested persons were requested, received and considered, and in light thereof, certain changes in the proposed regulations were made as follows:

In § 250.23:

(1) Paragraph (a)(1)(i) is amended to make more clear the inclusion of persons who make application while inpatients in a skilled nursing home or mental hospital.

(2) Paragraph (a)(2)(i) is amended to delete the examples of appropriate health, mental health, and social service personnel (other than physicians) who may serve on teams.

(3) A requirement is added as paragraph (a)(3)(iv) that no facility is notified of the time of an inspection more than 48 hours before arrival of the medical review team. The succeeding subdivisions of paragraph (a)(3) are renumbered.

(4) Word changes are made in the redesignated paragraph (a)(3)(v) to clarify that personal contact and observation of each patient may be made by "a team member or members", not necessarily the physician.

(5) In paragraph (a)(3)(v) the words "maximum physical well-being" are changed to read "optimal physical, mental, and psychosocial functioning".

(6) In paragraph (a)(3)(v)(*b*), the words "at appropriate intervals" are changed to read "at appropriate times" with respect to tests or observations as indicated by patients' medication regimens.

(7) In paragraph (a)(3)(v)(*c*), the words "physician and nurses progress notes" are changed to read "physician, nurse, and other professional progress notes".

(8) In paragraph (a)(4)(ii) the procedures for forwarding inspection reports are amended to provide for copies to specified State agencies.

(9) A new paragraph (b) has been added to explicitly permit the use of non-institution based utilization review committees to conduct medical review and to permit, under certain conditions, medical review inspections to satisfy the requirement for utilization review of long-stay cases.

Accordingly, a new § 250.23 is added to Part 250, Chapter II, Title 45, Code of Federal Regulations to read as follows:

§ 250.23 Periodic medical review and medical inspections in skilled nursing homes and mental hospitals.

(a) *State plan requirements; medical review.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide, with respect to patients eligible under the State plan who are admitted to a skilled nursing home or who make application while in such a home, for a medical review (including medical evaluation) of the need for care in such a home, a written plan of care and, where applicable, a plan of rehabilitation; and if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases, provide, with respect to patients eligible under the State plan who are admitted to a mental hospital or who make application while in such a hospital, for a medical review (including medical evaluation) of the need for care in such a hospital, and a written plan of care. Such a review and plans would be made by the patient's attending physician with respect to care in skilled nursing homes, and by the attending physician or staff physician with respect to care in mental hospitals. Provisions required by this subparagraph shall include descriptions of methods and procedures to be followed in each case which assure that prior to admission or prior to authorization of payments, as may be appropriate:

(i) Each patient receives a complete medical evaluation which includes diagnoses, summary of present medical findings, medical history, mental and physical functional capacity, prognosis and an explicit recommendation by the physician with respect to admission to, or, in the case of persons who make application while inpatients in a skilled nursing home or mental hospital, continued care in, such skilled nursing home or mental hospital;

(ii) The plan of care includes orders for medications, treatments, restorative services, diet, special procedures recommended for the health and safety of the patient, activities, and plans for continuing care and discharge;

(iii) In the case of skilled nursing home patients, written reports of the evaluation and the written plan of care are delivered to the facility and entered in the patient's record at the time of admission or, in the case of patients already in the facility, immediately upon completion; and

(iv) In the case of patients in institutions for mental diseases, the evaluation also includes psychiatric and social evaluations;

(2) Provide for periodic inspections to be made in all skilled nursing homes (and, if the State plan includes medical assistance for individuals 65 years of age and older in institutions for mental diseases, in each such institution) caring for patients under the plan by one or more medical review teams which shall

(i) Be composed of one or more physicians and other appropriate health and social service personnel; or in the case of teams reviewing care in mental institutions, one or more psychiatrists or physicians knowledgeable about mental institutions and other appropriate mental health and social service personnel;

(ii) Function under the supervision of a physician on the team;

(iii) Have no members who are employed by or have any financial interest in any nursing home (or, in the case of teams reviewing care in mental institutions, have a financial interest in any mental institution or are employed by a mental institution reviewed by the team of which they are members);

(3) Provide for methods and procedures which assure that:

(i) A sufficient number of teams exists and they are so distributed within the State that on-site inspections can be made in all skilled nursing homes (and mental institutions) caring for patients under the plan at appropriate intervals;

(ii) No physician member of a team inspects the care of patients for whom he is the attending physician;

(iii) At least one inspection by a medical review team is made in each skilled nursing home or mental institution within 1 year from the effective date of these regulations and thereafter at intervals to be determined by the team for each facility on the basis of consideration of the quality of care being rendered in the facility and the conditions of patients in the facility receiving service under the plan, but not less often than annually;

(iv) No facility is notified of the time of an inspection more than 48 hours before the arrival of the medical review team; and

(v) The medical review team inspection includes for skilled nursing home patients personal contact with and observation of each patient receiving assistance under the plan by a team member or members, and review of each such patient's medical record, and for patients in mental institutions review of each such patient's medical record, if such record contains complete reports of periodic assessments required by section 1902(a)(20) of the Social Security Act, or if such reports are not available or are found to be inadequate, personal contact with and observation of each such patient. Such reviews and observations are to determine the adequacy of the services available to meet the current health needs and promote the optimal physical, mental, and psychosocial functioning of patients, the necessity and desirability of the continued placement of such patients in such facilities, and the feasibility of meeting their health needs through alternative institutional or non-institutional services. Under this requirement, such determinations may be based upon consideration of such items as whether:

(*a*) The medical evaluation and plan of care for each patient are complete and current, the plan of care (and, where applicable, the plan of rehabilitation) is being followed and all services ordered

(including dietary orders) are being rendered and properly recorded,

(b) Prescribed medications have been reviewed by the attending physician at least every 30 days, and tests or observations of patients indicated by their medication regimen have been made at appropriate times and properly recorded,

(c) Physician, nurse, and other professional progress notes are made as required and appear to be consistent with the observed condition of the patient,

(d) Adequate services are being rendered each patient as evidenced by such observations as cleanliness, absence of decubiti, absence of signs of malnutrition or dehydration, and apparent maintenance of optimal physical, mental and psychosocial function,

(e) The patient currently requires any service not available in or actually being furnished by the particular facility or through arrangements with others, and

(f) Each patient actually needs continued placement in the facility or there is an appropriate plan to transfer the patient to an alternate method of care;

(4) Provide for methods and procedures which assure that:

(i) A full and complete report on each inspection visit is promptly submitted by the medical review team to the single State agency covering the observations, conclusions and recommendations of the team with respect to the adequacy and quality of all patient services in the facility (including physician services to medical assistance patients in the facility) as well as specific findings with respect to individual patients;

(ii) The single State agency forwards a copy of each inspection report both to the facility involved and its functioning utilization review committee, to the agency of the State responsible for "licensure, and to the agencies responsible for" certification or approval of the facilities involved for purposes of title XVIII or XIX, and to other agencies of the State which require the information in such reports in the performance of their official functions including, in the case of inspection reports on mental hospitals, the appropriate State mental health authorities, and

(iii) Reports and recommendations are followed by appropriate action on the part of the single State agency.

(b) *Coordination of utilization review and medical review.* (1) Periodic medical inspections by medical review teams as required by paragraph (a) of this section may be conducted by noninstitution based utilization review committees where the composition of such a committee meets the requirements of paragraph (a)(2) of this section, or is modified or supplemented to meet such requirements for purposes of its medical review activities, and where such committee is willing and able to undertake in addition to its regular utilization review program the on-site inspection functions required by paragraph (a)(3) of this section.

(2) In the case of a facility which is not concurrently a provider of service under title XVIII of the Act, an inspection by a medical review team conducted according to the requirements of paragraph (a) of this section, whether or not performed by a utilization review committee as provided in subparagraph (1) of this paragraph (b), may, at the discretion of the single State agency, be considered to satisfy the requirement for utilization review of long-stay cases for the next regularly scheduled meeting of the utilization review committee.

(Secs. 1102 and 1902(a)(26); 49 Stat. 647, 81 Stat. 906; 42 U.S.C. 1302 and 1396a(a)(26))

Effective date: These regulations shall become effective 75 days following the date of publication in the FEDERAL REGISTER.

Dated: December 9, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: February 5, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-1982 Filed 2-16-71;8:45 am]

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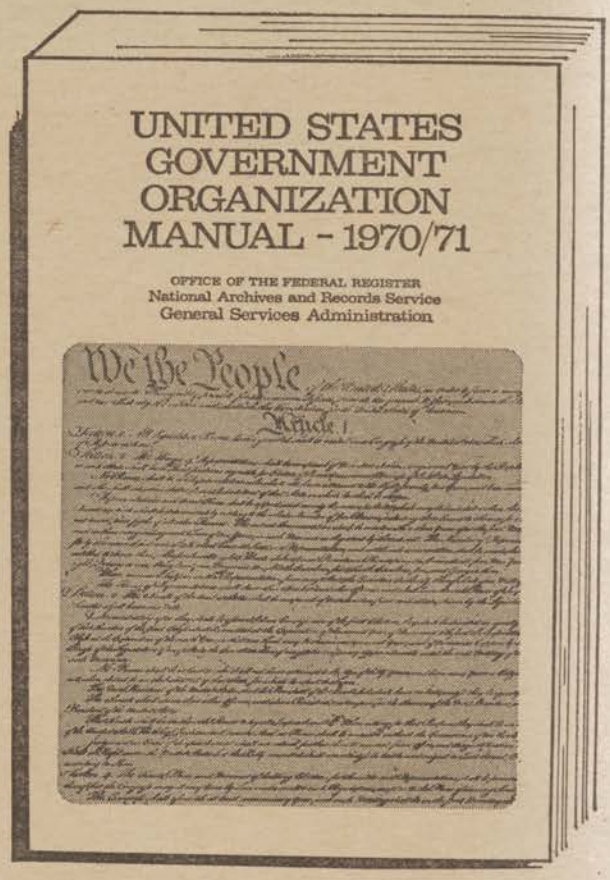

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