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PART I

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HIGHLIGHTS OF THIS ISSUE

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SUBCHAPTER F—DETERMINATION OF NORMAL YIELDS AND ELIGIBILITY FOR ABANDONMENT AND CROP DEFICIENCY PAYMENTS

PART 845—MAINLAND CANE SUGAR AREA

Pursuant to the provisions of section 303 of the Sugar Act of 1948, as amended, Part 845 of Chapter VIII of Title 7 of the Code of Federal Regulations is revised to read as follows:

Sec.
845.1 Introduction.
845.2 Definitions.
845.3 Farm normal yield.
845.4 Eligibility for abandonment and deficiency payments.
845.5 Approval and certification.

AUTHORITY: The provisions of this Part 845 issued under secs. 303, 403, 61 Stat. 930, as amended, 932, as amended; 7 U.S.C. 1133, 1153, and secs. 13, 19, Public Law 92-138, approved Oct. 14, 1971.

§ 845.1 Introduction.

In accordance with the provisions of the "Sugar Act Amendments of 1971," Public Law 92-138, approved October 14, 1971, this revision of Part 845 is issued to provide that, effective January 1, 1972, payments under section 303 of the Sugar Act of 1948, as amended, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage of 1971 and subsequent crops of sugarcane shall be made on an individual farm basis. The regulations in the following §§ 845.2 through 845.5 are effective on January 1, 1972, and thereafter until amended, superseded, or revoked.

§ 845.2 Definitions.

For the purpose of this part, the terms:

(a) "Act," "State Committee," "County Committee," and designation of a crop of sugarcane by year shall have the meanings set forth in § 892.1 of this chapter.

(b) "Planted acres" means the acreage of sugarcane planted within the farm proportionate share which is either harvested for the extraction of sugar or liquid sugar or is abandoned (bona fide), insofar as its use in sugar production or as seed is concerned, because of drought, flood, storm, freeze, disease, or insects.

(c) "Harvested acres" means any acreage of sugarcane on which all customary harvesting operations have been performed (cutting, topping, stripping, or burning) preparatory to marketing for the extraction of sugar or liquid sugar, provided such harvesting operations were performed at a time when such sugarcane was in a condition acceptable for processing for such purpose, and at a time when sugarcane was being processed for such purpose.

(d) "Annual yield for the farm" means the average yield in hundredweight of sugar commercially recoverable per planted acre, as computed from the production record applicable to all of the land constituting the farm in the crop year for which such annual yield is established.

(e) "County yield" means the average hundredweight of sugar commercially recoverable per planted acre in the county in a crop year, except that if the total number of farms producing such sugarcane was less than five for any such year, the county yield for such year shall be the yield established by the State committee on the basis of the yield which could have been reasonably expected that year in such county considering weather conditions and the yields obtained from other crops.

(f) "County normal yield" means the simple average of the county yields for all of the next preceding 5 crop years for which county yields are established, except that if county yields are established for three or more of such years on the basis of the yields which could have been reasonably expected in such years, the county normal yield shall be the yield established by the State committee on the basis of the yield which could have been reasonably expected in the county during such years considering weather conditions and the yields obtained from other crops.

(g) "Farm" shall have the meaning set forth in Part 822 of this chapter.

§ 845.3 Farm normal yield.

The normal yield per acre of each sugarcane farm in the Mainland Cane Sugar Area shall be established as follows:

(a) For a farm on which there were planted acres in more than two of the next preceding 5 crop years, the normal yield shall be the simple average of all the annual yields for the farm for such crop years.

(b) For a farm on which there were planted acres in only one or two of the next preceding 5 crop years, the normal yield shall be the product derived by multiplying the county normal yield by the percentage obtained by dividing the simple average of the annual yields for the farm for such year or years by the simple average of the county yields for such year or years, except that the normal yield for such farm shall be not less than 80 percent nor more than 120 percent of the county normal yield.

(c) For a farm on which there were planted acres in none of the next preceding 5 crop years, the normal yield shall be 90 percent of the county normal yield.

§ 845.4 Eligibility for abandonment and deficiency payments.

For each crop, each farm having abandonment of planted sugarcane acreage, or having a crop deficiency of harvested sugarcane acreage below 80 percent of the normal yield for such acreage, or having both such abandonment and deficiency, shall be approved by the county committee for payments relating thereto if the following conditions with respect to the farm are met:

(a) The abandonment or deficiency was caused directly by drought, flood, storm, freeze, disease, or insects.

(b) The planted acres that were abandoned, or the harvested acres with respect to which there was such a crop deficiency, were suitable for the production of sugarcane and were cared for up to the time of harvest or abandonment, as the case may be, in a manner which could have been expected under average conditions to produce a normal crop of sugarcane.

(c) There was compliance with all the other conditions for payment prescribed by the Act.

§ 845.5 Approval and certification.

Approval by a member of the county committee on behalf of such committee of an application for an abandonment payment or a crop deficiency payment, or both, shall constitute a determination that the farm with respect to such application is made is eligible for an abandonment or a deficiency payment, or both, as the case may be.

STATEMENT OF BASES AND CONSIDERATIONS

Pursuant to the amendment, effective January 1, 1972, of section 303 of the Sugar Act of 1948, as provided in Public Law 92-138, approved October 14, 1971, this revision of regulations authorizes payment for abandoned acreage and for deficiency of production on an individual farm basis. Heretofore, to receive payment the farm must have been located in an approved local producing area wherein damage to the crop had to affect at least 10 percent of the farms or 10 percent of the planted acres in the area.

All of the other eligibility requirements for approving abandonment and deficiency for the farm which were included in § 845.2 (23 F.R. 9255) approved November 24, 1958, remain unchanged. The county committee in which the farm headquarters is located must determine that (1) the abandonment or deficiency was caused by drought, flood, storm, freeze, disease, or insects; and (2) the acres that were abandoned or the harvested acres from which there was crop deficiency were suitable for the production of sugarcane and were cared for up to the time of abandonment or harvest

in a manner which would produce a normal crop under average conditions.

Effective date. Since Public Law 92-138, approved October 14, 1971, provided that effective January 1, 1972, payments are authorized to be made to sugarcane producers in the Mainland Cane Sugar Area on an individual farm basis for acreage abandonment of planted acres and crop deficiencies of harvested acres, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 533 is unnecessary and not in the public interest, and this revision shall become effective on January 1, 1972.

Accordingly, I hereby find and conclude that the foregoing revision of Part 845 will effectuate the applicable provisions of the Act.

Signed at Washington, D.C., on November 30, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17704 Filed 12-2-71;8:52 am]

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

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Expenses and Rate of Assessment

On November 19, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 22067) regarding proposed expenses and the related rate of assessment for the period August 1, 1971, through July 31, 1972, pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Indian River Grapefruit Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 912.211 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during the period August 1, 1971, through July 31, 1972, will amount to $28,400.

(b) *Rate of assessment.* The rate of assessment for said period payable by each handler in accordance with § 912.41, is fixed at $0.004 per standard packed box of grapefruit.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1971, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: November 30, 1971.

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

[FR Doc.71-17707 Filed 12-2-71;8:52 am]

Title 12—BANKS AND BANKING

Chapter VII—National Credit Union Administration

PART 703—INVESTMENTS AND DEPOSITS

Basic Requirements of Certificates of Deposit

On page 12867 of the FEDERAL REGISTER of July 8, 1971, there was published a proposed revision of paragraphs (a) and (e) of § 703.1 (12 CFR 703.1 (a) and (e)).

After consideration of all such relevant matter as was presented by interested persons, the regulations as so proposed is hereby adopted, subject to the following change:

1. In § 703.1(e), lines 6-8, delete "located in the State in which the principal office of the Federal credit union is geographically located." and insert the following: "operating in accordance with the laws of the State in which the Federal credit union does business."

Effective date. This regulation is effective December 15, 1971.

HERMAN NICKERSON, Jr.,
Administrator.

NOVEMBER 24, 1971.

§ 703.1 Certificates of deposit.

(a) *Basic requirements.* A deposit evidenced by a time certificate of deposit is within the deposit power of a Federal credit union under section 107(9) of the Federal Credit Union Act: *Provided:* (1) That such credit union itself makes the deposit for which the certificate is issued; (2) that no consideration is received from a third party in connection with the making of the deposits; and (3) that the certificate contains a provision which will authorize the bank to pay a time deposit or a portion thereof before maturity in those instances where the depositor-credit union indicates a need of the money represented by such time deposit. The model wording of this provision is indicated in paragraph (b) of this section.

* * * * *

(e) *Deposits in State financial institutions.* Certificates of deposit in State-chartered financial institutions may be obtained by a Federal credit union only from those State-chartered financial institutions operating in accordance with the laws of the State in which the Federal credit union does business. This paragraph does not apply to the investment power authorized in section 107(8)(D) of the Federal Credit Union Act.

[FR Doc.71-17600 Filed 12-2-71;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-29-AD; Amdt. 39-1351]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Musketeer Airplanes

A condition exists which may affect the safe operation of certain models of Beech Musketeer Airplanes. Specifically, the affected airplanes were manufactured without restrictors in the fuel and oil pressure gauge lines. These restrictors prevent release of excessive quantities of inflammables in case of line failures between the instruments and the engine. To correct this condition the manufacturer issued Beechcraft Service Instruction 0411-240, Rev. 1, which advises owners/operators to install restrictors at the engine connections to the fuel and oil pressure gauge lines. Less than 1 percent of the owners have complied with the service instruction. Because of the potential hazard to safety an Airworthiness Directive is being issued requiring mandatory compliance with the service instruction or an equivalent modification.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models A23A, B23, C23 (Serials Nos. M-1069 through M-1310); Models 19A, M19A, B19 (Serials Nos. MB-289 through MB-500); Models A23-24 and A24 (Serials Nos. MA-273 through MA-368); and Models A24R (Serials Nos. MC-3 through MC-72, except MC-22, MC-23, MC-39, MC-43, MC-63, MC-64, and MC-71) airplanes, and to other serial numbers of those model airplanes listed herein which have had the fuel and/or the oil pressure instrument lines replaced with the Beech Part No. 130524-3 fire sleeved lines.

Compliance: Required as indicated, unless already accomplished.

To eliminate a hazard to the safe operation of these airplanes, within the next 100

hours' time in service after the effective date of this AD, or at the next annual inspection, whichever occurs first, accomplish the following:

Install fuel restrictor assembly and oil restrictor assembly at appropriate engine positions in accordance with Beechcraft Service Instruction 0411-240, Rev. 1, or a later approved revision. Equivalent methods of compliance are satisfactory if referred to and approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective December 3, 1971.

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

Issued in Kansas City, Mo., on November 23, 1971.

CHESTER W. WELLS,
Acting Director Central Region.

[FR Doc.71-17653 Filed 12-2-71;8:47 am]

[Airspace Docket No. 71-CE-102]

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

Designation of Transition Area

On page 18110 of the FEDERAL REGISTER dated September 9, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Coshocton, Ohio.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

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

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 11, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

COSHOCTON, OHIO

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Richard Downing Airport (latitude 40°18'37" N., longitude 81°51'17" W.)

[FR Doc.71-17645 Filed 12-2-71;8:46 am]

[Airspace Docket No. 71-CE-106]

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

Designation of Transition Area

On pages 18110 and 18111 of the FEDERAL REGISTER dated September 9, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Rockton, Ill.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

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

This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Kansas City, Mo., on November 11, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

ROCKTON, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wagon Wheel Airport (latitude 42°26'15" N., longitude 89°04'00" W.) and within 1½ miles each side of the Janesville VORTAC 172 radial extending from the 5-mile radius to the Janesville VORTAC, excluding the portion that overlies the Janesville, Wis., transition area.

[FR Doc.71-17646 Filed 12-2-71;8:46 a.m.]

[Airspace Docket No. 71-NW-1]

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

Alteration of Control Zone and Transition Area

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19615) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Hoquiam, Wash., control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

1. In § 71.171 (36 F.R. 2055) the Hoquiam, Wash., control zone is amended to read as follows:

HOQUIAM, WASH.

Within a 5-mile radius of Bowerman Field, Hoquiam, Wash. (lat. 46°58'15" N., long. 123°56'05" W.), within 1.5 miles each side of the Hoquiam VORTAC 081° radial, extending from the 5-mile-radius zone to the VORTAC and within 4 miles each side of the 081° radial, extending from the 5-mile-radius zone to 20 miles east of the VORTAC.

2. In § 71.181 (36 F.R. 2140) the Hoquiam, Wash., transition area is amended to read as follows:

HOQUIAM, WASH.

That airspace extending upward from 700 feet above the surface east of Bowerman Field, bounded on the north by a line 2 miles north of and parallel to the Hoquiam VORTAC 068° radial, on the south by a line 2 miles south of and parallel to the Hoquiam VORTAC 088° radial, extending eastward between the arcs of 5- and 13-mile radius circles centered on Bowerman Field (lat. 46°58'15" N., long. 123°56'05" W.); and that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9 miles south of the Hoquiam VORTAC 081° and 261° radials, extending from 8 miles east to 19 miles west of the VORTAC, excluding that portion coinciding with W-237.

(Secs. 307(a) 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 26, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17647 Filed 12-2-71;8:46 am]

[Airspace Docket No. 71-SW-57]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Administration is to alter the Matagorda Island, Tex., R-6303 restricted area by stratifying it into two areas. This alteration does not change the overall size of the restricted area; the availability of portions of the area for public use will be increased. The Department of the Air Force concurs in this action.

Since this amendment relaxes a restriction on the public, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to make appropriate changes to aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

Section 73.63 (36 F.R. 2359) is amended as follows:

a. "R-6303 Matagorda Island, Tex." is revoked.

b. "R-6303A Matagorda Island, Tex." is added:

R-6303A MATAGORDA ISLAND, TEX.

Boundaries. Beginning at latitude 28°15'-20" N., longitude 96°26'50" W.; to latitude 28°18'55" N., longitude 96°27'45" W.; to latitude 28°20'55" N., longitude 96°29'15" W.; to latitude 28°12'00" N., longitude 96°46'00" W.; to latitude 28°07'00" N., longitude 96°-42'00" W.; thence 3 nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitude. Surface to flight level 330.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commander, Second Air Force, Barksdale AFB, La.

c. "R–6303B Matagorda Island, Tex." is added:

R–6303B MATAGORDA ISLAND, TEX.

Boundaries. Beginning at latitude 28°15'-20" N., longitude 96°26'50" W.; to latitude 28°18'55" N., longitude 96°27'45" W.; to latitude 28°20'55" N., longitude 96°29'15" W.; to latitude 28°12'00" N., longitude 96°-46'00" W.; to latitude 28°07'00" N., longitude 96°42'00" W.; thence 3 natutical miles from and parallel to the shoreline to the point of beginning.

Designated altitude. Flight level 330 to flight level 450.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commander, Second Air Force, Barksdale AFB, La.

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

Issued in Washington, D.C., on November 26, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 71–17648 Filed 12–2–71;8:46 am]

[Docket No. 11573; Amdt. 121–81]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Flight and Navigational Equipment

The purpose of this amendment to § 121.305(c) of the Federal Aviation Regulations is to provide for the approval of an equivalent timing device to be used in lieu of a "sweep-second hand clock."

Manufacturers are presently developing and producing digital clocks with readouts in seconds. These clocks do not meet the requirement in § 121.305(c) for a "sweep-second hand clock" and that section does not provide for approval by the Federal Aviation Administration of an equivalent timing device.

The development of the digital clock is the result of advanced technology and that technology is likely to produce different kinds of timing devices in the future that the Federal Aviation Administration would approve as being equivalent to a "sweep-second hand clock." To promote safety of flight, the FAA believes the Federal Aviation Regulations should be sufficiently flexible to permit the use of more advanced timing devices that are equivalent to "sweep-second hand clocks." Section 21.21(b)(1) provides that needed flexibility for airworthiness certification purposes by permitting the use of an equivalent instrument approved by the Federal Aviation Administration in lieu of the requirement in § 25.1303(a)(2) for a clock with a "sweep-second pointer." Similarly, § 91.33(a) presently permits the use of an approved equivalent in meeting the requirement in § 91.33(d)(6) for a "clock with sweep-second hand."

Under the circumstances, the Federal Aviation Administration has determined that § 121.305(c) should be amended to achieve consistency with similar provisions of Parts 25 and 91 of the Federal Aviation Regulations and promote safety of flight, by providing for the use of a timing device that the Federal Aviation Administration approves as being equivalent to a "sweep-second hand clock."

Since this amendment is necessary to achieve regulatory consistency, imposes no additional burden on any person, and relieves a restriction, I find that notice and public procedure thereon are unnecessary and that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, § 121.305(c) of the Federal Aviation Regulations is amended to read as follows, effective January 3, 1972:

§ 121.305 Flight and navigational equipment.

* * * * *

(c) A sweep-second hand clock (or approved equivalent).

* * * * *

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958, 72 Stat. 752, 775, 778; 49 U.S.C. 1354(a), 1421, 1424; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 24, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc.71–17655 Filed 12–2–71;8:47 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–710; Amdt. 1]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Reporting Requirements for CAB Form 217

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of November 1971.

In a notice of proposed rule making,[1] the Board proposed to amend Parts 217 and 241 of the economic regulations so as to revise and clarify the reporting requirements for CAB Form 217 and CAB Form 41, Schedule T–6. In the notice, we observed that, in light of the Board's recently adopted charter regulations which permit both United States and foreign air carriers to combine different types of groups on a split charter, there appeared to be a need for data to be reported on Form 217 and Schedule T–6 which would identify the different types of activity on split charters.

Comments in response to the notice were filed by Modern Air Transport, Inc. (Modern), and by Pan American World Airways, Inc. (Pan American). Upon consideration of the comments filed, we have determined to adopt the rule as proposed.

Pan American supports the proposal, but suggests that Form 217 and Schedule T–6 be required to be filed monthly rather than quarterly. Pan American says that such monthly reporting would provide needed information to the Board and the industry, and would not be burdensome. We are not persuaded by either assertion. In our judgment monthly, instead of quarterly, reporting would not significantly further the Board's regulatory purposes and may well result in an unnecessary additional expense on the part of some carriers. In any event, the receipt and processing of monthly reports would clearly increase the burden upon the Board's staff, with doubtful commensurate benefits.

Modern argues that the proposed amendment to Schedule T–6 of Part 241 would require the reporting of charters outside "air transportation," and thus would require the reporting of Modern's Berlin-based charter flights. Modern claims that this requirement would place it at a competitive disadvantage and would not further the Board's purposes. Accordingly, Modern asks that the Board accord such data confidential treatment. We have determined to deny Modern's request.

In our view, the proposed amendment to Schedule T–6 does not add any new reporting requirement; instead, its purpose, as stated in the explanatory statement to EDR–208, is to clarify that under the existing regulations all civil charters are to be reported on Schedule T–6 "including those charters which do not have a U.S. point in the itinerary." (p. 3). We therefore construe Modern's request to delete this aspect of the subject proposed rule as being, in effect, a proposal by Modern to narrow coverage of the present rule. As such, we reject Modern's proposal, because we are not persuaded that coverage of the present reporting requirements should be narrowed. In view of the Board's proper interest in the entire scope of a reporting carrier's civil charter operations, we believe that even those charters which may be outside of "air transportation" should continue to be reported.

By the same token, Modern's request that such information, as a class, be accorded confidential treatment also constitutes, in effect, a proposal to change the existing rule, since the present rule includes no provision for confidential treatment of such material. Only Modern has raised the question of confidentiality, and we are not persuaded that disclosure of this category of data would adversely affect the interests of air carriers in general. Under these circumstances, a blanket rule providing for confidential treatment of all such data would not be warranted. We therefore reject Modern's request. To the extent that Modern may desire to have its Berlin-based charter operations accorded special confidential treatment, it is free to request appropriate relief under section 1104 of the Act.[2]

[1] EDR–208, July 19, 1971, Docket 23630 (36 F.R. 13690, July 23, 1971).

[2] In saying this, we do not mean to suggest that Modern has put forth facts indicating that such relief should be granted.

In consideration of the foregoing, the Board hereby amends Part 217 of the economic regulations (14 CFR Part 217) effective January 7, 1972, as follows:

Amend § 217.6 by revising paragraphs (b) and (g), to read as follows:

§ 217.6 Reporting instructions.

* * * * *

(b) * * *

(1) Single entity charter, as defined in Parts 212 and 214 of this chapter (Board's economic regulations).

(2) Pro rata charter, as defined in Parts 212 and 214 of this chapter (Board's economic regulations). Mixed charters, as defined in Parts 212 and 214 of this chapter, are to be reported as pro rata charters.

* * * * *

(5) Split charter, as provided for in §§ 212.8 and 214.7 of this chapter (Board's economic regulations).

(6) Study group charter, as defined in Part 373 of this chapter (Board's special regulations).

* * * * *

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—pro rata; C—study group; and D—inclusive tour.

* * * * *

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

(Secs. 204 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17709 Filed 12-2-71;8:52 am]

[Reg. ER-711; Amdt. 37]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting Requirements for CAB Form 41, Schedule T-6

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of November 1971.

For the reasons set forth in ER-710 (Part 217), published simultaneously herewith, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 7, 1972, as follows:

1. Amend Section 25, Schedule T-6, by revising paragraphs (c), (f), and (i) to read as follows:

Section 25—Traffic and Capacity Elements

* * * * *

Schedule T-6—Summary of Civil Aircraft Charters

* * * * *

(c) * * *

(4) Split charter, as provided for in § 207.11 of the Board's economic regulations.

(5) Study group charter, as defined in Part 373 of the Board's special regulations.

* * * * *

(f) All civilian charter flights shall be reported, including those which do not have a U.S. point in the itinerary; military charters shall not be reported.

* * * * *

(i) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—pro rata; and C—study group.

* * * * *

2. Amend Section 35, Schedule T-6, by revising paragraphs (b), (e), and (h), to read as follows:

Section 35—Traffic and Capacity Elements

* * * * *

Schedule T-6—Summary of Civil Aircraft Charters

* * * * *

(b) * * *

(3) Split charter, as provided for in § 208.6 of the Board's economic regulations.

* * * * *

(6) Study group charter, as defined in Part 373 of the Board's special regulations.

* * * * *

(e) All civilian charter flights shall be reported, including those which do not have a U.S. point in the itinerary; military charters shall not be reported.

* * * * *

(h) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in Column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—pro rata; C—study group; and D—inclusive tour.

* * * * *

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

(Secs. 204 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17710 Filed 12-2-71;8:52 am]

[Reg. ER-712; Amdt. 1]

PART 243—REPORT OF CHARTER SERVICES PERFORMED FOR THE MILITARY AIRLIFT COMMAND

Expansion of Reported Data

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of November 1971.

In a notice of proposed rule making (EDR-200, Apr. 23, 1971, 36 F.R. 8056), the Board proposed to amend Part 243 of the Economic Regulations (14 CFR Part 243) to provide more detailed information on the CAB Form 243 "Report of Charter Services Performed for the Military Airlift Command." More specifically, it was proposed to expand Part 243 reported data by inter alia (1) prescribing a separation of investment, cost and revenue data to reflect MAC operations by aircraft type, including revenues and costs related to commercial backhauls to one-way MAC charters, (2) requiring a more comprehensive report of operating statistics by aircraft type for all classes of MAC traffic, (3) providing for the reporting of flight equipment depreciation and rental expense computed on both the bases used for regulatory purposes and for Form 41 purposes, and (4) requiring an annual certification by the carriers that their allocation procedures on file with the Board are currently being practiced.

Pursuant to the subject notice timely comments were received from five scheduled combination air carriers,[1] Airlift International, Inc. (Airlift), Universal Airlines, Inc. (Universal), and the Department of Defense (DOD).[2] Upon full consideration of the relevant matters contained therein, we have decided to

[1] Continental Air Lines, Inc. (Continental), Eastern Air Lines, Inc. (Eastern), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United).

[2] Northwest Airlines Inc., has filed a motion in which it asks permission to late file comments on the proposed rules. In support of its motion, Northwest asserts that shortly before the date comments on the proposals were due, it discovered that joint industry comments were not contemplated, thus making it impossible for Northwest to prepare the comments by the filing deadline. Northwest further asserts that its comments will aid in the development of the best and most complete record in this proceeding. In our view good cause has not been shown by Northwest for permission to late file comments on the proposed rule. Accordingly, Northwest's motion is denied. It is noted that the comments it seeks to file do not contain any views, data or arguments not already presented by the parties who have submitted timely comments.

adopt the amendments to Part 243 substantially as proposed. Accordingly, except as modified herein, the tentative findings set forth in the explanatory statement to the proposed rule are incorporated by reference and made final. The most significant modifications to the proposed rules are the further breakdown of Category "B" MAC operations between long-haul and short-haul operations in Schedules D–1, D–2, and D–3 and the requirement to file Schedule D–1 (Summary of Invested Capital—MAC charter contracts) quarterly instead of semiannually as presently required.

Before discussing the comments on the specific proposals set forth in EDR–200 we shall dispose of several general issues raised by the commenting parties.

Continental, Pan American, TWA, and Universal oppose the proposed rules on the ground that they will impose on the carriers a burdensome and duplicating reporting obligation not required to further the regulatory objectives of Part 243. They variously argue that in light of the information on MAC operations currently provided in the carriers' Form 41 reports and reflected in the periodic MAC rate studies conducted by the Board, there is little to be gained by the submission of the reports in the form called for by the proposed rule. In addition Pan American contends that the Board cannot attain uniformity of definition and methodology in Form 243 reports as intended because of the necessary differences of costing and methodology inherent in the carriers' MAC operations themselves.

We find no merit in these contentions. As the Board explained in EDR–200, the additional data required by the proposed amendments will greatly enhance the effectiveness of the Form 243 report as an adjunct to periodic MAC rate reviews by furnishing more valid historical information relative to MAC operations than has been heretofore available. The Board will thereby be enabled to expedite the processing of full scale and emergency rate reviews. Moreover, since the information required in the revised reports will more closely approximate accounting and methodologies used in MAC rate reviews and reflect established ratemaking policies, the burden on the Board and the carriers in preparing the cost and other statistical data incident to such reviews will be substantially lessened. In addition, contrary to the contention of Pan American, the Board's objective in requiring a greater degree of consistency between Part 243 accounting and reporting techniques and those used in MAC rate studies is to furnish a more reliable indicator for determining whether to review existing MAC charter rate levels. The differences between cost characteristics of scheduled and supplemental services, off-route and on-route operations will, of course, be ultimately recognized in the formal rate proceeding itself.[3]

The parties' comments on the various specific proposals are next discussed.

Reporting of Form 243 items by aircraft type. Pan American contends that the purpose of Part 243 does not require the ability to evaluate the profitability of each aircraft type in MAC service any more than the Board needs such information to evaluate total carrier operations. It also asserts that no allocation of indirect costs or nonflight investment by aircraft type is required in Form 41's and there is no need for such an allocation for Form 243's. Universal adds that proposed Schedules D–1 and D–2 will provide no further meaningful data for determining profitability levels of MAC operations. Neither contention is sustainable. It is the Board's policy to set MAC minimum rates in relation to the mix of aircraft types committed to MAC operations. The relative costs of such aircraft types is therefore essential in order to determine overall rate levels for the various classes of MAC operations. And, by conforming the reporting methodology in Schedules D–1 and D–2 to the Board's ratemaking practices, the information thus acquired will more accurately indicate whether current MAC rate levels are adequate.

Universal proposes that Form 41, Schedule P–5.2 be amended to require direct operating cost information by "military business" as well as by aircraft type. Considering that Form 243 reports are specifically tailored to provide the information needed to facilitate the processing of periodic MAC rate reviews, Universal's proposed method of reporting would serve no useful purpose. Furthermore, the data it suggests be reported would only represent incidental information on Form 41, and indirect

United argues that the more definitive allocation of expenses by aircraft type will cause extensive use of "arbitrary allocation procedures."[5] This allegation, however, is not substantiated and we have no reason to believe the new regulation will produce such a result. Rather, the new reporting method will simply require each MAC carrier to allocate investment, revenue, and expense components in much the same manner as it does for formal rate studies.

We have adopted Pan American's suggestion for a further breakdown of Category "B" operations between long-haul and short-haul operations. Accordingly, we are modifying §§ 243.6, 243.7, and 243.8 (Schedules D–1, D–2, and D–3) to incorporate Pan American's proposal. The further breakdown will provide information for use in testing the reasonableness of long-range and short-range aircraft rates.

Dual computation of depreciation and rental expense. Under the proposed rules each carrier would be required separately to compute and report depreciation and aircraft rental expense on the basis used for reporting on Form 41 and on a basis consistent with the rate making standards established by the Board in Phases 1 and 2 of the *Domestic Passenger-Fare Investigation*.[6]

Several of the scheduled carriers have questioned the need for reporting on the dual basis proposed. Specifically, Eastern argues that since the Board receives the data necessary to adjust depreciation and aircraft rental accounts for regulatory purposes in MAC rate proceedings, there is no reason to impose this additional reporting burden on the carriers. United claims that the proposed requirement will force it to maintain separate depreciation records for book, tax, and Part 243 purposes.[7] Continental adds that dual reporting of depreciation is of little value because (1) the difference between the depreciation it reports for accounting

[3] TWA's concern that the Board might eliminate the periodic MAC rate reviews and substitute the proposed Form 243 reports is not well founded. As explained in EDR–200, the added refinements in Form 243 reporting will not enable the Board to dispense with its regular full scale reviews for the purpose of establishing MAC minimum rates.

[4] Universal asserts that there is no justification or need for the proprietary pricing and sales information sought under the proposed Schedule D–2. It concludes that without safeguards to insure confidential treatment, disclosure of this information would promise "significant anti-competitive effects." To the extent that Universal requests confidential treatment of the data to be submitted on proposed Schedule D–2 its request is denied. Universal has made no showing that public disclosure of the information it seeks to protect would be adverse to its interests and is not required in the public interest, as required by § 1104 of the Act. Moreover, since the information is basically similar to the data currently furnished by the MAC carriers for rate review purposes, it is hardly plausible to contend that disclosure of such information will produce the result predicted by Universal.

[5] United also states that a sepereate category of indirect expense should be established on Schedule D–2 for sales and reservation expenses incidental to military charter programs. We agree and will make appropriate amendments to § 243.7. Considering that some MAC carriers employ personnel in military sales programs, this information will give the Board a better picture of carrier allocation of indirect expenses.

[6] PS–44, Apr. 8, 1971 and PS–45, Apr. 9, 1971.

[7] United suggests that, if the Board adopts this proposal, the memorandum entries on Schedules D–1 and D–2 should reflect the regulatory components rather than the Form 41 components. Under United's proposal, the investment and cost totals shown on the schedules would not reflect the ratemaking depreciation and rental expense standards. Thus, United's proposal would undermine the Board's objective of obtaining cost investment data adjusted to reflect ratemaking standards. Accordingly, United's suggestion is rejected.

purposes and that prescribed for ratemaking is minimal and (2) aircraft depreciation does not comprise a major portion of its MAC charter operating expenses.[8]

We find these arguments unpersuasive. Eastern overlooks an important objective of the proposed rule, as previously stated, namely, to establish historical trends upon which the Board can base a determination of whether a need exists to launch a full scale MAC rate review. To this end the proposed report will enable the Board to observe changes in the carriers' investment base as they occur, rather than having to make its own retroactive adjustments in depreciation costs in the periodic MAC rate studies. And, notwithstanding Continental's particular experience, depreciation costs do have a significant impact upon MAC charter rates when viewed on an industrywide basis. Moreover the proposed rule will benefit the MAC carriers by providing a quarterly "status" report on the profitability of their MAC charters from a ratemaking standpoint and thus facilitate the preparation of expense and investment base data for formal rate proceedings. As to United's contention, suffice it to say that there is no requirement in the proposed rule that United or any other carrier maintain separate records for computing the data to be reported on Form 243.

Finally, United also urges elimination of the dual reporting standard on the ground that, since the decision in Phase 1 of the DPFI does not establish the methodology for implementing the prescribed depreciation standards, there is no guarantee that all carriers will apply the DPFI standards in the same manner.[9] However, the Board's decision in currently pending MAC rate reviews will provide the guidance and clarification the carriers need to apply the Board's depreciation policies for MAC rate purposes.

Reporting of commercial backhaul revenues and expenses. In the notice of rule making the Board proposed to expand the format of Schedule D–2 (financial results) to reflect the inclusion of revenues and related expenses applicable to commercial backhaul miles to one-way MAC charters. United and Eastern oppose this requirement. In United's view the data called for by the proposed rule will not present an accurate report of the financial results of backhaul operations because the revenues and costs allocated to these operations are often computed on an average basis. That being the case, United contends that it would have to develop manually the data on backhaul revenues from a review of flight coupons and other records. In addition Eastern states that there would be no incentive for a carrier to solicit commercial backhauls if the profitability for such charter is to be included in the determination of net income from military charters.

We will adopt the rule as proposed. The one-way charter rate paid by MAC is based on the costs involved in operating a round-trip charter. Since commercial backhauls eliminate the empty ferry trip costs, which are borne by MAC, the volume of backhauls bears significantly on the average contract rate. Thus, the proposed rule will enable the Board to measure more precisely the effect of commercial backhauls on MAC rate levels,[10] and while as United points out, there are technical problems of determining the applicable portions of a commercial backhaul, the carriers are permitted reasonable allocation discretion, provided that they equitably match the statistics, revenues and expenses. As to Eastern's additional objection (which appears directed toward the Board's MAC rate policy), we fail to understand why reporting of commercial backhaul revenue will tend to dampen carrier incentive to procure commercial backhaul traffic. Since MAC rates are set on an industrywide basis, a carrier presently has, and will continue to have, the incentive to increase operating revenues by obtaining backhaul traffic, thereby achieving a rate of return above that established for the entire industry.

DOD proposes that a requirement be added for a separate reporting of financial results and operating statistics related to MAC backhaul miles operated in relation to one-way commercial charters. We will not adopt this proposal. The data DOD seeks to have reported pertains to charters available to the public at large which MAC purchases at published tariff rates. The rate is low because it is the return leg of a one-way commercial charter that otherwise would be nonrevenue ferry. Since these tariff rates are not governed by Part 288 and not subject to periodic rate review, the report DOD requests would be of little, if any, value for regulatory purposes.

Allocation procedures (Schedule D–4). Pan American objects to the proposed addition of Schedule D–4. It states that "to require the carrier to file annually complete restated allocation procedures would serve no useful function, and would impose an unnecessary burden on the carrier." In fact, Schedule D–4 would not be filed annually but only initially and upon revision of any allocation procedures. In addition, since the allocation procedures reported for MAC rate purposes are distinct from the procedures required to be reported on Form 41, there is no redundancy in the two requirements, as Pan American suggests.

Filing frequencies, certification, and effective date. Part 243 presently requires that Schedule D–1 (balance sheet) be filed semiannually and that Schedule D–2 (financial results) be filed quarterly. Although no proposal to change the filing frequencies for these schedules was included in EDR–200, we have received comments requesting changes.

TWA and Universal object to filing Schedule D–2 quarterly, arguing that quarterly filing of Schedule D–2 (1) is an unnecessary burden on the MAC carriers and (2) presents an accounting picture vastly distorted by normal seasonal and other economic variations in a carrier's business. Accordingly, we have been requested to liberalize the rules so as to allow the carriers to file Schedule D–2 semiannually.

DOD, on the other hand, proposes that the balance-sheet data on Schedule D–1 should be reported quarterly, instead of semiannually. In its view, quarterly filing of this schedule will provide a more accurate and direct picture throughout the year of the investment base committed to MAC operations.

Although, as above noted, the foregoing proposals to change present filing frequency of schedules were not specifically included in the rule making notice, we have decided to consider them on the merits, since we are expanding significantly the content of the affected schedules. Upon consideration of these proposals and the parties' arguments in support thereof, we have decided, for the reasons discussed below, to continue to require quarterly filing of Schedule D–2, but to adopt DOD's proposal to require quarterly filing of Schedule D–1.

Due to the fluctuations in the requirements for MAC charter procurement, semiannual filing of cost and revenue data, as proposed by TWA, would not be adequate to enable the Board and DOD to keep abreast of carrier operational experience under the MAC rates currently in effect. It is therefore desirable that the Board continue to receive information on the financial results of MAC operations on a quarterly basis in order to determine whether existing MAC rate levels are reasonably related to carrier costs. In addition, while the quarterly

[8] Pan American contends that the proposed rule making exceeds the authority of the Board to the extent that it would require that flight equipment and rental expense be reported in conformance with the regulatory principles established in Phases 1 and 2 of the DPFI. In Pan American's view the decision in Alaska Airlines, Inc. v. CAB, 257 F. 2d 229 (D.C. Cir., 1958), cert. den. 358 U.S. 881, means that the Board "lacks the authority to dictate depreciation, rental, and investment reporting methodologies to the carriers." We think that Pan American's reliance on that case is misplaced. The object of the proposed rule is to facilitate the use of the Board's ratemaking standards in military rate proceedings by requiring the carriers to report flight equipment depreciation and aircraft rental costs attributable to MAC operations on a basis consistent with that used for determining the minimum level of MAC rates. Accordingly, since the action we are taking is not intended to control various judgment depreciation expense items which are established by carrier management, the Alaska decision does not seem apposite here. See also EDR–209 (July 28, 1971; 36 F.R. 13930) wherein the Board is proposing to require depreciation costs for regulatory purposes and depreciation costs for accounting purposes to be separately reported on the CAB Form 41 report.

[9] Essentially, the problem relates to the choice of the remaining life method or the full service life method for making depreciation adjustments. See PS–45, supra.

[10] For the same reasons we also reject Pan American's contention that there is no justification for including expenses related to backhauls. Moreover, the report of backhaul expenses is necessary for the Board to obtain a complete picture of the relationship between rate levels and commercial backhauls.

report, when viewed in isolation, is somewhat distorted by seasonal variations in MAC procurement, it should be emphasized that such reports are used as a composite to establish the historical trends previously discussed. When viewed in this perspective, quarterly reporting will continue to give the Board and DOD a better impression of the cyclical fluctuations in MAC operations than could semiannual reporting.[11]

On the other hand, DOD's proposal will implement the foregoing objectives, and we will adopt it. Although the requirement to file Schedule D–1 on a semiannual basis was originally intended to minimize the carriers' reporting workload, it has come to the Board's attention that aircraft deliveries have significantly peaked for some carriers between semiannual reports, resulting in a somewhat distorted view of the carriers' rate of return. We believe that quarterly submission of investment base data, as proposed by DOD, will tend to remedy this deficiency. However, since quarterly filing of Schedule D–1 will impose an additional burden on the MAC carriers, and since, as above noted, this change was not specifically proposed in EDR–200, we shall allow petitions for reconsideration of this amendment to § 243.2(b)(2) and § 243.6(a). Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Room 712 Universal Building, Washington, D.C. 20428, on or before December 27, 1971. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the rules.

Continental opposes the proposed annual certification of allocation procedures (Schedule D–4(a)) on the grounds that (1) Schedule D–4(a) is basically the same certification provided quarterly and (2) it is unreasonable to require a certification covering allocation procedures which are to be followed during the ensuing 12-month period. We find no merit in Continental's arguments, and, accordingly, will adopt Schedule D–4(a) as proposed. In the first place, the annual certification requirement is intended to insure that the allocation procedures on file with the Board are still valid. This, contrary to Continental's view, is distinguishable from quarterly certification wherein the reporting carrier is required to verify the data submitted on Schedules D–1, D–2, and D–3. Moreover, we find it not unreasonable to assume that carrier management will know, at the time of certification, whether it plans to continue to use its existing allocation procedures in the forthcoming year.

[11] It is also proposed by TWA that the year-end reports specified in Part 243 should not be required to be filed with the Board earlier than 90 days after the end of each calendar year. We will not adopt TWA's proposal, since, in our judgment, such an extension would be inconsistent with the Board's objective of expeditiously processing annual MAC rate reviews.

Finally, Airlift requests that, due to the difficulties small carriers will face in complying with the proposed rules, the effective date of the new reports be deferred until July 1, 1972, or that appropriate waiver procedures be established. The Board is not persuaded that such alleged difficulties require us to defer the effectiveness of the proposed rules as requested by Airlift. Indeed it is at least noteworthy that of all the MAC carriers, large and small, only Airlift has indicated that the problem exists. However, in view of the substantial burden which would be imposed on the MAC carriers if they are required retroactively to construct their accounts, on the basis prescribed herein, to obtain the financial results of MAC operations for the first two quarters of fiscal 1972, we have decided to defer the effective date of the rules to January 1, 1972.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 243 of the Economic Regulations (14 CFR Part 243), effective January 1, 1972, as follows:

1. Amend the Table of Contents by revising the title of § 243.4. As amended the Table of Contents will read in pertinent part:

Sec.
243.4 Schedule D–4—statement of allocation procedures—MAC Charter Contracts and Schedule D–4(a)—certification of previously filed allocation procedures—MAC Charter Contracts.

2. Amend § 243.1 by expanding the definition of "Category B" charter services to read as follows:

§ 243.1 Definitions.

Charter services performed under fiscal-year contracts between certificated air carriers and the Military Airlift Command (MAC) are defined as follows:

"Category B"—air transportation of planeload charters of passengers and/or cargo in international and territorial operations. "Long-haul operations" refers to Category B charter services for which compensation is received by the carrier at not less than the rate for regular turbojet and DC–8F–61, –63 aircraft as specified in § 288.7(a)(1) of this chapter (economic regulations), irrespective of the aircraft type used by the carrier to perform such services. "Short-haul operations" refers to Category B charter services for which compensation is received by the carrier at not less than the rate for B–727, CV–880, CV–990, and "all other" aircraft as specified in § 288.7(a)(1) of this chapter (economic regulations), irrespective of the aircraft type used by the carrier to perform such services.

* * * * *

3. Amend paragraphs (b) and (c) of § 243.2 to read as follows:

§ 243.2 Applicability and CAB Form 243 filing requirements.

* * * * *

(b) The CAB Form 243 report consists of:

	Filing frequency
(1) Certification	Quarterly.
(2) Schedule D–1—Summary of Invested Capital—MAC Charter Contracts.	Quarterly.
(3) Schedule D–2—Summary of Financial Results of Operations—MAC Charter Contracts.	Quarterly.
(4) Schedule D–3—Summary of Operating Statistics and Aircraft Utilization — MAC Charter Contracts.	Quarterly.
(5) Schedule D–4—Statement of Allocation Procedures—MAC Charter Contracts.	Initially on May 10, 1972, and thereafter upon revision of procedures.
(6) Schedule D–4(a)—Certification of Previously Filed Allocation Procedures — MAC Charter Contracts.	Annually.

(c) Schedules D–1 and D–2 of Form 243 shall be filed with the Board (i.e., postmarked) not more than 60 days after the end of each reporting period. Schedule D–3 shall be filed not more than 40 days after the end of each reporting period. Schedule D–4 shall be filed initially not later than May 10, 1972, and thereafter shall be filed not more than 40 days after the end of the calendar quarter in which allocation procedures were revised. Schedule D–4(a) shall be filed not more than 40 days after the end of the June 30 reporting period, unless a revised Schedule D–4 has been filed for that period. The report shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

4. Amend § 243.4 to read as follows:

§ 243.4 Schedule D–4—Statement of allocation procedures—MAC Charter Contracts and Schedule D–4(a)—Certification of previously filed allocation procedures—MAC Charter Contracts.

(a) Schedule D–4 shall be prepared initially and at the close of each calendar quarter in which allocation procedures were revised.

(b) Schedule D–4(a) shall be prepared as of June 30 of each year unless a revised Schedule D–4 has been prepared for the reporting period ending on that date.

(c) A complete description shall be given for the bases used for each indicated balance sheet classification on Schedule D–1—Summary of Invested Capital, each expense classification on Schedule D–2—Summary of Financial Results of Operations, and "Aircraft days assigned to service—carrier's equipment" on Schedule D–3—Summary of Operating Statistics and Aircraft Utilization. Those carriers who do not separate aircraft and traffic servicing expenses shall describe the bases of allocation for these expenses under aircraft servicing.

(d) With respect to Schedule D–1, "Ground equipment cost" may, at the carrier's option, be derived from the ratio of ground equipment to flight equipment cost as set forth in the carrier's report of investment allocated to MAC charter services submitted in connection with the last MAC ratemaking proceeding.

(e) On Schedule D–2, each category of indirect operating expense (except passenger service) may, at the carrier's option, be derived from the ratio of such expenses to the total of direct operating expenses plus passenger service expense as set forth in the carrier's report of operating expenses allocated to MAC charter services submitted in connection with the last MAC ratemaking proceeding.

5. Amend § 243.6 to read as follows:

§ 243.6 Schedule D–1—Summary of invested capital—MAC charter contracts.

(a) This schedule shall be prepared for each calendar quarter.

(b) Data reported on this schedule shall conform with the instructions pertaining to balance sheet classifications within Part 241 of the economic regulations and the pertinent regulatory policies within Part 399—Statements of General Policy.

(c) Each indicated balance sheet classification, allocated in accordance with procedures that are submitted as required by § 243.4, shall be reported for the respective charter services by aircraft type.

(c–1) This paragraph applies only to those carriers whose contracts specify Category B charter services. Long-haul or short-haul operations shall be indicated on the schedule under aircraft type. Therefore, carriers utilizing a single aircraft type to perform both long-haul and short-haul Category B charter services shall report the respective investment data separately on the schedule.

(d) Only cost data relating to equipment actually furnished by the carrier shall be included in this schedule. Do not report equipment furnished by MAC.

(e) The flight equipment depreciation reserve shown on line 3a "Form 41 components" shall reflect depreciation computed on the basis used for reporting on Form 41. This line item represents a memorandum entry only and is not to be considered in the computation of line 4 "Net flight equipment."

(e–1) The flight equipment depreciation reserve shown on line 3b "Regulatory components" shall reflect depreciation computed on the basis used for regulatory purposes as set forth in Part 399—Statements of General Policy of this chapter.

(f) A detailed breakdown of amounts reported on line 11 "Other" shall be provided in footnote.

6. Amend § 243.7 to read as follows:

§ 243.7 Schedule D–2—Summary of financial results of operations—MAC Charter Contracts.

(a) This schedule shall be prepared for each calendar quarter.

(b) Data reported on this schedule shall conform with the instructions pertaining to expense classifications within Part 241 of the economic regulations in this chapter and the pertinent regulatory policies within Part 399—Statements of General Policy of this chapter.

(b–1) This paragraph applies only to those carriers whose contracts specify Category B charter services. Long-haul or short-haul operations shall be indicated on the schedule under aircraft type. Therefore, carriers utilizing a single aircraft type to perform both long-haul and short-haul Category B charter services, shall report the respective cost and revenue data separately on the schedule.

(c) Each indicated revenue classification, representing actual revenue earned, shall be reported for the respective charter services by aircraft type.

(c–1) Each indicated expense classification, allocated in accordance with procedures that are submitted as required by § 243.4, shall be reported for the respective charter services by aircraft type.

(d) This paragraph applies only to those carriers whose contracts specify Category X charter services. Category X charter revenue may be included with Category B on lines 1, 2, and 3, as appropriate. (See § 243.2(a).) If included, the amount of such revenue shall be shown in footnote for each line, segregated by aircraft type. If not included, the footnote should state "No Category X revenue is included in this schedule."

(e) Line 5 "Paid ferry trips" shall reflect revenue for ferry trips performed in the course of round-trip MAC charters as required by § 288.9 of the economic regulations in this chapter.

(f) "Operating expenses" shall include all expenses incurred in both empty and commercial backhauls to one-way MAC charters, consistent with mileages reported on Schedule D–3.

(g) Lines 9b(1) and 9d(1) "Form 41 components" shall reflect flight equipment rental expense and depreciation, respectively, computed on the bases used for reporting on Form 41. These line items represent memorandum entries only, and are not to be considered in the computation of line 11 "Total operating expenses."

(g–1) Lines 9b(2) and 9d(2) "Regulatory components" shall reflect flight equipment rental expense and depreciation, respectively, computed in accordance with the regulatory policies in Part 399—Statements of General Policy of this chapter.

(h) Carriers reporting aircraft and traffic servicing expenses separately on Form 41 shall report these expenses separately on lines 10d (1) and (2). Carriers reporting aircraft and traffic servicing expenses on a combined basis on Form 41 shall report these expenses on a combined basis on line 10d.

7. Amend § 243.8 to read as follows:

§ 243.8 Schedule D–3—Summary of operating statistics and aircraft utilization—MAC Charter Contracts.

(a) This schedule shall be prepared for each calendar quarter.

(b) This paragraph applies only to those carriers whose contracts specify Category B charter services. Long-haul or short-haul operations shall be indicated on the schedule under aircraft type. Therefore, carriers utilizing a single aircraft type to perform both long-haul and short-haul Category B charter services, shall report the respective operating statistics separately on the schedule.

(c) Separate data shall be presented for each aircraft type.

(d) This paragraph applies only to those carriers whose contracts specify Category X charter services. Category X revenue aircraft miles flown may be included with Category B revenue aircraft miles flown on lines 2, 4, and 6, as appropriate. (See § 243.2(a).) If included, such miles shall be shown in footnote for each line, segregated by aircraft type. If not included, the footnote should state "No Category X miles are included in this schedule."

(e) Miles flown in Category B (and Category X) charters shall be reported on the basis of the great-circle distance, in statute miles, between airports served. Line 10 "Total revenue aircraft miles flown" shall reflect the total miles flown under MAC contracts and service orders. Miles reported for Logair and Quicktrans charters shall be the course flown statute miles flown under MAC contracts and service orders.

(f) Line 9 "Paid ferry miles" shall reflect ferry miles flown in the course of round-trip charters and paid for by MAC as required by § 288.9 of the economic regulations.

(g) On trips designated "convertible" by MAC, the miles flown with passengers shall be reported on line 7, not line 2; and the miles flown with cargo shall be reported on line 8, not line 4.

(g–1) Commercial backhaul miles include all revenue-producing miles flown returning from one-way MAC charters for any person or organization other than the Department of Defense.

(g–2) Empty backhaul miles include all miles flown returning from a one-way MAC charter which are not commercial backhaul miles as defined in § 243.8(g–1).

(g–3) Line 17 "MAC charter aircraft hours flown (airborne)" shall reflect all hours that relate to "Total MAC charter miles flown."

(g–4) Line 18 "Aircraft days assigned to service—carrier's equipment" shall be based on aircraft owned or acquired through rental or lease that are available for use in the carrier's MAC charter operations.

(h) Line 19 "MAC charter hours per aircraft day" shall be determined by dividing line 18 "Aircraft days assigned to service—carrier's equipment" into line 17 "MAC charter aircraft hours flown (airborne)."

(i) "Directed landings" reported on line 20 shall reflect the number of landings directed by MAC and performed by the carrier for Logair and Quicktrans services, for which the carrier receives a fixed compensation in addition to the line-haul rate.

(j) Line 21 "MAC charter aircraft hours flown (ramp-to-ramp)" shall reflect all hours that relate to "Total MAC charter miles flown."

(k) Line 22 "Commercial backhaul revenue ton-miles" shall reflect all ton-miles that relate to commercial backhaul miles flown as reported on lines 13 and 14.

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

8. Amend CAB Form 243 by deleting old Schedules D–1, D–2, and D–3 and by adding new Schedules D–1, D–2, D–3, D–4, and D–4(a) as shown in Exhibits A, B, C, D, and E.[13]

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17711 Filed 12-2-71;8:52 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATION UNDER THE FAIR PACKAGING AND LABELING ACT

PART 502 — REGULATIONS UNDER SECTION 5(C) OF THE FAIR PACKAGING AND LABELING ACT

"Cents-Off" Representations

The Federal Trade Commission, on June 30, 1971, published an order in the FEDERAL REGISTER (36 F.R. 12284) which provided for a period of 30 days in which to file objections and requests for public hearing covering the regulations governing the use of "cents-off", "introductory offer" and "economy size" representations imprinted on packaged or labeled consumer commodities under the Fair Packaging and Labeling Act. Communications were received from seven (7) firms and trade associations in response to the order either expressing objections, offering comments or asking questions. Some of those submitting objections also requested that their objections be made the subject of a public hearing.

The Commission has evaluated all of the comments and objections received and concludes as follows:

(1) Several objections were made to § 502.100(b)(3) that requires a package or label bearing a "cents-off" representation to have imprinted thereon a triple price statement showing the regular price, the amount of "cents-off" and the price to be paid by the consumer. These objections assert that the requirement imposes such an administrative burden on the retailers that many have stated they will refuse to handle such items in the future. In addition, it is argued that many packages such as cans, jars, and bottles do not normally have a pricing spot employed in the labeling but are stamped on the top or cover. Thus, the use of the triple price statement imposes mechanical difficulties of placement and may cause confusion to the consumer when not fully utilized.

It was suggested that in lieu of the triple price statement, a statement employing terms such as "The Price Marked Is _____¢ Off the Regular Price" be required to accompany any representation of "cents-off" on the package or label. This certification would then qualify the single retail price, when stamped at any location on the package, permitting the consumer to ascertain the regular price by simple addition of the number of "cents-off" and the price stamped on the package. This modification to the regulation would eliminate the administrative burden of dual pricing at the retail level and still provide the consumer with the three price information.

The Commission considers these objections reasonable. However, assurance that each consumer is informed of the ordinary and customary retail price of the "cents-off" marked commodity at the time of sale is considered essential to the facilitation of value comparisons by the consumer. Thus, provision in the regulations for supplying the retailer with a means of disclosing the regular price in a clear, conspicuous manner and in close proximity with the shelf display of the "cents-off" marked merchandise is made. That portion of the regulations affected is modified below, accordingly.

(2) Several objections were made to the requirements of §§ 502.100(c), 502.101(d) and 502.102(c) that packagers and labelers shall not make packages with "cents-off" introductory offer and economy size representations available in any circumstances where they will be used as instrumentalities of deception. The objections express concern that the necessity to "police" the retailer could subject the packager to charges of resale price maintenance or a failure to comply with the mandates under the Robinson-Patman Act. The Commission has issued guides for advertising allowances and other merchandising payments and services which are of assistance in this matter. In addition, the Commission is publishing, concurrent with issuance of this rule, a statement of policy guidance on the matter. Requests for further clarification in particular fact situations may be submitted in accordance with § 503.1 of the regulations. In view of the guidance available, the Commission has determined that the objection does not warrant further consideration.

(3) Some objections raised the question whether the term "Special Offer" used on a package or label would fall within the term "cents-off" representation" as defined in § 502.100(a). Price savings offers which do not specify the amount of savings to be realized are not regulated under § 502.100. However, it should be recalled that the Commission's guides against deceptive pricing admonish that when the amount or percentage of reduction of a price is not stated, then care must be taken that the amount of reduction is not so insignificant as to be meaningless. It should be sufficiently large that the consumer, if he knew what it was, would believe that a genuine bargain or saving was being offered.

(4) An objection was received to the definition of the term "ordinary and customary or regular price" set forth in § 502.2(c). The objection points out the frequent employment of trade discounts and allowances granted by a packager to a retailer in return for services rendered and suggests these be specifically eliminated in calculating the ordinary and customary price.

The Commission concludes that it is not in order to totally exclude trade discounts and allowances since many of these directly affect the ordinary and customary price. Normal trade discounts with or without volume considerations are clearly a part of the formula used to compute the ordinary and customary price. On the other hand, reimbursement for services which have no direct relationship to the sale price such as advertising, hand bills, demonstrators, and window and floor displays will not normally be a part of that formula. Requests for clarification in particular fact situations may be submitted under § 503.1 of the regulations. Further consideration of this objection is not warranted.

(5) An objection was received to § 502.101(b)(1) which limits the use of introductory offers to a package containing a new product, a product which has been changed in a functionally significant and substantial respect or a product which is being introduced into a trade area for the first time. The objection states that in the past, introductory offers have been frequently used to introduce new package sizes.

The Commission has determined that the promotional concept of introductory offer is only meaningful to the consumer when it relates to the product as new or newly introduced into a trade area. Promotions based on package size alone would be inconsistent with the intent of the Act to reduce package size proliferation. Therefore, the Commission has determined that the objection is not based on legally sufficient and reasonable grounds and that a public hearing is not warranted.

(6) Several objections were received noting the omission in the regulations

[13] Filed as part of the original.

of any provision for orderly disposal of packages in inventory or with the trade. In addition, comments concerning the effective date of the regulations emphasize the need for a period of advance planning to accomplish plate changes, printing, and availability of complying packages.

The Commission recognizes that section 6(d) of the Act provides that regulations when issued will not preclude the orderly disposal of packages in inventory or with the trade as of the effective date of the regulation. This provision has been construed to permit the filling of nonconforming packages until the effective date of the regulation and further permits distribution of the nonconforming packaged products in inventory following that date. Unfilled nonconforming packaging on hand as of the effective date may not be used unless modified to comply with the regulation. The Commission assumes good faith in the quantitative nature of packaging and labeling prior to the effective date being related to normal packaging and distribution practices. In keeping with the mandates of the Act, to issue necessary regulations and consistent with the provision allowing for orderly transition to complying packaging, the Commission will establish effective date to provide, where necessary, for adequate advance planning to accomplish label changes. In view of the specific limitations set forth in the Act and the Commission's previously issued guidance, these objections do not warrant further consideration.

To facilitate making the above described change in response to the objection and comments received, the Commission concludes that § 502.100 of the final order of June 30, 1971 (36 F.R. 12284) should be canceled and a new final order on this matter should be adopted as set forth below.

Accordingly, the December 31, 1971, effective date of the remaining sections of Part 502 is confirmed and pursuant to the authority contained in the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1298, 1299, 1300; 15 U.S.C. 1454, 1455); it is ordered that Part 502 of Subchapter E be amended by revising § 502.100 to read as follows:

§ 502.100 "Cents-off" representations.

(a) The term "cents-off representation" means any printed matter consisting of the words "cents-off" or words of similar import, placed upon any packaging containing a consumer commodity or placed upon any label affixed to such commodity, stating or representing by implication that the commodity is being offered for sale at a price lower than the ordinary and customary retail sale price.

(b) Except as set forth in § 502.101, the package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler a "cents-off" representation unless:

(1) The commodity has been sold by the packager or labeler at an ordinary and customary price in the most recent and regular course of business in the trade area in which the "cents-off" promotion is made, either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler.

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his ordinary and customary price, which reduction is at least equal to the amount of the "cents-off" representation imprinted on the commodity package or label.

(3) Each "cents-off" representation imprinted on the package or label is limited to a phrase which reflects that the price marked by the retailer represents the savings in the amount of the "cents-off" the retailer's regular price, e.g., "Price Marked is _____¢ Off the Regular Price". "Price Marked is _____ Cents-off the Regular Price of This Package"; provided, the package or label may in addition bear in the usual pricing spot a form reflecting a space for the regular price, the represented "cents-off" and a space for the price to be paid by the consumer.

(4) The packager or labeler who sells the commodity at retail displays the regular price, designated as the "regular price", clearly and conspicuously on the package or label of the commodity or on a sign, placard, or shelf-marker placed in a position contiguous to the retail display of the "cents-off" marked commodity, and the packager or labeler who does not sell at retail provides the retailer with a sign, placard, shelf-marker, or other device for the purpose of clearly and conspicuously displaying the retailers regular price, designated as "regular price", in a position contiguous to the "cents-off" marked commodity.

(5) The packager or labeler:

(i) Does not initiate more than three "cents-off" promotions of any single size commodity in the same trade area within a 12-month period;

(ii) Allows at least 30 days to lapse between "cents-off" promotions of any particular size packaged or labeled commodity in a specific trade area; and

(iii) Does not sell any single size commodity so labeled in a trade area for a duration in excess of 6 months within any 12-month period.

(6) Sales by the packager or labeler of any single size commodity so labeled in a trade area do not exceed in volume fifty percent (50%) of the total volume of sales of such size commodity in the same trade area during any 12-month period. The 12-month period used by the packager or labeler may be the calendar, fiscal, or market year provided the identical period is applied in this subparagraph and subparagraph (5) of this paragraph. Volume limits may be calculated on the basis of projections for the current year but shall not exceed 50 percent of the sales for the preceding year in the event actual sales are less than the projection for the current year.

(c) A packager or labeler will not make a "cents-off" promotion available in any circumstances where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to the consumers the represented price reduction or where the retailer fails to display the regular price in the display area of the "cents-off" marked product. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler in situations where he does not sell to the public.

(d) A packager or labeler who sponsors a "cents-off" promotion shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the end of the year (calendar, fiscal, or market) in which the "cents-off" promotion occurs.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written objections thereto, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which if valid and factually supported may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination.

As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections or, if no objections sufficient to warrant the holding of a public hearing have been filed, stating the fact. This order shall become effective on January 2, 1972, except (1) any provision that may be stayed by the filing of valid objections and (2) § 502.100(b)(3) which shall become effective on June 30, 1972.

By direction of the Commission dated December 1, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-17761 Filed 12-1-71;3:56 pm]

PART 503—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Withholding Packaging With Retail Sale Price Representations

The Federal Trade Commission issued final regulations under Part 502 of Subchapter E covering the use of "cents-off", "introductory offer" and "economy size" representations imprinted on packaged or labeled consumer commodities. These regulations were issued pursuant to section 5(c) of the Fair Packaging and Labeling Act and published on June 30, 1971 (36 F.R. 12284). Since they are necessarily general in application, the Commission will entertain requests for formal rulings and statements of policy or interpretation as the need arises.

A request for interpretation and policy guidance has been received with reference to §§ 502.100(c), 502.101(d) and 502.102(c) of the regulations, all of which prohibit the packager or labeler from making available packages marked with "cents-off", "introductory offer" and "economy size" representations when it is known that such packages will be used as instrumentalities for deception.

Accordingly, pursuant to the authority contained in the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1298, 1299, 1300; 15 U.S.C. 1454, 1455); Part 503 of Subchapter E is amended by adding § 503.6 and § 503.1 is amended to read as follows:

§ 503.1 Interpretations.

The regulations in Parts 500, 501, and 502 of this chapter are necessarily general in application and requests for formal rulings, statements of policy or interpretations shall be addressed to the Secretary of the Commission for consideration. Statements of policy or interpretations binding on the Commission will be published in the FEDERAL REGISTER. However, technical questions not involving policy consideration may be answered by the staff.

§ 503.6 Packagers' duty to withhold availability of packages imprinted with retail sale price representations.

To clarify the requirements, under Part 502 of the regulations in this chapter, that a packager or labeler will not make packages marked with retail sale price representations available in any circumstance where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, the following represents the opinions of the Commission:

(a) Details of a plan to provide special packaging or special package sizes bearing retail sale price representations should contain the condition that customers will not be provided with such packages unless they resell the package at a price which fully passes on to the purchasers the represented savings or sale price advantage.

(b) A packager or labeler who, in good faith, takes reasonable and prudent measures to verify the performance of his customers will be deemed to have satisfied his obligation under the regulations. If the packager has taken such steps, the fact that a particular customer has failed to resell the packages at a price which fully passes on to the purchaser the represented savings or sale price advantage shall not alone place a seller in violation of the regulations.

(c) Any packager or labeler who determines that a customer does not intend to fulfill or has not fulfilled the conditions of an offer should immediately refrain from further sale under that offer to the customer. In situations where proper fulfillment of the conditions of an offer are in question, the Commission will resolve the issue after appropriate investigation of the facts submitted.

By direction of the Commission dated December 1, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-17762 Filed 12-1-71;3:56 pm]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 2—PUBLIC INFORMATION

On August 28, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17360) concerning the procedures to be followed by the Environmental Protection Agency in making records available to the public pursuant to the Freedom of Information Act, 5 U.S.C. 552. After consideration of all relevant comments and suggestions from interested persons, the proposed rules have been revised, and are hereby adopted as Part 2 of Title 40, as set forth below.

Effective date. In view of the importance of formalizing at the earliest practicable date the procedures that the Environmental Protection Agency will follow in response to requests for information, and in further view of the fact that no affected party will be required to alter his past practices as a result of promulgation of these regulations, it is found that good cause exists for dispensing with the 30-day period normally provided for by 5 U.S.C. 553(d). Accordingly, these regulations will be effective upon publication in the FEDERAL REGISTER (12-3-71).

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 30, 1971.

Sec.

AUTHORITY: The provisions of this Part 2 issued under 5 U.S.C. 552, as amended by Public Law 90-23.

§ 2.100 Scope.

This part establishes procedures for the Environmental Protection Agency (EPA) to implement the provision of the Administrative Procedure Act (5 U.S.C. 552(a)(3)) relating to the availability to the public of identifiable records contained in agency files, and not published in the FEDERAL REGISTER. This part is applicable to all EPA components, including all EPA regional offices, field installations and laboratories.

§ 2.101 General policy.

It is the policy of EPA to make the fullest possible disclosure of information to any person who requests information, without unjustifiable expense or delay. Where information is exempt under 5 U.S.C. 552(b) from mandatory disclosure, the EPA Office of Public Affairs may, pursuant to § 2.107, order disclosure in the public interest, unless such disclosure is prohibited by law.

§ 2.102 Procedures applicable to the public.

(a) *Form of request.* A request need not be in any particular form, but it (1) must be in writing, and (2) must describe the records sought with sufficient specificity to permit identification.

(b) *Place of request.* A request for records may be filed with the EPA Office of Public Affairs, 401 M Street SW., Washington, D.C. 20460, or with any other EPA office. Requests for records located in the indicated States may be filed with the following EPA Regional Offices:

(1) *Region I.* (Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, Vermont), Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.
(2) *Region II.* (New Jersey, New York, Puerto Rico, Virgin Islands), Room 847, 26 Federal Plaza, New York, NY 10007.
(3) *Region III.* (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Post Office Box 12900, Philadelphia, PA 19108.
(4) *Region IV.* (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.
(5) *Region V.* (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 1 North Wacker Drive, Chicago, IL 60606.
(6) *Region VI.* (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 1114 Commerce Street, Dallas, TX 75202.
(7) *Region VII.* (Iowa, Kansas, Missouri, Nebraska), Room 702, 911 Walnut Street, Kansas City, MO 64106.
(8) *Region VIII.* (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Room 9041, Federal Office Building, 19th and Stout Streets, Denver, CO 80202.
(9) *Region IX.* (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island), 760 Market Street, San Francisco, CA 94102.

(10) *Region X.* (Alaska, Idaho, Oregon, Washington), 1200 Sixth Avenue, Seattle, WA 98101.

§ 2.103 Agency procedures in response to request.

Within 10 working days after receipt of a request for records by an EPA office other than the Office of Public Affairs, such office will forward a copy of the request (with the date and place of receipt noted thereon) to the EPA Office of Public Affairs. In the event the office receiving the request is not the office responsible for maintaining the records requested, the request shall be forwarded immediately to the office having such responsibility.

§ 2.104 Duties of responsible EPA office.

Within 10 working days after receipt of a request for records, the EPA office responsible for maintaining the records requested will:

(a) Obtain, or ascertain the location of, the records requested, and, unless a determination pursuant to § 2.106 is required, inform the requesting party of where the records may be inspected and, if ascertainable, of the charge for furnishing copies; or

(b) Inform the requesting party that the search for the requested records is continuing, and advise him of the anticipated date of completion of the search, and of any necessary subsequent extensions of such date, at which time (but in no event later than 30 days after receipt of a request for records) the provisions of the appropriate paragraph of this section will be promptly followed; or

(c) Inform the requesting party that the records sought are in the possession of another Government agency; refer the request to the office in such other agency where the records may be found; and notify the requesting party of such referral; or

(d) Inform the requesting party that the records requested do not exist, to the best knowledge of the receiving office; or

(e) Inform the requesting party that the records requested have been published in the FEDERAL REGISTER, or in any other generally available publication, and furnish the citation to such publication and the place or places where it may be obtained; or

(f) Inform the requesting party that disclosure of all or part of the records requested is under review pursuant to § 2.106, and promptly forward the request in accordance therewith: *Provided*, That with respect to any part of the records requested which is not subject to review pursuant to § 2.106, action shall be taken promptly under the appropriate paragraph of this section; or

(g) Furnish such other information or take such other action as is appropriate; and

(h) Advise the EPA Office of Public Affairs of the action taken.

§ 2.105 Exemptions.

(a) *Exempt information.* Records may be exempt from disclosure, pursuant to 5 U.S.C. 552(b), when they pertain to matters that are:

(1) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) *Procedures.* The office responsible for maintaining the records requested will make a preliminary evaluation to determine whether they are exempt from mandatory disclosure pursuant to 5 U.S.C. 552(b). Whenever it is determined that the records requested are or may be exempt, such office will promptly forward a copy or a description of the records requested, together with a brief statement of its position with reference to the applicability of an exemption, and a request for a determination, to the Office of the General Counsel at EPA headquarters, or to the Regional Counsel for the region in which the records are located, and, if the information contained in the records requested was obtained from a person other than EPA, will give notice of the request to such other person.

§ 2.106 Determinations by the Office of the General Counsel or a Regional Counsel.

(a) *General.* Not later than 10 working days after receipt of a request for a determination, the Office of the General Counsel or Regional Counsel:

(1) Will advise the office requesting the determination to release the records requested, if no exemption pursuant to 5 U.S.C. 552(b) is found applicable; or

(2) Will advise the office requesting the determination not to release the records requested, if disclosure is prohibited by law; or

(3) Will, if it is found that an exemption pursuant to 5 U.S.C. 552(b) is applicable, but that disclosure is not prohibited by law, forward to the EPA Office of Public Affairs the entire file, with an opinion as to the applicability of a statutory exemption; and,

(4) Will, if the information contained in the requested records was obtained from a person other than EPA, advise such other person of the action taken pursuant to this section.

(b) *Consultation.* A determination by a Regional Counsel under paragraph (a) of this section will be made only after consultation with the Office of the General Counsel.

§ 2.107 Determinations by the Office of Public Affairs.

Not later than 10 working days after receipt of an opinion from the Office of the General Counsel or a Regional Counsel pursuant to § 2.106(a)(3) as to the applicability of an exemption under 5 U.S.C. 552(b), the Office of Public Affairs will determine whether the records requested should be made available in the public interest, notwithstanding the applicability of an exemption, and will

(a) Order the disclosure of the records requested, or

(b) Notify the requesting party in accordance with § 2.109 that the records requested will not be disclosed.

§ 2.108 Creation of records.

Documents will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requesting party with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons.

§ 2.109 Denial of requests for records.

(a) General: If it is determined pursuant to this part that requested records will not be provided, the EPA office responsible for maintaining the requested records (or, in the event a determination has been made under § 2.107(b), the Office of Public Affairs will notify the requesting party in writing that the request has been denied. A written denial of a request for information will contain a brief explanation of the statutory basis for nondisclosure, and will state that judicial review is available in the U.S. District Court for the district in which the requesting party resides or has his principal place of business, or in which the records sought are located.

(b) If EPA shall fail to grant or to deny in writing a request within 90 days following its receipt, the requesting party may regard such failure as final EPA action denying the request, and will be entitled to pursue his remedy in the courts as provided by 5 U.S.C. 552(a)(3).

§ 2.110 Copies of documents.

If it is determined that records requested may be disclosed, the requesting party will be entitled to copies. However, records shall not be released for copying by non-EPA personnel. When a determination not to disclose a portion of records requested has been made, records will be masked for copying of nonexempt portions of the documents.

§ 2.111 Payment.

(a) *Charges.* Fees will be charged for copies of records which are furnished to a person under this part and for time spent in locating and reproducing them, in accordance with a fee schedule maintained and revised by the Office of Public Affairs. No fee will be charged for time spent in processing of any request for information, nor will any fee be charged for periods of less than one-half hour spent in connection with a search for records. For the purposes of this section, "processing" shall include all time spent in generating correspondence related to a request and in making determinations under §§ 2.106 and 2.107.

(b) *Prepayment.* In the event pending requests under this part from the same requesting party would require the payment of fees in excess of $10, such records will not be made available, nor copies of such records furnished unless the requesting party first submits payment in the total amount due; or, if not ascertainable, in the approximate amount that would become due upon compliance with the request, as determined by the Office of Public Affairs or by the office complying with the request. In the event an advance payment hereunder shall differ from the amount of the fees actually due, an appropriate adjustment will be effected at the time the copies requested are delivered.

(c) *Waiver.* The Office of Public Affairs or the office complying with the request may waive the payment of fees, if such waiver would be in the public interest.

[FR Doc.71-17675 Filed 12-2-71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-16—PROCUREMENT FORMS

Illustrations of Forms

On May 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9253-9258) stating that the Department of Health, Education, and Welfare was considering an amendment to 41 CFR Chapter 3 by adding new Subpart 3-16.9, Illustration of Forms under Part 3-16. The purpose of the amendment is to illustrate the revised form HEW-316, General Provisions (Negotiated Cost-Plus-Fixed Fee Contract). The General Provisions include certain clauses prescribed by the Federal Procurement Regulations (41 CFR Ch. 1). These clauses are not being repeated herein, but are identified by an appropriate cross-reference to the applicable FPR section.

Interested persons were invited to submit written data, views, or comments within 30 days after publication. Written comments were received, and after due consideration of the views presented, the regulation is revised and adopted as set forth below.

Effective date. This amendment shall become effective 90 days after publication in the FEDERAL REGISTER.

Dated: November 29, 1971.

ROBERT C. COULTER,
Acting Deputy Assistant Secretary for Administration.

1. The table of contents for Part 3-16 is amended by adding the following entries:

Subpart 3-16.9—Illustrations of Forms

Sec.
3-16.950 HEW forms.
3-16.950-316 Form HEW-316, General Provisions (Negotiated Cost-Plus-Fixed Fee Contract).

AUTHORITY: The provisions of this Subpart 3-16.9 issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. New Subpart 3-16.9 is added as follows:

Subpart 3-16.9—Illustrations of Forms

§ 3-16.950 HEW forms.

HEW forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the HEW form numbers.

§ 3-16.950-316 Form HEW-316, General Provisions (Negotiated Cost-Plus-Fixed Fee Contract).

GENERAL PROVISIONS

(NEGOTIATED COST-PLUS-FIXED FEE CONTRACT)

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health, Education, and Welfare; and the term "his duly authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical direction of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of performance of this contract.

(d) The term "Department" means the Department of Health, Education, and Welfare.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

2. DISPUTES

(Text of this clause is set forth in FPR 1-7.101-12.)

3. LIMITATION OF COST

(a) It is estimated that the total cost to the Government, exclusive of any fixed-fee, for the performance of this contract will not exceed the estimated cost set forth in this contract and the Contractor agrees to use its best efforts to perform all work and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the contract, or, if at anytime the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed-fee, for the performance of this contract, will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the contract and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of such estimated cost unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in this contract has been increased by the Contracting Officer in writing, any cost incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

(c) If, (1) the Contractor stops performance before completion of all work hereunder because it has incurred costs in the amount of or in excess of the estimated cost set forth in the contract, and (2) the Contracting Officer elects not to increase such estimated cost, the Contractor's fixed-fee will be equitably reduced to reflect the actual amount of work performed as compared with the full amount of the work required in the contract. In the event of failure to agree as to the amount of such reduction, the Contracting Officer shall determine the amount, subject to the right of the Contractor to appeal therefrom pursuant to the clause in the contract entitled "Disputes." This paragraph shall not, in any way, limit the rights of the Government under the clause in the contract entitled "Termination for Default or for the Convenience of the Government."

4. ALLOWABLE COST AND FIXED FEE

(a) *Compensation for Contractor's services.* Payment for the allowable cost as herein defined, and of the fixed fee, if any, set forth in this contract shall constitute full and complete compensation for the performance of the work under this contract.

(b) *Allowable cost.* The allowable cost of performing the work under this contract shall be the costs actually incurred by the Contractor, either directly incident or properly allocable to the contract, in the performance of this contract in accordance with its terms. The allowable cost, direct and indirect, including acceptability of cost allocation methods, shall be determined by the Contracting Officer in accordance with:

(1) Subpart 1-15.2 of Part 1-15 of the Federal Procurement Regulations (41 CFR 1-15.2), as in effect on the effective date of this

contract: *Provided, however,* That costs of the Contractor's independent research and development, including their appropriate share of indirect and administrative costs, shall be unallowable unless otherwise expressly provided in the contract; and

(2) The terms of this contract.

5. NEGOTIATED OVERHEAD RATES

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Fixed Fee," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than 90 days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with paragraph (b) of the clause of this contract entitled "Allowable Cost and Fixed Fee."

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively, (1) provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision or negotiated provisional rates provided in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(g) If this contract is with a nonprofit organization, submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e) above.

6. PAYMENT

(a) *Payment on account of allowable costs.* Once each month (or at more frequent intervals if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as may be required, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (c) below, make payment thereon as approved by the Contracting Officer.

(b) *Payment on account of fixed-fee.* Unless otherwise provided in this contract, payment of the fixed-fee, if any, shall be made in periodic installments based on the ratio of costs incurred to the total estimated cost set forth in the contract. In making such periodic payments there shall be withheld 15 percent from each payment. Amounts so withheld shall be paid upon execution and delivery of a release by the Contractor as provided in paragraph (f) below.

(c) *Audit adjustments.* At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(d) *Completion voucher.* On receipt and approval of the invoice or voucher designed by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and provisions of (e) below) the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fixed-fee which has been withheld pursuant to (b) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 6 months (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(e) *Applicable credits.* The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer.

(f) *Financial settlement.* Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) property allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided,* That such claims are not known to the Contractor on the date of the execution of the released: *And provided further,* That the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

7. ACCOUNTS, AUDIT AND RECORDS

(a) The Contractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitute "records" for the purposes of this clause.

(b) The Contractor's plant(s), or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representatives.

(c) The Contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or the time periods for the particular records specified in 41 CFR Part 1–20, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below.

(i) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at this level involved in place of the Contractor; to add "of the Government prime contract" in place of "this contract" in (B) of subparagraph (c)(ii) above.

8. EXAMINATION OF RECORDS

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States and the Secretary, or any of their duly authorized representatives, shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, document papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

9. INSPECTION AND REPORTS

(a) *Inspection of work.* The Government shall have the right to inspect the work and activities under this contract, including, without limitation, premises where any Government property may be located, at such reasonable times and in such manner as it may deem appropriate and the Contractor shall afford the Government proper facilities and assistance for such inspection.

(b) *Reports.* The Contractor shall furnish such progress reports, schedules, financial, and cost reports, and other reports concerning the work under this contract as the Contracting Officer may require or as specified elsewhere in this contract. Cost and other financial data and projections furnished pursuant to this paragraph (b) shall not relieve the Contractor of the requirements for furnishing notice specified in the clause of this contract entitled "Limitation of Cost."

10. SUBCONTRACTING

(a) *Prior approval required.* Except as provided in (c) below, the Contractor shall not enter into any subcontract or purchase order not otherwise expressly authorized elsewhere in this contract without the prior written approval of the Contracting Officer and subject to such conditions as the Contracting Officer may require. The Contractor shall use such special and directed procurement sources as may be expressly required by the Contracting Officer.

(b) *Request for approval.* The Contractor's request for approval to enter into a subcontract pursuant to this clause shall include: (1) a description of the supplies or services to be called for by the subcontract; (2) identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained; (3) the proposed subcontract price, together with the Contractor's cost or price analysis thereof; (4) identification of the type of subcontract to be used; (5) a copy or draft of the proposed subcontract, if available; and (6) any other information which the Contracting Officer may require.

(c) *Certain purchases of property and services.* Prior written approval shall not be required for firm fixed-price subcontracts for the purchase or rental of items of personal property having a unit acquisition cost of less than $200 or for subcontracts in a total amount less than $1,000, unless otherwise specified elsewhere in this contract: *Provided, however,* That advance notification shall be given by the Contractor of any subcontract which exceeds in dollar amount 5 percentum of the total estimated cost of this contract.

(d) *Contractor's procurement system.* The Contractor shall use methods, practices or procedures in subcontracting or purchasing (hereinafter referred to as the Contractor's "procurement system") acceptable to the Contracting Officer. The Contracting Officer may, at any time during the performance of this contract, require the Contractor to provide information concerning its procurement system.

(e) *Effect of subcontracting.* Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the Government. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this contract (including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors, and the duty to maintain and account for property pursuant to the clause of this contract entitled "Government Property"). Approval of the provisions of any subcontract by the Contracting Officer shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost. In no event shall approval of any subcontract by the Contracting Officer be construed as effecting any increase in the estimated cost set forth in this contract. No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) *Procurements from contractor-controlled sources.* Procurement or transfer of equipment, materials, supplies, or services from a contractor-controlled source (any division or other organizational component of the prime contractor, exclusive of the contracting component, and any subsidiary or affiliate of the Contractor under a common control) shall be considered a subcontract for the purposes of this clause.

11. GOVERNMENT PROPERTY

(a) *Government furnished property.* (1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government furnished property"). In the event that Government furnished property is not delivered to the Contractor by such time or times as stated, in sufficient time to enable the Contractor to meet such delivery or performance dates under this contract, such event shall constitute an excuseable delay pursuant to the clause of this contract entitled "Excuseable Delays" and the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor, and make appropriate equitable adjustments to any contractual provisions affected by any such delay in accordance with the provisions of the clause of this contract entitled "Changes." In the event that Government furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, immediately upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return or otherwise dispose of such property, or (ii) effect repairs or modifications thereto. Upon completion of (i) or (ii) above, the Contracting Officer, upon timely written request of the Contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Title.* (1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government furnished property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, are subject to the provisions of this clause and hereinafter collectively referred to as "Government property."

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(c) *Use of Government property.* Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(d) *Property management and control.* The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation, control of, and accountability for, Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor agrees to promptly receipt for all Government property in a form and manner as prescribed by the Contracting Officer. The Contractor further agrees to take all reasonable steps to comply with all directions or instructions which the Contracting Officer may prescribe regarding the management and control of Government property.

(e) *Risk of loss.* (1) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses, incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (A) all or substantially all of the Contractor's operations at any one plant, laboratory or separate location in which this contract is being performed, or (B) a separate and complete major organization, industrial or otherwise, in

connection with the performance of this contract:

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (B) to take all reasonable steps to comply with any appropriate written direction of the Contracting Officer under paragraph (d) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided*, That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in (1), above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract): *Provided, however*, That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or any provision for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish the Contracting Officer a statement of (i) The lost, destroyed, and damaged Government property, (ii) The time and origin of the loss, destruction, or damage, (iii) All known interests in commingled property of which the Government property is a part, and (iv) The insurance, if any, covering any part of or interest in such commingled property. The Contractor shall make repairs and renovations of the damaged Government property or take such other action, as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) *Disposition of Government property.* (1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with (1) and (2), above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) *Restoration of premises.* Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's plant or any portion thereof which is affected by removal of any Government property.

12. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (a) Drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery, or acceptance; and (d) the amount of Government-Furnished Property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (a) in the estimated cost or delivery schedule, or both, (b) in the amount of any fee to be paid to the Contractor, and (c) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

13. NOTICE TO THE GOVERNMENT OF DELAYS

Whenever the Contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes, is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

14. EXCUSABLE DELAYS

(Text of this clause is set forth in FPR 1–8.708.)

15. TERMINATION FOR DEFAULT OR FOR CONVENIENCE OF THE GOVERNMENT

(Text of this clause is set forth in FPR 1–8.702.)

16. RIGHTS IN DATA

(a) *Subject Data.* As used in this clause, the term "Subject Data" means writings, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) *Government rights.* Subject only to the proviso of (c) below, the Government may use, duplicate or disclose in any manner and for any purpose whatsoever, and have or permit others to do so, all Subject Data delivered under this contract.

(c) *License to copyrighted data.* In addition to the Government rights as provided in (b) above, with respect to any subject data which may be copyrighted the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world to use, duplicate or dispose of such data in any manner and for any purpose whatsoever, and to have or permit others to do so: *Provided, however*, That such license shall be only to the extent that the Contractor now has, or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) *Relation to patents.* Nothing contained in this clause shall imply a license

to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Marking and identification.* The Contractor shall mark all Subject Data with the number of this contract and the name and address of the contractor or subcontractor who generated the data. The Contractor shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(f) *Subcontractor data.* Whenever any Subject Data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's rights in that subcontractor Subject Data.

(g) *Deferred ordering and delivery of data.* The Government shall have the right to order, at any time during the performance of this contract, or within 2 years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any Subject Data and any data not called for in the schedule of this contract but generated in performance of the contract, and the Contractor shall promptly prepare and deliver such data as is ordered. The Government's right to use data delivered pursuant to this paragraph (g) shall be the same as the rights in Subject Data as provided in (b) above. The Contractor shall be relieved of the obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of 2 years from the date he accepts such items. When data, other than Subject Data, is delivered pursuant to this paragraph (g), payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form, reproducing it or preparing it for delivery.

17. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

18. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

(Text of this clause is set forth in FPR 1–7.101–18.)

19. REPORTING OF ROYALTIES

If this contract involves any royalty payments in excess of $250 or if the amount of any royalty payment in excess of $250 is reflected in the estimated cost, the Contractor shall report in writing to the Contracting Officer, as soon as practicable during the performance of this contract, the amount of any royalties paid or to be paid by it directly to others in connection with the performance of this contract, together with: (a) The names and addresses of licensors to whom such payments are made; (b) The patent numbers or patent application serial numbers (with filing dates) involved or other identification of the basis of such royalties; and (c) Information concerning the manner of computation of such royalties.

20. PATENT RIGHTS

(a) *Definitions.* As used in this clause, the term (1) "Invention" or "Invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States; and (2) "Made," when used in relation to any invention or discovery, means the conception or first actual or constructive reduction to practice of such invention.

(b) *Disclosure.* Whenever an invention or discovery is made by the Contractor or its employees in the course of or under this contract, the Contractor shall immediately give the Contracting Officer written notice thereof and shall promptly thereafter furnish the Contracting Officer with complete information thereon, including as a minimum (1) a complete written disclosure of each such invention, and (2) information in writing, as soon as practicable, concerning the date and identity of any public use, sale, or publication of such invention made by or known to the Contractor.

(c) *Determination of rights.* The Secretary, or his duly authorized representative, shall have the sole and exclusive power to determine whether or not and where a patent application shall be filed and to determine the disposition of all rights in any invention made under this contract, including title to and rights under any patent application or patent which may issue thereon. The Secretary, or his duly authorized representative, may, upon the request of the Contractor, determine to exercise his option to waive rights to any such invention in foreign countries. The determination of the Secretary, or his duly authorized representative, on all these matters shall be accepted as final and the provisions of the clause of this contract entitled "Disputes" shall not apply. The Contractor agrees that it will, and warrants that all of its employees who may be the inventors of any such invention will, execute all documents and do all things necessary or proper to effectuate the determination of the Secretary, or his duly authorized representative, or to vest in the Government the rights granted to it under this clause and to enable the Government to apply for and prosecute any patent application, in any country, covering such invention where the Government has the right under this clause to file such application.

(d) *Contractor employees and subcontractors.* The Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract, except such clerical and manual labor personnel as will have no access to technical data.

(2) Insert in each subcontract having experimental, developmental or research work as one of its purposes, a provision making this clause applicable to the subcontractor and its employees.

(e) *Reports.* The Contractor shall furnish the Contracting Officer, in addition to the information called for in paragraph (b) of this clause:

(1) Interim reports on the first anniversary of the contract, where extended or renewed, and every year thereafter listing all inventions made during the period, whether or not previously reported, or certifying that no inventions were made during the applicable period; and

(2) A final report, prior to final settlement of this contract, listing all such inventions made in the course of or under this contract, including all those previously listed in interim reports, or certifying that there are no such unreported inventions.

(f) *Withholding payment for failure to comply.* At any time during the performance of this contract, the Contracting Officer may direct that payment be withheld in the amount of 10 percent of the total amount obligated by the Government with respect to this contract or $10,000, whichever is less, if the Contracting Officer determines that the Contractor has failed to furnish any of the written notices, disclosures, or reports required by paragraphs (b) and (e) above, until such time as the Contracting Officer determines that the Contractor shall have corrected such failure. The withholding of any amount, or subsequent payment thereof to the Contractor, or the failure to withhold any amount shall not be construed as a waiver of any rights accruing to the Government under the contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(g) *Acknowledgement.* With respect to any patent application on any invention made in the course of or under this contract, the Contractor shall incorporate in the first paragraph of the patent specification, and prominently in any patent issued thereon, the following statement:

"The invention described herein was made in the course of or under a contract with the U.S. Department of Health, Education, and Welfare."

21. PUBLICATION AND PUBLICITY

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish and make available through accepted channels the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other work is published and furnish a copy of it as finally published.

(b) The Contractor shall acknowledge the support of the Department of Health, Education, and Welfare whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgement substantially as follows:

"The work upon which this publication is based was performed pursuant to Contract (insert number) with the (insert name of constituent agency), Department of Health, Education, and Welfare."

22. KEY PERSONNEL

Where "key personnel" have been identified in this contract, it has been determined that such named personnel are necessary for the successful performance of this contract; and the Contractor agrees to assign such persons to the performance of the work under this contract, and shall not reassign or remove any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned personnel is unavailable for assignment for work under the contract, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such personnel with personnel of substantially equal ability and qualifications.

23. LITIGATION AND CLAIMS

The Contractor shall give the Contracting Officer immediate notice in writing of (a) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to, the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled, "Allowable Cost and Fixed Fee." Except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent

not in conflict with any applicable policy or insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractor; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

24. REQUIRED INSURANCE

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including, but not limited to, the requirements of Subpart 1–10.5 of the Federal Procurement Regulations (41 CFR 1–10.5), or by the written direction of the Contracting Officer. Prior written approval of the Contracting Officer shall be required with respect to any insurance policy the premiums for which the Contractor proposes to treat as a direct cost under this contract and with respect to any proposed qualified program of self-insurance. The terms of any other insurance policy shall be submitted to the Contracting Officer for approval upon request.

(b) Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall not procure or maintain for its own protection any insurance covering loss or destruction of or damage to Government Property.

25. OVERTIME

Unless otherwise provided in this contract, the Contractor shall not perform overtime work under or in connection with this contract for which premium compensation is required to be paid, without specific written approval from the Contracting Officer.

26. FOREIGN TRAVEL

Foreign travel shall not be performed without the prior written approval of the Contracting Officer. As used in this clause, "Foreign Travel" means travel outside the United States, its Territories and Possessions, and Canada.

27. QUESTIONNAIRES AND SURVEYS

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the Contractor shall obtain written approval from the Contracting Officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

28. PRINTING

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in title I of the Government Printing & Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. *Provided, however,* That performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10¾ by 14¼ inches, will not be deemed to be printing.

29. SERVICES OF CONSULTANTS

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled "Subcontracting," the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the Contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract, or if no amount is set forth, $100.00, exclusive of travel costs, or where the services of any consultant under this contract will exceed ten days in any calendar year.

Whenever Contracting Officer approval is required, the Contractor will obtain and furnish to the Contracting Officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charges by such consultant to others for performing consultant services of a similar nature.

30. CONSULTANT OR OTHER COMPARABLE EMPLOYMENT SERVICES OF CONTRACTOR EMPLOYEES

The Contractor shall require all employees who are receiving 50 percent or more of their regular annual compensation under the terms of this contract to disclose to the Contractor all consultant or other comparable employment services which the employees propose to undertake for others. The Contractor shall advise the Contracting Officer of all information obtained from such disclosures (which information shall be treated with confidentiality by the Contracting Officer); and shall advise the Contracting Office of the nature and extent of any work such employees are undertaking under any other contract the Contractor may be performing for the Department. With respect to any employee who will be employed on a full-time annual basis on the work under this contract, the Contractor will require, as a condition of his employment on such work, that the employee will not perform consultant or other comparable employment services for another contractor under a cost-reimbursement type contract with the Department, except with the prior approval of the Contractor who shall notify the Contracting Officer of such approval.

31. ASSIGNMENT OF CLAIMS

(Text of this clause is set forth in FPR 1–30.703.)

32. CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION

(Text of this clause is set forth in FPR 1–12.303.)

33. WALSH-HEALEY PUBLIC CONTRACT ACT

(Text of this clause is set forth in FPR 1–12.605.)

34. EQUAL OPPORTUNITY

(Text of this clause is set forth in FPR 1–12.803–2.)

35. CONVICT LABOR

(Text of this clause is set forth in FPR 1–12.203.)

36. OFFICIALS NOT TO BENEFIT

(Text of this clause is set forth in FPR 1–7.101–19.)

37. COVENANT AGAINST CONTINGENT FEES

(Text of this clause is set forth in FPR 1–1.503.)

38. BUY AMERICAN ACT SUPPLY AND SERVICE CONTRACTS

(Text of this clause is set forth in FPR 1–6.104–5.)

39. UTILIZATION OF SMALL BUSINESS CONCERNS

(Text of this clause is set forth in FPR 1–1.710–3(a).)

40. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(Text of this clause is set forth in FPR 1–1.805–3(a).)

ROBERT C. COULTER,
Acting Deputy Assistant Secretary for Administration.

[FR Doc.71–17684 Filed 12–2–71;8:50 am]

Title 45—PUBLIC WELFARE

Chapter X—Office of Economic Opportunity

PART 1068—COMMUNITY ACTION PROGRAM GRANTEE FINANCIAL MANAGEMENT

Subpart F—Grantee Compliance With IRS Requirements for Withheld Federal Income and Social Security Taxes

Part 1068 of Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Subpart F, reading as follows:

Sec.
1068.6–1 Applicability of this subpart.
1068.6–2 Purpose.
1068.6–3 Policy.
1068.6–4 General.

Appendix A.

AUTHORITY: The provisions of this Subpart F issued under section 115 of the 1969 amendments to the EOA, 83 Stat. 833, 42 U.S.C. 2705.

§ 1068.6–1 Applicability of this subpart.

This subpart applies to all grantees receiving financial assistance under the Economic Opportunity Act of 1964, as amended, when the assistance is administered by OEO.

§ 1068.6–2 Purpose.

The purpose of this subpart is to state the necessity for strict compliance with the provisions of Internal Revenue Service regulations for withholding Federal income and social security taxes from emloyees' wages, and the timely and proper reporting and remittance of these withheld taxes to the appropriate IRS District Director.

§ 1068.6–3 Policy.

(a) Any grantee receiving financial assistance under the Economic Opportunity Act of 1964 will comply with the

applicable sections of the Federal tax code by withholding taxes, filing the appropriate tax returns and remitting taxes to the designated Internal Revenue Service District Office.

(b) Failure to comply with IRS requirements for reporting and remitting the withheld taxes will result in IRS notifying OEO to suspend further payments due the grantee and to refuse to refund, make supplements, or provide any other assistance, as prescribed in section 115 of the 1969 amendments to the Economic Opportunity Act of 1964, until adequate provisions have been made to satisfy tax obligations.

(c) The use of funds withheld from employee's wages for taxes, for program purposes, even with the intent to later restore such funds from another source, is improper and is specifically prohibited.

(d) Section 115 of the Economic Opportunity Act of 1964, as amended, provides:

> Upon notice from the Secretary of the Treasury or his delegate that any person otherwise entitled to receive a payment made pursuant to a grant, contract, agreement, loan or other assistance made or entered into under the Economic Opportunity Act of 1964 is delinquent in paying or depositing (1) the taxes imposed on such person under chapters 21 and 23 of the Internal Revenue Code of 1954, or (2) the taxes deducted and withheld by such person under chapters 21 and 24 of such Code, the Director of the Office of Economic Opportunity shall suspend such portion of such payment due to such person, which, if possible, is sufficient to satisfy such delinquency, and shall not make nor enter into any new grant, contract, agreement, loan or other assistance under such Act with such person until the Secretary of the Treasury or his delegate has notified him that such person is no longer delinquent in paying or depositing such tax or the Director of the Office of Economic Opportunity determines that adequate provision has been made for such payment * * *

§ 1068.6–4 General.

(a) All OEO-funded organizations are required by IRS laws and regulations to withhold income taxes from their employees' wages. This includes those religious, educational or charitable organizations which are exempt from Federal income taxes by IRS ruling under section 501(c)(3) of the Internal Revenue Code.

(1) All grantees, except those who qualify as a 501(c)(3) organization, must provide mandatory social security coverage for their employees. These grantees are liable for taxes imposed under the Federal Insurance Contributions Act. Those agencies who qualify as 501(c)(3) organizations, are exempt from social security taxes (Federal Insurance Contributions Act) unless they elect to provide social security coverage for their employees; however, if they do waive their exemption, they must also deduct the employees' share of FICA taxes from their wages.

(2) Grantees should consult their local IRS Office in order to determine their particular responsibilities in regard to each of these tax liabilities.

(b) All OEO grantees must, if they have not already done so, obtain Form SS–4, "Application for Employer Identification Number," and IRS Publication No. 15, Circular E, "Employer's Tax Guide," from the nearest IRS District Office.

(c) Form SS–4 is to be completed by these organizations with the required information and returned to the appropriate IRS Office. The IRS Office will assign an "Employer Identification Number" and furnish the organization with reporting and deposit forms preinscribed with the address and identification number. The identification number is used by IRS to identify the organization's tax accounts and must be recorded on all reports, remittances and related correspondence.

(d) Circular E provides the detailed definitions, instructions, guidelines, and sample forms related to obtaining an Employer Identification Number, tables for computing tax amounts to be withheld from employees' wages, and depositing and reporting Federal income and social security taxes. Attached to this subpart are the essential procedures and requirements contained in Circular E.

(e) To avoid delay and insure timely processing of grant applications, all applicants, for OEO funds must record their "Employee Identification Number" on the following OEO forms:

CAP Form 3—Community Action Basic Information (section I, Item 6).

CAP Form 87—Delegate Agency Basic Information (section II, Item 6).

OEO Form 303 (Test)—Applicant Agency Basic Information (section I, Item 6).

The forms referred to in § 1068.8–4(e) are available through normal OEO Supply channels.

OEO Distribution Center, 5458 Third Street NE., Washington, DC 20011.

WESLEY L. HJORNEVIK,
Deputy Director.

APPENDIX A

PROCEDURES FOR OBTAINING EMPLOYER IDENTIFICATION NUMBER AND DEPOSITING AND REPORTING WITHHELD FEDERAL INCOME AND SOCIAL SECURITY TAXES

Employer identification number. Each employer shall obtain Form SS–4, "Application for Employer Identification Number," and Internal Revenue Service Circular E, "Employer's Tax Guide." The form and tax guide may be obtained from any office of the Internal Revenue Service or Social Security Administration. Instructions for completion are on the reverse side of Form SS–4. Upon completion, the forms must be filed with the District Director of Internal Revenue with whom Federal tax returns are filed. A copy of the form will be returned with the assigned "Employer Identification Number" recorded thereon. This identification number should be shown on all forms and attachments, and in all correspondence with the Internal Revenue Service and the Social Security Administration.

Payment of withheld income and social security taxes. In most cases, the employer is responsible not only for the employer's contribution of social security tax, but also for the employee tax and the income tax required to be withheld from the employee's wages. The amount of tax withheld by the employer becomes a special fund in trust for the United States. The employer is relieved of liability to any other person for such amount.

In general, the withheld income and social security taxes must be deposited with an authorized commercial bank depository or a Federal Reserve Bank with a Federal Tax Deposit Form 501. Deposits are required to be made as follows.

(a) Every employer who holds more than $100 in social security and withheld income taxes (reduced by any deposits for the quarter) must deposit these taxes on or before the last day of the month following the close of the quarter.

(b) Monthly deposits are required if the total of the social security and withheld income taxes is more than $100 for that month.

(c) Any employer who has withheld more than $2,500 of social security and withheld income taxes for any month of a calendar quarter must make semimonthly deposits of the taxes for the next quarter regardless of the amount.

Quarters	Quarter ending	Due date
January, February, March	Mar. 31	Apr. 30
April, May, June	June 30	July 31
July, August, September	Sept. 30	Oct. 31
October, November, December	Dec. 31	Jan. 31

Form 941 must be filed with the Internal Revenue Service Center for the IRS region in which the grantee or delegate agency is located as prescribed in Circular E. No more than one calendar quarter may be reported on one Form 941. Instructions for preparation of Form 941 are included on its reverse side. Preaddressed forms will be furnished for use by the grantee or delegate agency. Taxes not required to be deposited must be remitted with the return, or at the option of the employer, deposited on Form 501.

Penalties. Both criminal and civil penalties are provided for the willful failure to make returns (Form 941) and payments (Form 501) of tax, or for willfully filing false or fraudulent returns (Form 941).

A penalty is provided for failure, without reasonable cause, to make timely required deposits of taxes.

How to make deposits of taxes. Preinscribed Forms 501 will automatically be furnished the employer after he applies for an identification number.

The employer shall fill in a preinscribed Form 501, "Federal Tax Deposit," in accordance with the instructions printed on the reverse side of that form. Each Form 501, and a single remittance covering the amount of the taxes to be deposited, should be sent or taken to any commercial bank qualified as a depository for Federal taxes, or to a Federal Reserve Bank. The names of authorized commercial bank depositories may be ascertained at a local bank or Federal Reserve Bank. Checks or money orders covering deposits should be made payable to the bank to which the completed Form 501 is taken or sent.

Quarterly return of income tax withheld and social security taxes. Every grantee or delegate agency required to withhold Federal income and social security taxes from wages must file a quarterly return on Form 941, "Employer's Quarterly Federal Tax Return". The dates on which the return and tax payments are due, are as follows:

Records to be kept. Every employer subject to the employment taxes described in this attachment is required to keep all records pertinent to these taxes available for inspection by officers of the Internal Revenue Service if the need should arise. Such records should be kept for a period of at least 4 years after the date the related tax becomes due, or the date the tax is paid, whichever is later.

[FR Doc.71–17673 Filed 12–2–71;8:49 am]

Title 49—TRANSPORTATION

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

[Docket No. 71-20; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims for Passenger Cars; Correction

In F.R. Doc. 16113, appearing at page 21355 in the issue of November 6, 1971, in the list of "Changes" appearing on page 21358, the line beginning Table 1-T should read, "Table 1-T 225/70 R15, * * *"

This notice of correction is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. sections 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 501.8.

Issued on November 30, 1971.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.71-17686 Filed 12-2-71;8:50 am]

[Docket No. 1-18; Notice 6]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Control Location, Identification and Illumination

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 101 to clarify control identification and illumination requirements and to specify an effective date of September 1, 1973, for continuously variable control illumination.

Standard No. 101, *Control Location, Identification, and Illumination* (36 F.R. 503) was amended on May 4, 1971 (36 F.R. 8296) and July 16, 1971 (36 F.R. 13215). As a result of the latter amendment petitions for reconsideration were received from Ford Motor Co., International Harvester Co., and Jensen Motors, Ltd. American Motors and Chrysler Corp. have also asked for a clarification of control illumination requirements, to which this notice is responsive.

1. *S4.2 Control identification.* The preamble to the amendment published on May 4, 1971, stated that "Variable temperature increments [of a heating and air conditioning system control] from 'off' to 'high' of an adjustable control need not be identified." The amendment of S4.2 published on July 16 excluded identification only of intermediate positions of rocker-type or push-pull type heating and air conditioning system controls. Ford Motor Co. has inquired whether the amendment contradicts the preamble statement of May 14, thus requiring identification of each position of heating and air conditioning controls other than rocker or push-pull type. In addition, Chrysler believes the terminology "rocker-type or push-pull type control" may not be sufficiently inclusive or descriptive of controls intended to be covered by the requirement. The Administration believes that these points are well made, and is amending paragraph S4.2 in a manner that clarifies the agency's intent: That identification shall be provided for each function of any automatic vehicle speed system control and any heating and air conditioning system control, regardless of the type of control, and for the extreme positions of any such control that regulates a function over a quantitative range.

2. *S4.3 Control illumination.* The requirement that control illumination be continuously variable was questioned by Harvester, Jensen, and American Motors, who employ or wish to employ a three-position switch, and Ford, who argued that a simple on-off switch meets the need for motor vehicle safety.

In denying similar petitions for reconsideration in the July 16 notice, the NHTSA commented that "a motor vehicle operator should be able to set control illumination levels according to his own eye comfort and the specific condition of reduced visibility that requires control illumination." Additionally, the Administration noted that "it is important for a driver to reduce control illumination when the illumination is reflected in the windshield creating a glare condition." An on-off or three-position switch cannot provide optimal illumination for the variety of driving situations and driver perception that continuously variable illumination can, and the petitions are therefore denied. However, because compliance will require modifications in the control systems of vehicle manufactured by the petitioners, the agency finds, for good cause shown, that an effective date for this requirement later than September 1, 1972, is in the public interest. Accordingly, paragraph S4.3 is being amended to set a new effective date of September 1, 1973, for continuously variable control illumination.

3. *S5 Conditions.* Ford petitioned that paragraph S5 be amended to specify use of seat restraints in accordance with the requirements of Standard No. 208, *Occupant Crash Protection.* The Ford request has generally been found meritorious. In the case of passenger cars, it has been found appropriate and practicable to maintain the present requirement that the controls be within reach of a driver restrained by a nonextending pelvic and upper torso restraint. For other vehicles, the amended restraint requirement is based upon whether an upper torso restraint is required.

In consideration of the foregoing, 49 CFR 571.101a, Federal Motor Vehicle Safety Standard No. 101a, *Control Location, Identification, and Illumination,* is amended as follows:

1. Paragraph S4.2 is amended; the last sentence of paragraph S4.3 is amended and paragraph S5 *Conditions* is revised to read as follows:

§ 571.101a Standard No. 101a; control location, identification, and illumination (effective Jan. 1, 1972, with amendments effective Sept. 1, 1972, and Mar. 1, 1973).

* * * * *

S4.2 *Control identification.* This section applies to each passenger car manufactured on or after January 1, 1972, and to each multipurpose passenger vehicle, truck, and bus manufactured on or after September 1, 1972.

S4.2.1 If any control listed in column 1 of Table 1 is manually operated, the control shall be identified by the word or abbreviation specified in column 2. A control may, in addition, be identified by a symbol, but only a symbol shown in column 3 shall be used. However, if the word "None" appears in column 3, no symbol shall be provided. Identification shall be placed on or adjacent to the control, visible to the vehicle operator, and shall appear to the operator in an upright position.

S4.2.2 Identification shall be provided for each function of any automatic vehicle speed system control and any heating and air conditioning system control, and for the extreme positions of any such control that regulates a function over a quantitative range.

EXAMPLE 1: A slide lever controls the temperature of the air in the vehicle heating system over a continuous range, from no heat to maximum heat. Since the control regulates a single function over a quantitative range, only the extreme positions require identification.

EXAMPLE 2: A switch has three positions, for heat, defrost, and air conditioning. Since each position regulates a different function, each position must be identified.

S4.3 *Control illumination.* * * * On each vehicle to which this paragraph applies, manufactured on or after September 1, 1973, a control shall be provided to adjust the intensity of control illumination continuously variable from an "off" position to a position providing illumination sufficient for the vehicle operator to readily identify the control under conditions of reduced visibility.

S5. *Conditions.*

S5.1 Except as provided in S5.2, the person seated at the controls is restrained by a nonextending pelvic restraint fastened so that there is no slack between the lap belt and the pelvis.

S5.2 The person seated at the controls of a passenger car (except for a convertible passenger car), and of any multipurpose passenger vehicle, truck, or bus required by Motor Vehicle Safety Standard No. 208 to have a Type 2 seat belt assembly installed at the driver's seating position, is restrained by nonextending upper torso and pelvic restraints fastened so that the upper torso restraint can be moved 4 inches away from the sternum and there is no slack between the lap belt and the pelvis.

Effective date: January 1, 1972. Since this amendment clarifies existing requirements effective January 1, 1972, and imposes no additional burden, it is found for good cause shown that an effective

date earlier than 180 days after issuance is in the public interest.

This amendment is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on November 24, 1971.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.71-17687 Filed 12-2-71;8:50 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 34705 (Sub-No. 1)]

PART 1270—RAIL AND WATER CARRIER PASSES

Forms and Recording of Passes

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 12th day of November, 1971.

The Commission having under consideration the matter of regulations governing the forms and recording of passes, pursuant to the Interstate Commerce Act, as amended; and

It appearing that since these changes are either of a technical nature or result in a general relaxation of the regulations, public rulemaking procedures pursuant to section 553 of the Administrative Procedure Act are deemed unnecessary, and for good cause shown;

It is ordered, That effective upon publication of this order in the FEDERAL REGISTER (12-3-71), Part 1270 of Title 49 of the Code of Federal Regulations is amended as follows:

1. Amend the table of contents for Part 1270 to indicate that § 1270.4 is reserved.

§ 1270.1 [Amended]

2. Revise the reference to "steam roads" to read "railroads", and delete the reference to "sleeping car companies".

§ 1270.4 [Reserved]

3. Delete the title and text and indicate the section is reserved.

§ 1270.12 [Amended]

4. Amend the last sentence to read: "(For the periods of retention see regulations to govern the destruction of records Parts 1220, 1221, and 1227 of this chapter.)".

§ 1270.34 [Amended]

5. Revise the reference to "§ 1270.7" to read "§ 1270.6."

6. Amend the text of § 1270.53 to read:

§ 1270.53 Extension of passes without endorsement.

The time limit of outstanding annual or term passes may be extended, without endorsement, by the issuance of a general notice to that effect. If this is done, a copy of the notice shall be filed in the office in which are kept the records of the issuance of passes so extended and shall become a part of the records of passes issued.

§ 1270.70 [Amended]

7. Delete the portion at the end of the text reading: "or a statement of the arrangements must be filed with the Commission."

8. Revise the text of § 1270.85 to read:

§ 1270.85 Carriers' pass rules.

Each carrier shall maintain in its files copies of all its general rules and instructions in effect governing the issuance and use of passes.

It is further ordered, That service be made on all carriers by railroad subject to the Act, including electric railways, and on every carrier by water subject to the Act, and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended, 49 U.S.C. 20)

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17694 Filed 12-2-71;8:51 am]

[No. 35487 (Sub-No. 1)]

PART 1271—MOTOR CARRIER PASSES

Forms and Recording of Passes

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 12th day of November 1971.

The Commission having under consideration the matter of regulations governing the forms and recording of passes, pursuant to the Interstate Commerce Act, as amended; and

It appearing that since this change will result in a relaxation of the regulations, public rulemaking procedures pursuant to section 553 of the Administrative Procedure Act are deemed unnecessary and for good cause shown;

It is ordered, That effective upon publication of this order in the FEDERAL REGISTER (12-3-71), § 1271.25 of this part (49 CFR Part 1271) is revised to read as follows:

§ 1271.25 Carriers' pass rules.

Each carrier shall maintain in its files copies of all its general rules and instructions in effect governing the issuance and use of passes.

It is further ordered, That service be made on motor carriers of passengers subject to the Act, and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended, secs. 204, 220, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 12, 304, 320)

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17695 Filed 12-2-71;8:51 am]

Proposed Rule Making

FEDERAL MARITIME COMMISSION

[46 CFR Part 542]

[Docket No. 71-84]

FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Clarifying Language in Certificate of Insurance Form; Enlargement of Time To File Comments

Upon request of the Shipbuilders Council of America, and good cause appearing, time within which comments may be filed in response to the Commission's notice of proposed rule making in this proceeding (36 F.R. 21524; Nov. 10, 1971) is enlarged to and including December 23, 1971.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17665 Filed 12-2-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 818]

SWEETENED CHOCOLATE, CANDY, AND CONFECTIONERY

Proposed Import Quotas

Notice is hereby given that the Secretary of Agriculture, pursuant to authority vested in him by the Sugar Act of 1948, as amended by Public Law 92-138 approved October 14, 1971, is considering the issuance of Sugar Regulation 818 which will establish import quotas on sweetened chocolate (other than in bars or blocks of 10 pounds or more each), candy and confectionery for the calendar year 1972.

In accordance with the rule making requirements of 5 U.S.C. 553 (80 Stat. 378), all persons who desire to submit data, views, or arguments for consideration in connection with the proposed regulation shall file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than December 20, 1971.

The proposed regulation to establish import quotas on sweetened chocolate, candy, and confectionery for the calendar year 1972 is set forth essentially in form and language appropriate for issuance, if adopted by the Secretary, as follows:

Purpose and Basis. The purpose of this regulation is to implement the limitation on the importation of sweetened chocolate, candy, and confectionery pursuant to paragraph (d) of section 206 of the Sugar Act which was added by Public Law 92-138 and which reads in pertinent part as follows:

> * * * the Secretary shall each year, beginning with the calendar year 1972, limit the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of Part 10, Schedule 1, of the Tariff Schedules of the United States which may be entered or withdrawn from warehouse, for consumption in the United States as hereinafter provided. The quantity which may be so entered or withdrawn during any calendar year shall be determined in the fourth quarter of the preceding calendar year and the total amount thereof shall be equivalent to the larger of (1) the average annual quantity of products entered, or withdrawn from warehouse, for consumption under the foregoing items of the Tariff Schedules of the United States for the 3 calendar years immediately preceding the year in which each such quantity is determined or (2) a quantity equal to 5 per centum of the amount of sweetened chocolate and confectionery of the same description of United States manufacture sold in the United States during the most recent calendar year for which data are available. The total quantity to be imported under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the U.S. Department of Commerce as to the quantity of sweetened chocolate and confectionery of United States manufacture sold in the United States.

Bases and Considerations. The average annual quantity of products entered, or withdrawn from warehouse, for consumption under the Tariff Schedules of the United States (TSUS) items 156.30 and 157.10 for the calendar years 1968, 1969, and 1970 amounted to 152,103,191 pounds. That quantity was determined from data published by the Bureau of Census, U.S. Department of Commerce in the annual reports FT 246 under the reporting numbers 156.3000, 157.1020, and 157.1040.

The quantity of sweetened chocolate and confectionery of U.S. manufacture sold in the United States in 1970 amounted to 3,932,828,000 pounds as shown in "Confectionery Manufacturers' Sales and Distribution 1970" published by the Bureau of Domestic Commerce, U.S. Department of Commerce. Five percent of that quantity amounts to 196,641,400 pounds.

Accordingly, the quantity of sweetened chocolate, candy, and confectionery which may be imported for consumption under TSUS items 156.30 and 157.10 during the calendar year 1972 shall be limited to 196,641,400 pounds which is the larger of the two alternatives as provided in section 206(d) of the Sugar Act, i.e., the 1968-70 average imports or 5 percent of 1970 confectionery sales.

Pursuant to section 206(d) the total quantity permitted to be imported may be allocated to countries on such basis as the Secretary determines to be fair and reasonable. It is hereby determined that individual country quotas should be established for six countries, each of which accounted for more than 4 percent of average annual imports during 1968, 1969, and 1970 and which collectively accounted for over 76 percent of such annual imports. In addition, an "all other countries" quota is established for other countries. Imports within country quotas and within the quota established for all other countries shall be approved for entry on a first-come, first-served basis.

The provision to exempt each shipment of articles with an aggregate value of not more than $50 from import quotas is necessary so that tourists will be able to bring in small quantities of candy and confectionery for personal use.

Importations under the three pertinent reporting numbers of the Tariff Schedules of the United States by country of origin for 1968, 1969, and 1970 are set forth in table I. Table II shows for each quota country and for all other countries the combined imports under TSUS items 156.30 and 157.10 for 1968, 1969, and 1970, average imports in pounds and percent of total of all such imports for the 3-year period and percent of total for all such imports for 1970. Column (7) of table II shows percentages determined by giving equal weight to the 3-year average imports and to imports for 1970. Such percentages will be applied to the total import quota of sweetened chocolate, candy and confectionery as established for all countries to obtain 1972 quotas for each quota country and for all other countries as a group. Assigning a 50 percent weight to the 3-year average of imports gives consideration to the historical base while giving 50 percent weight to 1970 imports would allow consideration for trending records of imports. Under the circumstances which currently exist such a method of establishing quotas is considered fair and reasonable.

TABLE 1—ANNUAL IMPORTS UNDER TSUS ITEM 156.30 AND 157.10 BY TSUSA NOS. 1968, 1969, AND 1970 BY COUNTRY OF ORIGIN

Countries	1968			1969			1970		
	TSUSA Nos.			TSUSA Nos.			TSUSA Nos.		
	1563000	1571020	1571040	1563000	1571020	1571040	1563000	1571020	1571040
					(Pounds)				
Canada	4,071,040	5,273,665	4,546,601	5,334,930	5,259,457	4,386,832	5,955,690	4,808,000	7,716,[illegible]
Mexico	43,240	14,596	284,172	111,867	107,752	274,182	63,715	373,121	316,[illegible]
Jamaica								18,820	
Dominican Republic	35,404			541,000	29,107	5,477	993,122	151,885	
Trinidad and Tobago							18,600		
Colombia	21,535	1,969,805	638,301	3,858	2,213,119	584,623	31,765	2,839,201	193,[illegible]
Venezuela					45,156		2,540		11,[illegible]
Chile		27,612			36,014			22,027	
Brazil	239,460				9,760		55,115		
Uruguay		2,700	5,400						
Argentina		112,037			949,354	205,604	5,732	1,070,537	63,[illegible]
Sweden	4,886	4,311,743	379,075		3,472,234	304,530	1,991	5,174,415	411,[illegible]
Norway	21,078	25,442	48,934	22,254	25,800	35,158	24,387	21,301	62,[illegible]
Finland		3,523,060	706,060		2,314,278	781,475	12,129	2,091,999	1,110,[illegible]
Denmark	54,468	3,804,795	332,471	5,185	2,967,927	300,559	11,284	3,434,618	238,[illegible]
United Kingdom	16,199,885	33,916,356	7,160,299	13,328,842	29,956,855	9,018,131	13,808,560	30,316,524	10,256,[illegible]
Ireland	20,525,881	228,966	769,621	9,689,060	919,106	491,417	20,066,488	325,628	887,[illegible]
Netherlands	10,481,896	8,254,555	741,993	2,672,461	7,665,411	576,105	2,745,150	7,196,828	717,[illegible]
Belgium and Luxembourg	9,801,261	1,736,358	386,300	3,473,304	1,765,281	322,816	3,663,315	2,200,864	96,[illegible]
France	39,212	973,213	29,501	51,201	1,126,203	43,278	43,067	1,198,774	27,[illegible]
Federal Republic of Germany	1,542,746	923,258	3,857,563	1,404,815	763,705	4,039,162	1,654,720	1,477,342	4,662,[illegible]
Austria	34,181	1,618,399	268,940	73,478	1,834,176	157,474	65,289	1,531,385	320,[illegible]
Czechoslovakia	102,003	762,401		200,789	576,727	37,991	304,037	1,059,314	38,[illegible]
Hungary	5,375	34,921	7,200	4,462		6,596	4,440		12,[illegible]
Switzerland	941,880	1,333,149	543,150	883,284	1,338,566	448,280	1,091,930	1,237,876	508,[illegible]
Poland	3,326	491,144	123,545		1,293,547	263,428		1,389,849	204,[illegible]
U.S.S.R		9,134			38,898			7,936	
Spain		1,848,676	16,888		1,797,942	7,074		1,674,054	113,781
Italy	1,403,051	2,844,004	700,655	1,410,395	2,098,480	709,861	1,275,380	2,829,657	780,[illegible]
Yugoslavia	4,054		12,472						
Greece		107,217	13,141		135,794	6,790	8,072	149,795	11,[illegible]
Lebanon					8,784			7,757	
Iran					60,287			49,942	26,[illegible]
Israel	339,097	796,245	834,919	302,834	700,178	508,037	290,609	636,920	371,[illegible]
India								88,181	
Pakistan	37,619	41,904							
Korea					15,343			37,250	
Hong Kong		513,600	8,325		1,773,857	15,086		1,782,042	6,612
Taiwan					2,700			2,400	
Japan	21,103	473,857	16,588	18,168	529,132	100,377	50,808	562,292	53,[illegible]
Australia		20,226	1,720		65,423	3,695		30,096	4,[illegible]
New Zealand		25,210			25,099			47,333	2,[illegible]
Mauritania		8,700							
Nigeria				224,000					
Republic of South Africa		4,200			28,904			31,680	
Other	1,415	12,237	3,795	2,640	10,992	843	1,656	12,895	7,[illegible]
Total	65,956,306	76,013,385	22,436,729	39,767,827	72,002,348	23,634,971	52,309,710	75,580,488	28,607,[illegible]

Source: U.S. Imports for consumption and general imports, FT 246, annuals, U.S. Department of Commerce, Bureau of the Census.

TABLE 2—TOTAL IMPORTS UNDER TSUS ITEMS 156.30 AND 157.10, 1968, 1969, AND 1970, WITH 3 YEAR AVERAGES AND PERCENTS OF TOTAL, BY SIX LARGEST IMPORTING COUNTRIES AND ALL OTHER COUNTRIES GROUPED

Country	Imports				Percent of Total		
	1968[1]	1969[1]	1970[1]	Average 1968-1970	Average 1968-1970	1970 Imports	Average of Col. 5 and Col. 6
	Pounds	Pounds	Pounds	Pounds			
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Canada	13,890,706	14,981,219	18,480,241	15,784,055	10.377	11.809	11.093
United Kingdom	57,276,540	52,303,828	54,441,346	54,673,905	35.945	34.787	35.366
Ireland	21,524,468	11,099,583	21,249,516	17,957,856	11.806	13.578	12.692
Netherlands	19,478,444	10,913,977	10,659,703	13,684,041	8.997	6.812	7.904
Belgium and Luxembourg	11,923,919	5,561,401	5,900,593	7,815,304	5.138	3.809	4.474
West Germany	6,323,567	6,207,682	7,184,469	6,571,906	4.321	4.590	4.456
Subtotal	130,417,644	101,067,690	117,975,868	116,487,067	76.584	75.385	75.985
Other countries	33,988,776	34,337,456	38,522,139	35,616,124	23.416	24.615	24.015
Total all countries	164,406,420	135,405,146	156,498,007	152,103,191	100.000	100.000	100.000

[1] Total of annual imports under TSUSA Nos. 156.3000, 157.1020, and 157.1040 as reported in Table 1.

The proposed regulation recognizes that the import quotas for sweetened chocolate established under the authority of section 22 of the Agricultural Adjustment Act, as amended, which are set forth in items 950.15 and 950.16 of Part 3 of the appendix to TSUS, control the importation of such articles and continue in effect without change.

Sec.

818.10 Confectionery quotas for foreign countries, 1972.

818.11 Import requirements.

818.12 Restrictions on importations.

818.13 Delegation of authority.

AUTHORITY: Sections 818.10 to 818.13 issued under sec. 206, 403, 61 Stat. 927, as amended, 932, as amended; 7 U.S.C. 1116, 1153; and secs. 7, 19, Public Law 92-138 approved October 14, 1971.

§ 818.10 Confectionery quotas for foreign countries, 1972.

(a) For the calendar year 1972, the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of Part 10, Schedule 1, of Tariff Schedules of the United States which may be entered or withdrawn from warehouse, for consumption in the United States and Puerto Rico is 196,641,400 pounds. Such quantity is allocated as quotas to individual countries and to other countries as a group as shown on the following table. The quantity of sweetened chocolate which may be imported for other than consumption at retail as candy or confectionery (TSUS item 156.3040) is also subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended (items 950.15 and 950.16 of Part 3 of the appendix to TSUS) and may not be imported under the quotas hereby established except as provided in footnote 1 of the following table.

Country	Quota (pounds)
Canada	21,813,431
United Kingdom	[1] 69,544,198
Ireland	[1] 24,957,726
Netherlands	[1] 15,542,536
Belgium and Luxembourg	8,797,736
West Germany	8,762,341
All other countries	47,223,432
Total	196,641,400

[1] Of the quantities shown, the following quantities in pounds are reserved solely for the importation of sweetened chocolate which is subject to the quotas set forth in TSUS items 950.15 and 950.16 and may be imported only under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture:

Ireland—13,200,000 (9,450,000 under TSUS 950.15 and 3,750,000 under TSUS 950.16); United Kingdom—8,380,000 (7,450,000 under TSUS 950.15 and 930,000 under TSUS 950.16) and Netherlands—100,000 (all under TSUS 950.15).

(b) The quotas established by paragraph (a) of this section shall not apply to articles with an aggregate value of not more than $50 in any shipment.

§ 818.11 **Import requirements.**

Articles subject to quota limitations pursuant to § 818.10 shall be entered on a first-come, first-served basis under the control of the Bureau of Customs, except articles subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended.

§ 818.12 **Restrictions on importations.**

Subject to the exception in paragraph (b) of § 818.10 all persons are prohibited from entering or withdrawing from warehouse, for consumption into the United States and Puerto Rico any article provided for in TSUS items 156.30 and 157.10 after the applicable quotas set forth in paragraph (a) of § 818.10 have been filled.

§ 818.13 **Delegation of authority.**

The Director of the Sugar Division (or any person in such division designated by the Director) Agricultural Stabilization and Conservation Service of the Department is hereby authorized to act on behalf of the Secretary in administering §§ 818.10 through 818.12 except as otherwise provided for in §§ 818.10 and 818.11.

Signed at Washington, D.C., on November 29, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17610 Filed 12-2-71;8:45 am]

[7 CFR Part 846]

HAWAIIAN SUGAR CROP

Determination of Normal Yields and Eligibility for Abandonment and Crop Deficiency Payments

Notice is hereby given that the Administrator, Agricultural Stabilization and Conservation Service, pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended) is considering revision of Sugar Regulation 846 (7 CFR Part 846) in the manner hereinafter set forth.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation may file with or mail the same in duplicate to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, to be delivered or postmarked not later than 15 days after this notice is published in the FEDERAL REGISTER.

All written submission made pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public interest (7 CFR 1.27(b)).

The proposed revision is set forth essentially in form and language for issuance if adopted, as follows:

Pursuant to the provisions of section 303 of the Sugar Act of 1948, as amended, Part 846 of Chapter VIII of Title 7 of the Code of Federal Regulations is revised to read as follows:

Sec.
846.1 Introduction.
846.2 Definitions.
846.3 Farm normal yield.
846.4 Eligibility for abandonment and deficiency payments.
846.5 Approval and certification.

AUTHORITY: The provisions of this Part 846 issued under secs. 303, 403, 61 Stat. 930, as amended, 932, as amended; 7 U.S.C. 1133, 1153, and secs. 13, 19, Public Law 92-138, approved Oct. 14, 1971.

§ 846.1 **Introduction.**

In accordance with the provisions of the "Sugar Act Amendments of 1971," Public Law 92-138, approved October 14, 1971, this revision of Part 846 is issued to provide that, effective January 1, 1972, payments under section 303 of the Sugar Act of 1948, as amended, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage of 1972 and subsequent crops of sugarcane shall be made on an individual farm basis. The regulations in the following §§ 846.2 through 846.5 are effective on January 1, 1972, and thereafter until amended, superseded, or revoked.

§ 846.2 **Definitions.**

For the purpose of this part, the terms:

(a) "State Committee," "County Committee," and designation of a crop of sugarcane by year shall have the meanings set forth in § 894.1 of this chapter. "Act" means the Sugar Act of 1948, as amended.

(b) "Planted acre," "planted acres," or "planted acreage" means the acreage of sugarcane planted which is either harvested for the extraction of sugar or liquid sugar or is abandoned (bona fide), insofar as its use in sugar production is concerned, because of drought, flood, storm, freeze, disease, or insects.

(c) "Annual yield" for a farm for a calendar year means the yield per planted acre in that year expressed in hundredweight of sugar commercially recoverable as computed by the use of the planted acres for the farm for such year and the amount of sugar commercially recoverable as determined for the farm for such year in accordance with § 836.1 of this chapter.

(d) "Base period" for each farm for a calendar year means all of the most recent calendar years in each of which there were planted acres on the farm, not to exceed 5 years within the preceding 10-year period.

(e) "Farm" shall have the meaning set forth in Part 826 of this chapter.

§ 846.3 **Farm normal yield.**

The normal yield per acre of each sugarcane farm in Hawaii shall be established for each calendar year as follows:

(a) For a farm having a base period of three or more calendar years, the normal yield shall be the simple average of the annual yields for the farm for all of such years.

(b) For a farm having a base period of less than 3 calendar years, or no base period, the normal yield shall be that established by the county committee on the basis of the normal yields of other farms in the same locality, variations in soil productivity, climatic conditions, cultural practices and other pertinent factors.

§ 846.4 **Eligibility for abandonment and deficiency payments.**

For each calendar year, each farm having abandonment of planted sugarcane acreage, or having a crop deficiency of harvested sugarcane acreage below 80 percent of the normal yield for such acreage, or having both such abandonment and deficiency, shall be approved by the county committee for payments relating thereto if the following conditions with respect to the farm are met:

(a) The abandonment or deficiency was caused directly by drought, flood, storm, freeze, disease, or insects.

(b) The planted acres that were abandoned, or the harvested acres with respect to which there was such a crop deficiency, were suitable for the production of sugarcane and were cared for up to the time of harvest or abandonment, as the case may be, in a manner which could have been expected under average conditions to produce a normal crop of sugarcane.

(c) With respect to acreage abandonment, the county office was notified of the intention to abandon the acreage before the sugarcane was destroyed or the acreage was used for other purposes: *Provided*, That the county committee may waive the requirement of prior notification if such committee (1) has knowledge that sugarcane was planted on the abandoned acreage and the extent of such plantings, (2) has knowledge of widespread crop damage in the locality where the farm is located, and (3) is satisfied that the abandonment on the farm in question resulted directly from drought, flood, storm, freeze, disease, or insects.

(d) There was compliance with all the other conditions for payment prescribed by the Act.

§ 846.5 Approval and certification.

Approval by a member of the county committee on behalf of such committee of an application for an abandonment payment or a crop deficiency payment, or both, shall constitute a determination that the farm with respect to such application is made is eligible for an abandonment or a deficiency payment, or both, as the case may be.

STATEMENT OF BASES AND CONSIDERATIONS

Pursuant to the amendment, effective January 1, 1972, of section 303 of the Sugar Act of 1948, as provided in Public Law 92-138, approved October 14, 1971, this revision of regulations authorizes payment for abandoned acreage and for deficiency of production on an individual farm basis. Heretofore, to receive payment the farm must have been located in an approved local producing area wherein damage to the crop had to affect 10 percent of the farms or 10 percent of the planted acres in the area.

A further eligibility requirement is made. Producers must notify the county office of the intention to abandon the acreage before the sugarcane is destroyed or the acreage is used for other purposes. This provides an opportunity for a representative of the office to determine whether or not the abandonment resulted directly from one of the causes specified in the Act. All of the other eligibility requirements for approving abandonment and deficiency for the farm which were included in § 846.2 (26 F.R. 91) approved December 30, 1960, remain unchanged. The county committee in which the farm headquarters is located must determine that (1) the abandonment or deficiency was caused by drought, flood, storm, freeze, disease, or insects; and (2) the acres that were abandoned or the harvested acres from which there was crop deficiency were suitable for the production of sugarcane and were cared for up to the time of abandonment or harvest in a manner which would produce a normal crop under average conditions.

Accordingly, I hereby find and conclude that the foregoing revision of Part 846 will effectuate the applicable provisions of the Act.

Signed at Washington, D.C., on November 30, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17705 Filed 12-2-71;8:52 am]

Animal and Plant Health Service

[9 CFR Part 11]

HORSE PROTECTION

Notice of Extension of Time To Submit Written Data, Views, and Arguments

On July 1, 1971, there was published in the FEDERAL REGISTER (36 F.R. 12586) a notice with respect to the proposed issuance of regulations relating to the protection of certain show horses against the practice of soring, to appear as new Part 11 in Chapter I, Subchapter A, Title 9, Code of Federal Regulations. Interested persons were given an opportunity to submit written data, views, or arguments concerning the proposed regulations for a period of 60 days following publication of said notice. After due consideration of all relevant material submitted in connection with said notice, a second notice of proposed rule making was published in the FEDERAL REGISTER on November 5, 1971 (36 F.R. 21318) modifying certain provisions of said proposed regulations and deleting certain references to the "Tennessee Walking Horse" in order that said regulations would apply to all breeds of horses. A period of 30 days was allowed by this second proposal for submission of data, views, and arguments, which period of time is hereby extended an additional 30 days to expire on January 4, 1972.

Interested persons may submit written data, views, and arguments regarding the proposed regulations to the Deputy Administrator, Animal and Plant Health Service, Veterinary Services, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 26th day of November 1971.

G. H. WISE,
Acting Administrator, Animal and Plant Health Service.

[FR Doc.71-17668 Filed 12-2-71;8:48 am]

Consumer and Marketing Service

[7 CFR Part 929]

CRANBERRIES

Proposed Expenses and Rate of Assessment for Fiscal 1971-72 and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Cranberry Marketing Committee, established under the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, 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 said committee, during the fiscal period September 1, 1971, through August 31, 1972, will amount to $54,050.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 929.41, be fixed at $0.03 per barrel or equivalent quantity of cranberries.

(3) That unexpended assessment funds, in excess of expenses incurred during the fiscal period ended August 31, 1971, be carried over as a reserve in accordance with the applicable provisions of § 929.42.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of the 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: November 30, 1971.

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

[FR Doc.71-17706 Filed 12-2-71;8:51 am]

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Proposed Handling Limitations

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, to certain rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.108-932.161; 36 F.R. 16185, 19113, 20217) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932; 36 F.R. 20355), regulating the handling of olives grown in California, hereinafter referred to collectively as the "order". This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendments to said rules and regulations were unanimously proposed by the Olive Administrative Committee, established under said marketing agreement and order as the agency to administer the terms and conditions thereof.

The proposals reflect the committee's evaluation of (1) industry operations during the 1970-71 crop year under the current requirements of §§ 932.154 and 932.161 and under the then effective requirements of § 932.152(e) whose reestablishment has been recommended by said committee, and (2) the crop and marketing conditions and administrative situations that will prevail during the 1971-72 crop year and which will be aided through implementation of the amendments as hereinafter set forth.

The first proposed amendment involves the provisions of § 932.152(e) *Examination of certain olives received for use in the production of canned ripe olives of the tree-ripened type* by reestablishing

such provisions which terminated on August 31, 1971. Minor modifications are included which adapt the language thereof to the terms "lot" and "sublot" as defined in the order. The provisions are proposed because no regulations are in effect for tree-ripened type olives and it is necessary to examine them to verify their type and segregation from regulated olives.

The second proposed amendment involves the provision of § 932.154 *Interhandler transfer.* It would amend the title and revise the section to include requirements that (1) natural condition olives transferred to a destination outside the area be size-graded, inspected, and certified as meeting the incoming size requirements applicable, under the order, to olives used in the production of canned ripe olives, and (2) that such transfers be reported to the committee by the transferring handler within 10 days thereafter. During past seasons natural condition olives have been transferred out of the area and, prior to the latest amendment of the order, the provisions thereof in § 932.54 *Transfers* did not pertain to transfers of natural condition olives from within the area to any point outside thereof. Thus it is presently possible for handlers to transfer olives of any size out of the area for use in the production of any style of canned ripe olives. Such transfers could redound as a detriment, from the standpoint of unfair competition, to handlers within the area who must handle, both within the area and outside thereof, only those packaged olives that have been produced from olives which met the size requirements applicable under the order.

The third proposed amendment involves § 932.161 *Reports.* It would require handlers to submit to the committee (1) certain monthly inventory reports of packaged ripe and green ripe type olives and of processed olives held in bulk storage, (2) monthly reports of ripe and green ripe type olives packed, and (3) monthly summary reports of the quantities of packaged ripe and green ripe type olives sold. The compilation of accurate inventory reports is a necessity which is basic to the consideration of annual regulation, or modifications thereof, of the various styles of canned ripe olives. The need for said reports has been rendered more acute by the recent unavailability of such reports because they are no longer compiled and issued by the California Olive Association.

The proposals are as follows:

1. The provisions of § 932.152(e) are revised to read as follows:

§ 932.152 **Outgoing regulations.**

* * * * *

(e) *Examination of certain olives received for use in the production of canned ripe olives of the tree-ripened type.* (1) Pursuant to § 932.51(b), whenever a handler receives a lot of natural condition olives or makes a separation resulting in a sublot, solely for use in the production of canned ripe olives of the tree-ripened type he shall, at the time of receiving such lot or making such separation, notify the committee or the Inspection Service of the lot so received or the sublot so created which shall then be subject to examination by the committee, or by the Inspection Service if so designated by the committee, to assure that the olives in such lot or sublot comply with the specifications set forth in § 932.109. Each such handler shall identify all such lots and sublots of natural condition olives and keep them separate and apart from other olives received. Such identification and separation shall be maintained throughout the processing and production of such olives as canned ripe olives of the tree-ripened type.

2. The title of § 932.154 is amended, the provisions in paragraph (a) thereof are revised, and a new paragraph (c) is added reading as follows:

§ 932.154 **Handler transfer.**

(a) Except as hereinafter provided in paragraph (b) of this section, Form OAC–6 "Report of Interhandler Transfer" shall be completed by the transferring handler for all lots of processed, but not packaged, olives transferred to another handler within the area and for all lots and sublots of natural condition olives transferred to another handler within the area or shipped to destinations outside the area except fresh market outlets. For natural condition and processed, but not packaged, olives transferred between handlers within the area, two completed copies of said form, signed by the transferring handler, shall accompany the lot or sublot to the receiving handler who shall certify on both copies as to receipt of the olives and forward one copy to the committee within 10 days following receipt of the olives. For natural condition olives transferred by a handler to a destination outside the area, except fresh market outlets, two copies of said form shall be completed by the transferring handler with the words "Outside the Area" included in the upper right corner of the form and one copy shall be returned to the committee within 10 days following transfer of the olives. The completed form shall contain at least the following information: (1) Name and address of both the transferor and transferee; (2) date of transfer; (3) condition (natural, processed but not packaged); (4) weight, number and size of each type of container; (5) variety; and (6) other identification (undersize olives, culls, style, etc.).

* * * * *

(c) No handler may ship any lot or sublot of natural condition olives to a destination outside the area, except fresh market outlets, unless such olives have first been size-graded and meet the disposition and holding requirements applicable under subparagraphs (2) and (4) of § 932.51(a). The size of such transferred olives shall be verified, prior to transfer, by certification issued to the transferring handler by the appropriate inspection service (Federal or Federal-State Inspection Service or the Processed Products Standardization and Inspection Branch, USDA).

* * * * *

3. The provisions of § 932.161 are amended by revising the existing text of paragraph (b), designating it as subparagraph (1), and adding a new subparagraph (2) thereto, and by adding new paragraphs (d), (e), and (f) reading as follows:

§ 932.161 **Reports.**

* * * * *

(b) *Sales reports.* (1) Each handler shall submit to the committee, on OAC Form 21 as provided by the committee, for each month and not later than the 15th day following the end of that month, a report showing his total sales of packaged olives to commercial outlets in each State, to governmental agencies, and to foreign countries. Such sales shall be reported in the following categories:

(i) Whole and whole pitted styles of canned ripe olives in consumer size containers;

(ii) Whole and whole pitted styles of canned ripe olives in institutional size containers;

(iii) Chopped or minced style of canned ripe olives in all types of containers; and

(iv) Halved, quartered, and sliced styles of canned ripe olives in all types of containers.

The quantity in each category shall be reported in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans.

(2) Each handler shall submit to the committee, on a form provided by the committee, for each month and not more than 15 days after the end of such month, a report showing the total quantity of packaged olives of the ripe and green ripe types sold during the month. Such reports shall include the following information, as applicable:

(i) With respect to the whole, pitted, and broken pitted styles of packaged olives of the ripe or green ripe type, each style shall be reported separately on OAC Form 29a in terms of the quantity of each size of olives as designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans. Each handler shall report separately the total monthly sales of packaged olives of the green ripe type.

(ii) Limited use styles of packaged olives of the ripe or green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on OAC Form 29b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans.

* * * * *

(d) *Packaged olive inventory reports.* Each handler shall submit an inventory

report to the committee, on a form provided by the committee, not later than the 15th day of each month showing the total quantity of packaged olives of the ripe and green ripe types held in storage at all locations on the last day of the preceding month. Such reports shall contain the following information, as applicable:

(1) With respect to the whole, pitted, and broken pitted styles of packaged ripe or green ripe type olives, each style shall be reported separately on OAC Form 27a in terms of the packaged quantity of each size designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans. Each handler shall report separately the total quantity of any packaged olives of the green ripe type held in storage at all locations.

(2) Halved, sliced, quartered, and chopped or minced styles of packaged olives of the ripe or green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on OAC Form 27b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans.

(e) *Processed olive bulk inventory reports.* Each handler shall submit an inventory report to the committee, on a form provided by the committee, not later than the 15th day of each month showing the total quantity of processed olives of the ripe and green ripe types held in bulk storage at all locations on the last day of the preceding month. Such reports shall contain the following information, as applicable:

(1) The total tonnage of processed olives of the ripe and green ripe types, held in storage by the handler, which are of any size that may be used in the production of packaged olives of the whole or the pitted styles shall be reported on OAC Form 27c in terms of the total quantity of each size designated on the form.

(2) The total tonnage of processed olives of the ripe and green ripe types, held in storage by the handler, which are of sizes that may be used in the production of packaged olives of the halved, sliced, quartered, or chopped or minced style shall be reported on OAC Form 27b.

(f) *Packout reports.* Each handler shall submit to the committee, on a form provided by the committee, for each month and not more than 15 days after the end of such month, a report showing the total production of packaged olives of the ripe and green ripe types. Such reports shall include the following information, as applicable:

(1) With respect to the whole, pitted, and broken pitted styles of packaged olives of the ripe or the green ripe type, each style shall be reported separately on OAC Form 28a in terms of the total quantity of each size of olives as designated on the form. Such quantity, or quantities, shall be reported in terms of the total amount packaged in each of the container sizes listed on said form except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans. Each handler shall report separately the total monthly production of packaged olives of the green ripe type.

(2) Halved, sliced, quartered, and chopped or minced styles of packaged olives of the ripe or the green ripe type shall be reported in terms of the quantity of each style packaged in each of the container sizes listed on OAC Form 28b except that the committee may require such reporting in terms of the equivalent number of cases of 24 No. 300 (300 x 407) size cans.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal may file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of the 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: November 29, 1971.

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

[FR Doc.71-17669 Filed 12-2-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 15, 17]

WHEAT FLOUR AND RELATED PRODUCTS AND BAKED PRODUCTS

Proposed Improvement of Nutrient Levels of Enriched Foods

A notice of proposed rule making was published in the FEDERAL REGISTER of April 1, 1970 (35 F.R. 5412), based on a petition jointly filed by the American Bakers Association, 1700 Pennsylvania Avenue NW., Washington, DC 20006, and the Millers' National Federation, National Press Building, 529 14th Street NW., Washington, D.C. 20004, proposing that (1) iron be required at a level of not less than 50 milligrams and not more than 60 milligrams per pound of enriched flour (21 CFR 15.10) and enriched self-rising flour (21 CFR 15.60) and (2) that iron be required at a level of not less than 32 milligrams and not more than 38 milligrams per pound of enriched bread and enriched rolls or buns (21 CFR 17.2).

In the same publication the Commissioner of Food and Drugs, on his own initiative, proposed that the standard for enriched bread and enriched rolls or buns also be amended by inserting a statement that iron and calcium may be added only in forms which are harmless and assimilable. The standards for enriched flour and enriched self-rising flour already bear such a statement.

Concerning the quantity of iron proposed, comments both in favor of and in opposition to the proposal were received. Because of the issues raised by these comments and on the basis of other relevant information the Commissioner concludes that an alternative proposal should be published.

The major public health significance of widespread iron deficiency anemia was recognized by the 1969 White House Conference on Food, Nutrition, and Health. The Conference recommendations urged that the nutrient levels of calcium, thiamine, riboflavin, niacin, and iron in enriched foods be increased, with particular emphasis on increasing iron enrichment ("White House Conference on Food, Nutrition, and Health, Final Report" for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; price $3). In a statement of November 1969 entitled "Recommendation for Increased Iron Levels in the American Diet" the Food and Nutrition Board, National Academy of Sciences-National Research Council, endorsed increasing the iron enrichment levels in wheat flour and bread (copies of this statement available without charge from the Food and Nutrition Board, National Academy of Sciences-National Research Council, 2101 Constitution Avenue NW., Washington, DC 20401). The Council on Foods and Nutrition, American Medical Association, has also endorsed increasing the iron levels to 40 milligrams per pound for enriched flour and 25 milligrams per pound for enriched bread, buns, and rolls. The Ten-State Nutrition Survey conducted by the Department of Health, Education, and Welfare has clearly substantiated the widespread, high prevalence rates of iron deficiency anemia ("Ten-State Nutrition Survey in the United States, 1968-1970, Preliminary Report to the Congress, April 1971" prepared by the Center for Disease Control, U.S. Department of Health, Education, and Welfare, Public Health Service, Health Services and Mental Health Administration, Atlanta, Ga. 30309). There is also evidence to indicate that the average iron intake in the United States has declined in recent decades due to decreased caloric intakes, less contamination of foods with extraneous sources of iron, and the virtual disappearance of iron cooking vessels.

Grain products are almost universally consumed and continue to be the most suitable vehicle for iron enrichment of the American diet. These products currently provide approximately 26 percent of the average total caloric intake, even though their per capita consumption dropped substantially during the period 1940-59. Also, approximately two-thirds of the flour currently consumed in the United States is enriched.

In view of the above, the Commissioner concludes that an increase in the amount of iron in the diet should be made available. The Commissioner also concludes that the amounts of the nutrients, calcium, thiamine, riboflavin, and niacin presently provided for in the standards should be changed to make it easier to prepare enriched bread and significantly fortified nonstandardized bakery products from enriched flour alone. The Commissioner proposes that the amounts of nutrients in enriched flour be so adjusted that bakers, relying on the enrichment provided in enriched flour, will be able in most instances to produce enriched bread meeting the requirements of the enriched bread standard.

The Commissioner also proposes that the amounts of nutrients added to enriched self-rising flour and enriched farina be changed so that they are substantially the same as those added to enriched flour. This measure will help to ensure an improved nutritional quality of the diet when home-prepared products made from enriched self-rising flour or enriched farina are consumed in place of enriched bread.

The present standards for flours and bread provide a range for the quantities of most added nutrients with both maximum and minimum levels specified. In order to insure uniformity and maximum benefit to the consumer, the Commissioner now proposes that the present ranges for flours and bread be deleted and that single level requirements, with provisions for reasonable overage within the limits of good manufacturing practice, be substituted. With certain exceptions, as pointed out below, the single level requirements proposed in this notice are close to the maximum levels in the ranges presently provided for in the existing standards.

The proposal level of iron for enriched flours (§ 15.10 (which affects § 15.30 by cross reference) and § 15.60) is 40 milligrams per pound. This level is 23.5 milligrams more than the maximum level now permitted and 20 milligrams less than the maximum level proposed in the notice of April 1, 1970 (35 F.R. 5412). With respect to enriched bread (§ 17.2), the prescribed 25 milligrams per pound is 12.5 milligrams more than the maximum level now permitted and 13 milligrams less than the maximum level proposed in the April 1, 1970, notice. In order to insure uniformity, the amount of iron proposed for enriched farina is also 40 milligrams per pound of finished food, as compared with a minimum of 13 milligrams and no maximum in the present standard.

The proposed level for calcium in enriched flours and in enriched farina is 960 milligrams per pound of finished food, except that when more calcium is needed for technical purposes in enriched self-rising flour the quantity may exceed 960 milligrams per pound but the excess shall be no greater than that necessary to accomplish the intended effect. The ranges provided for in the existing standard are 500–625 milligrams for enriched flour, 500–1,500 milligrams for enriched self-rising flour, and 500 milligrams minimum with no maximum for enriched farina. The proposed level for calcium in enriched bread is 600 milligrams per pound of finished food, as compared with a range of 300–800 milligrams in the present standard.

The need for vitamin D in human nutrition and the importance of maintaining a daily intake sufficient to protect infants and growing children from developing rickets is well established. The use of whole milk, evaporated milk, infant formula products, processed breakfast cereals, and dietary supplement preparations that contain added vitamin D to provide 400 U.S.P. units daily in normal usage is ample for this purpose. The addition of vitamin D to other foods may serve only to increase to excessive levels the intake of vitamin D by infants, children, and pregnant women. The Commissioner concludes that avoiding excessive intakes of vitamin D is in the public interest. Accordingly, in the amendment proposed below, provisions for the addition of vitamin D have been deleted from the standards for enriched flour, enriched self-rising flour, enriched farina, and enriched bread and enriched rolls or buns.

Therefore, based on available information, the Commissioner proposes that:

1. Section 15.10 be amended by revising paragraphs (a), (b), and (c), as follows:

§ 15.10 Enriched flour; identity; label statement of optional ingredients.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron (Fe).

(b) It may contain added calcium in such quantity that the total calcium (Ca) content is 960 milligrams per pound of enriched flour. Enriched flour may be acidified with monocalcium phosphate within the limits precribed by § 15.70 for phosphated flour but, if insufficient additional calcium is present to meet the requirement for calcium as an optional nutrient, no claim may be made on the label for calcium as a nutrient.

(c) The requirements of paragraphs (a) and (b) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution.

* * * * *

Due to a cross reference, amendment of § 15.10 would have the effect of similarly amending the standard for enriched bromated flour (§ 15.10).

2. Section 15.60 be amended by revising paragraphs (a) and (b) and by revising the closing text of the section, as follows:

§ 15.60 Enriched self-rising flour; identity; label statement of optional ingredients.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, 40 milligrams of iron (Fe), and 960 milligrams of calcium (Ca). If a calcium compound is added for technical purposes to give self-rising characteristics to the flour, the amount of calcium (Ca) per pound of flour may exceed 960 milligrams provided that the excess is no greater than that necessary to accomplish the intended effect.

(b) The requirements of paragraph (a) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution.

* * * * *

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in paragraph (a) of this section may be added in a harmless carrier which does not impair the enriched self-rising flour; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the flour.

3. Section 15.140 be amended by revising paragraph (a) (1), (2), and (3) and the closing text in paragraph (a), as follows:

§ 15.140 Enriched farina; identity; label statement of optional ingredients.

(a) * * *

(1) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron (Fe).

(2) It may contain added calcium in such quantity that the total calcium (Ca) content is 960 milligrams per pound of finished enriched farina.

(3) The requirements of subparagraphs (1) and (2) of this paragraph will be deemed to have been met if reasonable overages of the vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution.

* * * * *

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in subparagraphs (1) and (2) of this paragraph may be added in a harmless carrier which does not impair the enriched farina; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the farina.

* * * * *

4. Section 17.2 be amended by revising paragraph (a) (1), (2), and (3) and the closing text in paragraph (a), as follows:

§ 17.2 Enriched bread and enriched rolls or enriched buns; identity; label statement of optional ingredients.

(a) * * *

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 25 milligrams of iron (Fe).

(2) Each such food may contain added calcium in such quantity that the total calcium (Ca) content is 600 milligrams per pound of finished food.

(3) The requirements of subparagraphs (1) and (2) of this paragraph will be deemed to have been met if reasonable overages of vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution.

* * * * *

Iron and calcium may be added only in forms that are harmless and assimilable. As used in this section, the term "flour" unqualified, includes bromated flour and phosphated flour; the term "enriched flour" includes enriched bromated flour. The prescribed quantity of any substance referred to in subparagraphs (1) and (2) of this paragraph may be supplied, or partly supplied, through the use of enriched flour; through the direct addition of such substance under the conditions permitted by § 15.10 of this chapter for supplying such substance in the preparation of enriched flour; through the use of any ingredient containing such substance, which ingredient is required or permitted by § 17.1(a) within the limits, if any, prescribed by such section, as modified by subparagraph (6) of this paragraph, through the use of wheat germ; or through any two or more of such methods.

* * * * *

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17659 Filed 12-2-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-174]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Palm Beach, Fla., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Palm Beach transition area described in § 71.181 (36 F.R. 2140) would be amended as follows: "* * * excluding the portion outside the continental limits of the United States * * *" would be deleted and "* * * within a 6.5-mile radius of Palm Beach County Park Airport (lat. 26°35'15" N., long. 80°05'15" W.); excluding the portion outside the continental limits of the United States * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Palm Beach County Park Airport. A prescribed instrument approach procedure to this airport, utilizing the Palm Beach VORTAC, is proposed in conjunction with the alteration of this transition area.

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

Issued in East Point, Ga., on November 22, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17651 Filed 12-2-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-176]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Atlanta, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Atlanta transition area described in § 71.181 (36 F.R. 2140 and 19496) would be amended as follows: "* * * long. 84°18'10" W. * * *." would be deleted and "* * * long. 84°18'10" W.); within a 6.5-mile radius of Falcon Field Airport, Peachtree City, Ga. (lat. 33°21'23" N., long. 84°34'07" W.) * * *." would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Falcon Field Airport. A prescribed instrument approach procedure to this airport, utilizing the Atlanta VORTAC, is proposed in conjunction with the alteration of this transition area.

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

Issued in East Point, Ga., on November 22, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17652 Filed 12-2-71;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 2]

PUBLIC INFORMATION

Notice of Proposed Rule Making

The Environmental Protection Agency is publishing, in the rules section of this issue of the FEDERAL REGISTER, final regulations implementing the freedom of information provisions of the Administrative Procedure Act, 5 U.S.C. 552(b), pursuant to a notice of proposed rule making published at 36 F.R. 17360, August 28, 1971.

In response to that notice, several comments were received from members of the public to the effect that the regulations should contain special provisions dealing with the disclosure of information furnished the Agency by a member of the public, and claimed by such person to be exempt from disclosure under 5 U.S.C. 552(b)(4) as trade secrets or information otherwise confidential.

In light of those comments, it is proposed to amend the regulations as follows:

1. A new § 2.107a is added, reading as follows:

§ 2.107a Trade secrets and privileged or confidential information.

(a) *Trade secrets.* (1) In the event that requested records may contain trade secrets exempted from disclosure under 5 U.S.C. 552(b)(4) and § 2.105(a)(4), § 2.109(b) will not apply.

(2) If a person to whom notice of a request for records has been given under § 2.105(b) advises the Office of General Counsel, in writing, within 10 working days following the mailing or publication of such notice, that the requested records contain trade secrets furnished by such person, the portions of such records said to contain trade secrets shall not be disclosed, nor copies provided, unless the Administrator shall first have made a final written determination that such records do not in fact contain trade secrets. In making such determination, the Administrator will consider any additional information submitted to the Office of General Counsel within 30 days of receipt of a claim submitted under this paragraph, or within such longer time period requested by the claimant as may be agreed to by the Office of General Counsel. Such additional information will, at the request of the person submitting it, be treated as confidential and will not be disclosed without the express permission of the person submitting it. If the Administrator determines that the records requested do not contain trade secrets, notice of such determination will be served by certified mail by the Office of General Counsel upon the person making the claim. Within 30 days following the mailing of such notice, the requested records will be disclosed in accordance with this part.

(b) *Privileged or confidential information.* Privileged or confidential information (other than trade secrets), as defined in the following sentence, and referred to in 5 U.S.C. 552(c)(4) and § 2.105(a)(4) of this part, will not be disclosed under this part without the express permission of the person providing it to EPA. Such privileged or confidential information will consist of information submitted to EPA pursuant to, and in reliance on, a written pledge of confidentiality contained in any EPA form in general use, or obtained in writing from an official of EPA. No such pledge, however, will be made in connection with the submission of information which EPA is entitled by law to obtain from the person providing it at the time of its submission.

2. The last sentence of § 2.111(a) is revised to read:

§ 2.111 Payment.

(a) * * * For purposes of this section, "processing" shall include all time spent in generating correspondence related to a request and in making determinations under §§ 2.106, 2.107, and 2.107a.

* * * * *

Interested persons are invited to submit written comments regarding the proposed amendment to the Office of Public Affairs, Environmental Protection Agency, Waterside Mall, Washington, D.C. 20460, within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received pursuant to this notice will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 3241, Waterside Mall, Fourth and M Streets SW., Washington, DC.

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 30, 1971.

[FR Doc.71-17676 Filed 12-2-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19316; RM-1716, etc.]

FM BROADCAST STATIONS

Table of Assignments; Wisconsin Dells, Wis., etc.; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments, FM* Broadcast Stations (Wisconsin Dells, Wis.; Ocean City, Md.; Fulton, Ky.; Cabo Rojo, P.R.; Lobelville, Tenn.; Jacksonville, Fla.; and Steamboat Springs, Colo. Docket No. 19316, RM-1716, RM-1719, RM-1726, RM-1732, RM-1738, RM-1745, RM-1749.

1. This proceeding was begun by notice of proposed rule making (FCC 71-955) adopted September 8, 1971, released September 13, 1971, and published in the FEDERAL REGISTER on September 18, 1971, 36 F.R. 18661. The date for filing comments has expired and the date for filing reply comments is November 19, 1971.

2. On November 19, 1971, Jacksonville Broadcasting Corp. and Rowland Broadcasting Co., Inc. jointly filed a request for an extension of time to and including December 15, 1971, for the filing of reply comments. The press of other business and the recent hospitalization of the consulting engineer for Rowland Broadcasting Co., Inc., as well as the extensive nature of Mel-Lin's (petitioner in this proceeding) new proposal, occasions this request. Mel-Lin, Inc., interposes no objection to this extension.

3. It appears that the additional time is warranted and would serve the public interest: *Accordingly, it is ordered,* That the joint request of Jacksonville Broadcasting Corp. and Rowland Broadcasting Co., Inc. is granted to and including December 15, 1971, for the filing of reply comments in Docket No. 19316, RM-1745 only.

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: November 23, 1971.

Released: November 24, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-17670 Filed 12-2-71;8:48 am]

[47 CFR Part 73]

[Docket No. 19331; RM-1696]

FM BROADCAST STATIONS

Table of Assignments; Jackson, N.C.; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments,* FM Broadcast Stations (Jacksonville, N.C.); Docket No. 19331, RM-1698.

1. The notice of proposed rule making in the above-entitled proceeding was adopted October 14, 1971, released October 19, 1971, and published in the FEDERAL REGISTER on October 23, 1971, 36 F.R. 20535. The dates for filing comments and reply comments are presently November 30, 1971, and December 10, 1971, respectively.

2. On November 17, 1971, Onslow Broadcasting Corp. (Onslow), licensee of Stations WJNC and WRCM(FM), Jacksonville, N.C., by its attorney, filed a request for an extension of time to and including January 14, 1972, in which to file comments. Counsel for Onslow states that the president of Onslow, Mr. Robert Mendelson, has been out of the country since November 1, 1971, and is not expected back until December 1, 1971. He further states that while preliminary discussions already have taken place between them concerning the merits of the proposal in question, he and his client

cannot realistically coordinate their efforts with respect to the preparation of comments until after December 1, 1971, when Mr. Mendelson returns. Counsel also states that Onslow's consulting engineer, because of prior commitments, will need additional time to complete the various technical studies which Onslow desires to submit in its comments.

3. We are of the view that the requested extension of time is warranted and would serve the public interest: *Accordingly, it is ordered*, that the time for filing comments in the above docket, RM-1698, is extended to and including January 14, 1972, and for the filing of reply comments to and including January 28, 1972.

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: November 19, 1971.

Released: November 22, 1971.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-17671 Filed 12-2-71;8:48 am]

[47 CFR Part 73]

[Docket No. 19330]

FM BROADCAST STATIONS

Table of Assignments, Chico, California; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments, FM Broadcast Stations.* (Chico, Calif.) Docket No. 19330, RM-1621.

1. The notice of proposed rule making in the above-entitled proceeding was adopted October 14, 1971, released October 19, 1971, and published in the FEDERAL REGISTER on October 23, 1971 (36 F.R. 20534). The dates for filing comments and reply comments are presently November 30, 1971, and December 10, 1971, respectively.

2. On November 26, 1971, Richardson Broadcasting Co. (Richardson), licensee of Station KPAY and permittee of KPAY-FM, Chico, Calif., by its attorneys filed a request for an extension of time to and including January 4, 1972, in which to file comments. Counsel for Richardson states that although preliminary engineering studies have been made, it will not be possible to prepare comments by the deadline date. Counsel further states that the attorneys assigned to this matter are in the process of relocating out of the city and, because of the press of other business, will not be able to complete the comments and coordinate them with the client by the due date.

3. We are of the view that the requested extension of time is warranted and would serve the public interest. *Accordingly, it is ordered*, That the time for filing comments in the above docket, RM-1621, is extended to and including January 4, 1972 and for the filing of reply comments to and including January 18, 1972.

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: November 29, 1971.

Released: November 30, 1971.

[SEAL] ROBERT J. RAWSON,
Deputy Chief, Broadcast Bureau.

[FR Doc.71-17681 Filed 12-2-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1243]

[No. 33687 (Sub-No. 1)]

RAILROAD QUARTERLY OPERATING REPORTS

Notice of Proposed Rule Making

NOVEMBER 10, 1971.

Notice is hereby given, pursuant to the provisions of section 553 of the Administrative Procedure Act, that the Commission has under consideration a proposal amending 49 CFR 1243.1, Form R&E, Revenues and Expenses, and 49 CFR 1243.2, Form IBS, Selected Income and Balance Sheet Items, to provide that all Class I railroads, excluding Class I switching and terminal companies, subject to the provisions of Part I of the Interstate Commerce Act, be required to file revised quarterly reports in accordance with quarterly report forms to be designated Form RE&I, Quarterly Report of Revenues, Expenses and Income,[1] and Form CBS, Quarterly Condensed Balance Sheet,[1] effective with the quarterly reporting period beginning January 1, 1972.

The effects of the proposal will be to revise quarterly report Form R&E, Revenues and Expenses, by transferring to that report selected income items from quarterly report Form IBS, Selected Income and Balance Sheet Items, so as to reconstitute Form R&E to include selected operating revenue and expense accounts, and selected income accounts, to form a quarterly report designated Form RE&I, Revenues, Expenses and Income; to revise Form IBS by combining and adding selected balance sheet accounts to form a quarterly condensed balance sheet report designated Form CBS, Condensed Balance Sheet; to provide for reporting of changes in miles of road operated on Form CBS instead of Form R&E; and to make related adjustments to the reporting instructions.

The changed reports are expected to provide more meaningful financial information about the railroad industry on a more timely basis than previously reported quarterly. Proposed reporting instructions call for filing Form RE&I within 25 days after the close of each quarter compared to 26 days for Form R&E, and for filing Form CBS within 30 days after the close of each quarter compared to 45 days for Form IBS. Consideration will be given to adjusting the reports and instructions, as may be appropriate, to facilitate timely receipt of the desired information in the Commission, by combining the proposed reports into one report to be filed within 30 days after the close of each quarter, and by making provision for reporting on computer generated reports accompanied by magnetic tapes or punchcards suitable for computer processing.

Any party desiring to make representations regarding the proposed reporting may do so through submission of written data, views or comments for consideration. The signed original and 15 copies of such representations should be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after publication of this Notice in the FEDERAL REGISTER. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC, during regular business hours.

Notice shall be given railroads hereby affected and the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C.; and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER. Copies of the proposed report forms may be procured from the Commission by any interested parties.

(Secs. 12, 20, 24 Stat. 383, 386; 49 U.S.C. 12, 20)

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17685 Filed 12-2-71;8:50 am]

[1] Forms filed as part of the original document.

Notices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

COAL MINE HEALTH

Extension of Time for Submission of X-rays Taken Under Approved Mine Operator Plans

Amendments to Part 37 of Title 42, Code of Federal Regulations, relating to specifications for chest X-ray examinations of underground coal miners, were published in the FEDERAL REGISTER on September 2, 1971 (36 F.R. 17577). In connection with the publication, it was stated, that to permit operators to fulfill their responsibilities in the initial round of medical examinations, the Department would continue to accept X-rays taken under approved plans until November 1, 1971.

Since during a work stoppage in the coal mining industry, which began on October 1 and ended officially on November 15, 1971, it was not possible for many operators to afford miners an adequate opportunity to have a chest roentgenogram, the period during which the Department will continue to accept X-rays taken under approved plans is hereby extended for a period equal to that of the work stoppage.

Accordingly, notice is hereby given that to permit operators to fulfill their responsibilities in the initial round of medical examinations, the Department will continue to accept X-rays taken under approved plans until December 30, 1971.

Dated: November 30, 1971.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.71-17702 Filed 12-2-71;8:51 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 25-5B; Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

This material amends the material appearing at 36 F.R. 13936 of July 28, 1971.

Department Organization Order 25-5B, dated July 11, 1971, is hereby amended as follows:

1. In Section 3. *Office of the Administrator,* delete paragraph .04 and add the following new paragraphs .04 and .05:

.04. The Associate Administrator for Interagency Relations shall act as the Naval Deputy to the Administrator, performing direct liaison and coordination between NOAA and the Department of the Navy on oceanographic matters. He shall also conduct high-level interagency negotiations on behalf of NOAA with other Federal agencies; resolve special problems in interagency coordination as identified by the Federal Coordinators; and act as a focus for initiating joint programs and projects with other agencies in scientific and technological areas as determined by the Administrator.

.05 The Executive Office shall perform such services as will facilitate the handling of matters and execution of actions by the Administrator and other officials within the Office of the Administrator.

2. In Section 12. *National Marine Fisheries Service,* delete the word "Research" in paragraph .05a.(a).

3. In Section 13. *National Ocean Survey,* delete the phrase "operate an electronic data processing facility;" in paragraph .01.

4. The organization chart of July 11, 1971, attached as Exhibit 1 to Department Organization Order 25-5B, is superseded by the organization chart attached to this amendment. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: November 22, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-17682 Filed 12-2-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AVIONICS MAINTENANCE AND CALIBRATION UNIT AT MANILA, REPUBLIC OF THE PHILIPPINES

Notice of Relocation

Notice is hereby given that on or about December 1, 1971, the Avionics Maintenance and Calibration Unit at Manila, Republic of the Philippines, will be relocated at Clark Air Base, R.P. Services to the U.S. Air Force formerly provided by this office at Manila, will be provided by this office at Clark Air Base. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Honolulu, Hawaii, on November 15, 1971.

PHILLIP M. SWATEK,
Director, Pacific Region.

[FR Doc.71-17654 Filed 12-2-71;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Determination Not To Suspend Operation Pending Completion of NEPA Environmental Review

Carolina Power & Light Co. (the licensee) is the holder of Facility Operating License No. DPR-23 (the license), issued by the Atomic Energy Commission on July 31, 1970. The license authorizes the licensee to operate a pressurized water nuclear power reactor designated as H. B. Robinson Unit No. 2, at the licensee's site near Hartsville, S.C. The facility is designed for initial operation at approximately 2,200 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the license should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that operation of H. B. Robinson Unit No. 2 authorized pursuant to DPR-23 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Operating License for H. B. Robinson Unit No. 2, Docket No. 50-261."

The determination herein and the discussion and findings herein above referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the license or from appropriately conditioning the license to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth

the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the license should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Operating License for H. B. Robinson Unit No. 2, Docket No. 50-261" are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17635 Filed 12-2-71;8:45 am]

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Determination Not To Suspend Operation Pending Completion of NEPA Environmental Review

The Commonwealth Edison Co. (the licensee) is the holder of Facility Operating License No. DPR-25 (the license), issued by the Atomic Energy Commission on January 12, 1971. The license authorizes the licensee to operate a boiling water nuclear power reactor designated as the Dresden Nuclear Power Station Unit 3, at a site in Grundy County, Ill. The facility is designed for initial operation at approximately 2,527 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the license should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensee's submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that operation of the Dresden Nuclear Power Station Unit 3 authorized pursuant to DPR-25 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Facility Operating License for the Dresden Nuclear Power Station Unit 3, Docket No. 50-249."

The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying, or terminating the license or from appropriately conditioning the license to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the license should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Facility Operating License for the Dresden Nuclear Power Station Unit 3, Docket No. 50-249," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the State Clearinghouse, Office of the Governor, 205 State House, Springfield, IL 62706. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17636 Filed 12-2-71;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Supplementary Notice of Hearing on Facility Operating License Application

In the matter of Consolidated Edison Company of New York, Inc. (Indian Point Nuclear Generating Unit No. 2).

On November 17, 1970, a notice of hearing on an operating license was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (35 F.R. 17679) in the captioned proceeding. That notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such notice to persons whose interests may be affected by the proceeding, and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969," (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).[1] The revised regulations require the consideration of additional matters in applicants' Environmental Reports and in Detailed Statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, rules of practice, and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will consider and determine, in addition to the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the notice of hearing in this proceeding published November 17, 1970, and pursuant to the National Environmental Policy Act of 1969, any matter in controversy with respect to whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the operating license should be issued as proposed.

If matters covered by Appendix D of 10 CFR Part 50 are in issue, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, in addition to deciding any matters in controversy among the parties with respect to these matters: (1) Determine whether the requirements of section 102 (2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; and (2) independently

[1] The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on Sept. 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the FEDERAL REGISTER on Nov. 11, 1971 (36 F.R. 21579).

consider the final balance among conflicting factors covered by Appendix D of 10 CFR Part 50 and contained in the record of the proceeding with a view toward determining the appropriate action to be taken. On the basis of the foregoing, a determination will be made whether the operating license should be granted, denied, or appropriately conditioned to protect environmental values. This notice supersedes the notice of hearing published on November 17, 1970, with respect to matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced notice of hearing.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for an operating license authorizing low power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. The Board may grant the motion upon finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to § 50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a signficant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that an emergency situation or other situation requiring such operation in the public interest exists.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50, which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the issues specified in the notice of hearing published on November 17, 1970, and will determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified above, as appropriate, in the form of an initial decision. If the license is one which requires the specific approval of the Commission the Board will certify directly to the Commission, for determination, without ruling thereon, the matter of whether operation beyond twenty percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility and will be conditioned to that effect.

As they become available, any new or supplemental Environmental Report, and any new or supplemental Detailed Statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Hendrik Hudson High School (Library), Albany Post Road, Montrose, N.Y., for inspection by members of the public between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, and 7 p.m. to 9 p.m. on Monday evenings. A copy of any new or Supplemental Detailed Statement prepared and, to the extent of supply, a copy of any new or Supplemental Environmental Report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are required to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice, must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the notice of hearing dated November 17, 1970, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's rules of practice.

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceeding Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties

or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-17697 Filed 12-2-71;8:51 am]

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Consolidated Edison Company of New York, Inc. (the licensee), is the holder of Provisional Construction Permit No. CPPR-62 (the construction permit), issued by the Atomic Energy Commission on August 13, 1969. The construction permit authorizes the licensee to construct a pressurized water nuclear power reactor designated as the Indian Point Nuclear Generating Unit No. 3, at the licensee's site in Westchester County, N.Y. The facility is designed for initial operation at appproximately 3,025 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancnig the criteria in section E.2 of Appendix D, that construction activities at the Indian Point Nuclear Generating Unit No. 3 authorized pursuant to CPPR-62 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permit for the Indian Point Nuclear Generating Unit No. 3, Docket No. 50-286."

Pending completion of the full NEPA review, the holder of Provisional Construction Permit No. CPPR-62 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the Federal Register. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the Federal Register.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permit for the Indian Point Nuclear Generating Unit No. 3, Docket No. 50-286," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Hendrick Hudson High School Library, Albany Post Road, Montrose, NY 10548. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. Manning Muntzing,
Director of Regulation.

[FR Doc.71-17637 Filed 12-2-71;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Supplementary Notice of Hearing on Provisional Operating License Application

On May 20, 1970, a notice of hearing on provisional operating license was published by the Atomic Energy Commission (the Commission) in the Federal Register (35 F.R. 7750) in the captioned proceeding. That notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, and provided for intervention by certain petitioners with respect to those issues.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969," (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).[1] The revised regulations require the consideration of additional matters in applicants' environmental reports and in detailed statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will consider and determine, in addition to the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the notice of hearing in this proceeding published May 20, 1970, and pursuant to the National Environmental Policy Act of 1969, any matter in controversy with respect to whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the operating license should be issued as proposed.

If matters covered by Appendix D of 10 CFR Part 50 are in issue, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, in addition to deciding any matters in controversy among the parties with respect to those matters: (1) Determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; and (2) independently consider the final balance among conflicting factors covered by Appendix D of 10 CFR Part 50 and contained in the record of the proceeding with a view toward determining the appropriate action to be taken. On the basis of the foregoing, a determination will be made whether the operating license should be granted, denied or appropriately conditioned to protect environmental values. This notice supersedes the notice of hearing published on May 20, 1970, with respect to matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced notice of hearing.

While the matter of the full power provisional operating license is pending

[1] The Commission adopted certain minor amendments to revised Appendix D which were published in the Federal Register on Sept. 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the Federal Register on Nov. 11, 1971 (36 F.R. 21579).

before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for a provisional operating license authorizing operation at levels in excess of low power testing (operation at not more than one percent of full power for the purpose of testing the facility, for which the applicant is already licensed) but short of full power operation. The Board may grant the motion upon finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to § 50.57 (c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that an emergency situation or other situation requiring such operation in the public interest exists.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50, which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the issues specified in the notice of hearing published on May 20, 1970, and will determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified above, as appropriate, in the form of an initial decision. If the license is one which requires the specific approval of the Commission, the Board will certify directly to the Commission, for determination, without ruling thereon, the matter of whether operation beyond twenty percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility and will be conditioned to that effect.

As they become available, any new or supplemental environmental report, and any new or supplemental detailed statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at Suite 201, Kalamazoo City Hall, 241 West South Street, Kalamazoo, MI, for inspection by members of the public between the hours of 8 a.m. and 5 p.m., Monday through Friday. A copy of any new or supplemental detailed statement prepared and, to the extent of supply, a copy of any new or supplemental environmental report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are required to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice, must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's "Rules of Practice," must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NH., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this Notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice," not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the notice of hearing dated May 20, 1970, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's rules of practice.

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-17698 Filed 12-2-71;8:51 am]

[Docket No. 50-341]

DETROIT EDISON CO.

Supplementary Notice of Hearing on Construction Permit Application

On March 26, 1971, a Notice of Hearing on Application for Construction Permit was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (36 F.R. 5745) in the

captioned proceeding. That Notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such Notice to persons whose interests may be affected by the proceeding and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969" (36 F.R. 18071), to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).[1] The revised regulations require the consideration of additional matters in applicants' Environmental Reports and in Detailed Statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will, in addition to considering and determining the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the Notice of Hearing in this proceeding published on March 26, 1971, consider and make determinations, pursuant to the National Environmental Policy Act of 1969, on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's "Rules of Practice," the Board will determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is or becomes a contested proceeding, the Board will decide any matters in controversy among the parties with respect to matters within the scope of Appendix D of 10 CFR Part 50, and will consider and decide whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permit should be issued as proposed.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; (3) determine whether the construction permit should be granted, denied or appropriately conditioned to protect environmental values.

This notice supersedes the Notice of Hearing published on March 26, 1971, with respect to the matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced Notice of Hearing.

As they become available, any new or supplemental Environmental Report, and any new or supplemental Detailed Statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Monroe County Library System, 3700 South Custer Road, Monroe, MI, for inspection by members of the public between the hours of 12 p.m. and 9 p.m., Monday through Wednesday, 12 p.m. and 5:30 p.m., Thursday and Friday, and 9 a.m. and 5:30 p.m. on Saturday. A copy of any new or Supplemental Detailed Statement prepared and, to the extent of supply, a copy of any new or Supplemental Environmental Report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's Rules of Practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he woud like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the Notice of Hearing dated March 26, 1971, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's Rules of Practice.

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues

[1] The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the FEDERAL REGISTER on November 11, 1971 (36 F.R. 21579).

set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-17699 Filed 12-2-71;8:51 am]

[Docket No. 50-321]

GEORGIA POWER CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Georgia Power Co. (the licensee) is the holder of Construction Permit No. CPPR-65 (the construction permit) issued by the Atomic Energy Commission on September 30, 1969. The construction permit authorizes the licensee to construct a boiling water nuclear power reactor designated as the Edwin I. Hatch Nuclear Plant Unit One at a site adjacent to the Altamaha River in Appling County, Ga. The facility is designed for initial operation at approximately 2,436 megawatts (thermal).

In accordance with section E of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in the light of the criteria in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Edwin I. Hatch Nuclear Plant Unit One authorized pursuant to CPPR-65 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Edwin I. Hatch Nuclear Plant Unit One, AEC Docket No. 50-321, November 23, 1971."

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR-65 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Edwin I. Hatch Nuclear Plant Unit One AEC Docket No. 50-321, November 23, 1971", are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, Parker Street, Baxley, GA 31513. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17638 Filed 12-2-71;8:45 am]

[Dockets Nos. 50-315, 50-316]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co. (the licensees) are the holders of Provisional Construction Permits Nos. CPPR-60 and CPPR-61 (the provisional construction permits) issued by the Atomic Energy Commission on March 25, 1969. The provisional construction permits authorize the licensees to construct two pressurized water nuclear power reactors designated as the Donald C. Cook Nuclear Plant, Units 1 and 2, at a site in Berrien County, Mich., on the east shore of Lake Michigan in Lake Township, near Bridgman, Mich. Each facility is designed for initial operation at approximately 3,250 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the provisional construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensees' submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Donald C. Cook Nuclear Plant Units 1 and 2 authorized pursuant to CPPR-60 and CPPR-61 should not be suspended pending completion of the NEPA environmental review. Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Donald C. Cook Nuclear Plant Units 1 and 2, Indiana & Michigan Electric Company and Indiana & Michigan Power Company, AEC Docket Nos. 50-315 and 50-316, November 24, 1971."

Pending completion of the full NEPA review, the holder of Provisional Construction Permits Nos. CPPR-60 and CPPR-61 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the provisional construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Donald C. Cook Nuclear Plant Units 1 and 2, Indiana & Michigan Electric Company and Indiana & Michigan Power Company, AEC Docket

Nos. 50-315 and 50-316, November 24, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the St. Joseph Public Library, 500 Market Street, St. Joseph, MI 49085. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17660 Filed 12-2-71;8:47 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Nebraska Public Power District (the licensee) is the holder of Construction Permit No. CPPR-42 (the construction permit), issued by the Atomic Energy Commission on June 4, 1968. The construction permit authorizes the licensee to construct a boiling water nuclear reactor, designated as the Cooper Nuclear Station, at a site near Brownville, Nebr. The facility is designed for initial operation at approximately 2,381 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Cooper Nuclear Station authorized pursuant to CPPR-42 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Cooper Nuclear Station, Docket No. 50-298, November 1971".

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR-42 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Cooper Nuclear Station, Docket No. 50-298, November 1971" are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Auburn Public Library, 1118 15th Street, Auburn, NE. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 24th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17661 Filed 12-2-71;8:47 am]

[Dockets Nos. 50-282, 50-306]

NORTHERN STATES POWER CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

Northern States Power Co. (the licensee) is the holder of Provisional Construction Permits Nos. CPPR-45 and CPPR-46 (the provisional construction permits) issued by the Atomic Energy Commission on June 25, 1968. The provisional construction permits authorize the licensee to construct two pressurized water nuclear power reactors designated as the Prairie Island Nuclear Generating Plant Units 1 and 2, at the licensee's site near Red Wing, Minn., about 28 miles southeast of the Minneapolis-St. Paul metropolitan area. Each facility is designed for initial operation at approximately 1,650 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the provisional construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Prairie Island Nuclear Generating Plant authorized pursuant to CPPR-45 and CPPR-46 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Prairie Island Nuclear Generating Plant, Units 1 and 2, Northern States Power Company, AEC Dockets Nos. 50-282 and 50-306, November 23, 1971."

Pending completion of the full NEPA review, the holder of Provisional Construction Permits Nos. CPPR-45 and CPPR-46 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the provisional construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the provisional construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Prairie Island Nuclear Generating Plant

Units 1 and 2, Northern States Power Company, AEC Dockets Nos. 50-282 and 50-306, November 23, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Red Wing Public Library, 225 Broadway Street, Red Wing, MN 55066. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17639 Filed 12-2-71;8:46 am]

[Dockets Nos. 50-352, 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Philadelphia Electric Co. (the applicant), for construction permits for two boiling water nuclear reactors designated as the Limerick Generating Station Units 1 and 2, each of which is designed for initial operation at approximately 3,293 thermal megawatts. The proposed facilities are to be located at the applicant's site of approximately 587 acres located on the Schuylkill River about 1.7 miles southeast of Pottstown, in Limerick Township, Montgomery County, Pa. The hearing will be held in the vicinity of the site of the proposed facilities.

The Board will be designated by the Atomic Energy Commission (Commission).

Notice as to its membership will be published in the FEDERAL REGISTER, prior to the convening of a prehearing conference in this matter on January 5, 1972. The time and place of the prehearing conference will be set by the Board and notice thereof will be published in the FEDERAL REGISTER.

The date and place of the hearing will be set at or after the prehearing conference. In setting such date due regard shall be had for the convenience and necessity of the parties or their representatives, as well as of the Board members. Notice as to the date and place of the hearing will be published in the FEDERAL REGISTER.

Upon completion of a favorable safety evaluation of the application by the AEC regulatory staff, the Director of Regulation will consider making affirmative findings on Items Nos. 1-3 and a negative finding on Item 4 specified below as a basis for the issuance of construction permits to the applicant.

1. Whether in accordance with the provision of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated herein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application and completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4 of the Commission's Rules of Practice, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and to support, insofar as the Commission's licensing requirements under the Act are concerned, the construction permits proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Item Nos. 1 through 4 above as a basis for determining whether construction permits should be issued to the applicant.

The Commission has recently issued revised regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 in Appendix D to 10 CFR Part 50. The instant proceeding is covered by section D.1 of said Appendix D. (The applicant's environmental report has been circulated by the Commission prior to the effective date of revised Appendix D but the requirements of section A.1 through 9 of that Appendix D have not been completed for this application.) In accordance with the provisions of section D.1, the Board will proceed expeditiously with consideration of the matters encompassed by Items 1-4 above, pending compliance with the requirements specified in said Appendix D. The Commission will give further public notice regarding hearing consideration herein of matters covered by said Appendix D.

As they become available, the application, the proposed construction permits, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), and the safety evaluation by the Commission's regulatory staff, the applicant's environmental report, the Commission's detailed statement on environmental considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will be sent to the Pottstown Public Library, 500 High Street, Pottstown, PA 19464, for inspection by members of the public during regular business hours. Copies of the proposed construction permits, the ACRS report, the regulatory staff's Safety Evaluation, and the Commission's detailed statement on environmental considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's Rules of Practice,

must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's Rules of Practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's Rules of Practice, and has made the delegation pursuant to paragraph (a)(1) of this section. The Appeal Board is composed of Algie A. Wells, Esq., and Dr. John Buck, with a third member to be designated by the Commission.

Previous notices published in the FEDERAL REGISTER (on February 25, March 4, 11, 18, and September 4, 1971) afforded (a) an opportunity for any person wishing to have his views on the antitrust aspects of the application presented to the Attorney General for consideration to submit such views and (b) for any person whose interest may be affected to request a hearing on the antitrust aspects of the application. No such view or requests for hearing were received.

Dated at Germantown, Md., this 30th day of November 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-17700 Filed 12-2-71;8:51 am]

[Dockets Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Public Service Electric and Gas Co. (the licensee) is the holder of Construction Permits Nos. CPPR-52 and CPPR-53 (the construction permits), issued by the Atomic Energy Commission on September 25, 1968. The construction permits authorize the licensee to construct two pressurized water nuclear reactors designated as the Salem Nuclear Generating Station, Units 1 and 2 at a site in Salem County, N.J. Each unit is designed for initial operation at approximately 3,250 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Salem Nuclear Generating Station, Units 1 and 2 authorized pursuant to CPPR-52 and CPPR-53 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Salem Nuclear Generating Station, Units 1 and 2, Dockets Nos. 50-272 and 50-311."

Pending completion of the full NEPA review, the holder of Construction Permits Nos. CPPR-52 and CPPR-53 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying, or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be effected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Salem Nuclear Generating Station, Units 1 and 2, Dockets Nos. 50-272 and 50-311," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Salem Free Public Library, 112 West Broadway, Salem, NJ 08079. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17640 Filed 12-2-71;8:46 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Sacramento Municipal Utility District (the licensee), is the holder of Provisional Construction Permit No. CPPR-56 (the construction permit), issued by the Atomic Energy Commission on October 11, 1968. The construction permit authorizes the licensee to construct a pressurized water nuclear power reactor designated as the Rancho Seco Nuclear Generating Station, Unit No. 1, at the licensee's site in Sacramento County,

Calif. The facility is designed for initial operation at approximately 2,452 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in the whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 19, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Rancho Seco Nuclear Generating Station, Unit No. 1, authorized pursuant to CPPR–56 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permit for the Rancho Seco Nuclear Generating Station, Unit No. 1, Docket No. 50–312."

Pending completion of the full NEPA review, the holder of Provisional Construction Permit No. CPPR–56 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permit for the Rancho Seco Nuclear Generating Station, Unit No. 1, Docket No. 50–312," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Sacramento City County Library, 1930 T Street, Sacramento, CA 95814. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71–17641 Filed 12–2–71;8:46 am]

[Dockets Nos. 50–259, 50–260, 50–296]

TENNESSEE VALLEY AUTHORITY

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Tennessee Valley Authority (the licensee) is the holder of Construction Permits Nos. CPPR–29 and CPPR–30, issued by the Atomic Energy Commission on May 10, 1967, and Construction Permit No. CPPR–48, issued on July 31, 1968. The construction permits authorize the licensee to construct three boiling water nuclear reactors, designated as the Browns Ferry Nuclear Plant Units 1, 2, and 3 at a site in Limestone County, Ala. Each reactor is designed for initial operation at approximately 3,293 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Browns Ferry Nuclear Plant authorized pursuant to CPPR–29, CPPR–30, and CPPR–48 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Browns Ferry Nuclear Plant Units 1, 2, and 3, Docket Nos. 50–259, 260, and 296, November 24, 1971."

Pending completion of the full NEPA review, the holder of Construction Permits Nos. CPPR–29, CPPR–30, and CPPR–48 proceeds with construction at its own risk. The determination herein and the discusion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Browns Ferry Nuclear Plant Units 1, 2, and 3, Dockets Nos. 50–259, 260, and 296, November 24, 1971" are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Athens Public Library, South and Forrest, Athens, Ala. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U. S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 24th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71–17642 Filed 12–2–71;8:46 am]

[Dockets Nos. 50–280, 50–281]

VIRGINIA ELECTRIC AND POWER CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Virginia Electric and Power Co. (the licensee), is the holder of Construction Permits Nos. CPPR–43 and CPPR–44 (the construction permits), issued by the Atomic Energy Commission on June 25, 1968. The construction permits authorize the licensee to construct two pressurized water nuclear power reactors designated as the Surry Power Station, Units 1 and 2, at the licensee's site in Surry County, Va.

Both units are designed for initial operation at approximately 2,441 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 11, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Surry Power Station, Units 1 and 2 authorized pursuant to CPPR–43 and CPPR–44 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Surry Power Station, Units 1 and 2, Docket Nos. 50–280 and 50–281."

Pending completion of the full NEPA review, the holder of Construction Permits Nos. CPPR–43 and CPPR–44 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3. of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Surry Power Station, Docket Nos. 50–280 and 50–281," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Swim Library, College of William and Mary, Williamsburg, Va. 23185. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71–17643 Filed 12–2–71;8:46 am]

[Docket No. 50–266]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Determination Not To Suspend Operating Activities Pending Completion of NEPA Environmental Review

The Wisconsin Electric Power Co. and the Wisconsin Michigan Power Co. (the licensees) are the holders of Operating License No. DPR–24 (the license), issued by the Atomic Energy Commission on October 5, 1970. The license authorizes the licensees to operate a pressurized water nuclear power reactor designated as the Point Beach Nuclear Plant, Unit No. 1 at the licensees' site in Manitowoc County, Wis. The facility is designed for initial operation at approximately 1,518 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the operating license should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 19, 1971.

The Director of Regulation has considered the licensees' submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that operating activities at the Point Beach Nuclear Plant, Unit No. 1, authorized pursuant to DPR–24 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Operating License for the Point Beach Nuclear Plant, Unit No. 1, Docket No. 50–266."

The determination herein and the discussion and findings herein referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the license or from appropriately conditioning the license to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the operating license should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Operating License for the Point Beach Nuclear Plant, Unit No. 1, Docket No. 50–266," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, WI 54220. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71–17644 Filed 12–2–71;8:46 am]

[Docket No. 50–301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN-MICHIGAN POWER CO.

Supplementary Notice of Hearing on Facility Operating License Application

On May 8, 1971, a notice of hearing on a facility operating license was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (36 F.R. 8606), in the captioned proceeding. That notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided for intervention by certain petitioners with respect to those issues, and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in

10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969," (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).[1] The revised regulations require the consideration of additional matters in applicants' environmental reports and in detailed statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will consider and determine, in addition to the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the notice of hearing in this proceeding published May 8, 1971, and pursuant to the National Environmental Policy Act of 1969, any matter in controversy with respect to whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the operating license should be issued as proposed.

If matters covered by Appendix D of 10 CFR Part 50 are in issue, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, in addition to deciding any matters in controversy among the parties with respect to those matters: (1) Determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; and (2) independently consider the final balance among conflicting factors covered by Appendix D of 10 CFR Part 50 and contained in the record of the proceeding with a view toward determining the appropriate action to be taken. On the basis of the foregoing, a determination will be made whether the operating license should be granted, denied, or appropriately conditioned to protect environmental values. This notice supersedes the notice of hearing published on May 8, 1971, with respect to matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced notice of hearing.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for an operating license authorizing low power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. The Board may grant the motion upon finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to § 50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that an emergency situation or other situation requiring such operation in the public interest exists.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50, which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the issues specified in the notice of hearing published on May 8, 1971, and will determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified above, as appropriate, in the form of an initial decision. If the license is one which requires the specific approval of the Commission, the Board will certify directly to the Commission, for determination, without ruling thereon, the matters of whether operation beyond twenty percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility and will be conditioned to that effect.

As they become available, any new or supplemental environmental report, and any new or supplemental detailed statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, WI, for inspection by members of the public between the hours of 9 a.m. and 9 p.m., Monday through Friday, and 9 a.m. and 5:30 p.m. on Saturday. A copy of any new or supplemental detailed statement prepared and, to the extent of supply, a copy of any new or supplemental environmental report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are required to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice, must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's Rules of Practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

[1] The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the FEDERAL REGISTER on November 11, 1971 (36 F.R. 21579).

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice," not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the notice of hearing dated May 8, 1971, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's "Rules of Practice."

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-17701 Filed 12-2-71;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

CALIFORNIA STATE STANDARDS

Waiver of Application of Clean Air Act

Section 209(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-6(a); 81 Stat. 501; Public Law 90-148), provides that: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of said Act directs the Administrator of EPA, after notice and opportunity for public hearing, to waive application of the prohibitions of said section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

On November 2, 1971, a notice was published in the FEDERAL REGISTER indicating that, unless a hearing was requested within 20 days, I intended to waive application of the prohibitions of section 209(a) with respect to California's fuel evaporative emission standard and approval procedures for 1973 and subsequent model year gasoline powered motor vehicles over 6,000 pounds gross vehicle weight. No request for a hearing has been received.

Now, therefore, I hereby waive the application of section 209(a) to the State of California with respect to sections 1951 and 2509 of Title 13 of the California Administrative Code. This waiver is applicable only with respect to the model years specified in the applicable test procedure.

Certified copies of the above standard and procedures are available for inspection at the Office of the Director, Mobile Source Enforcement Division, Environmental Protection Agency, 5600 Fishers Lane, Rockville, MD 20852. Copies of the standards and procedures may be obtained from the California Air Resources Board, 1108 14th Street, Sacramento, Calif. 95814.

Dated: November 29, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-17656 Filed 12-2-71;8:47 am]

LIGHT DUTY VEHICLE EMISSION STANDARDS

Technology Feasibility

Section 202(c) of the Clean Air Act (42 U.S.C. 1857f-1, as amended by section 6, Public Law 91-604) directs the Administrator of the Environmental Protection Agency to "enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emission standards required to be prescribed" under section 202(b) of the Act. Such arrangements have been made and the study is now underway.

The standards prescribed under section 202(b) (36 F.R. 12658) are designed to achieve, for 1975 model automobiles, a 90 percent reduction in the emissions of carbon monoxide and hydrocarbons allowed under 1970 Federal Standards, and in addition, for 1976 model automobiles, a 90 percent reduction in oxides of nitrogen emissions from those emitted by uncontrolled 1971 model automobiles. In its study the Academy is concerned solely with the technological feasibility of meeting these standards by the specified model years. Intensive scientific and engineering work is being conducted by a special Academy committee.

The immediate concern of the Committee is the 1975 standards for carbon monoxide and hydrocarbons, since the automobile manufacturers are entitled by law to request the Agency, on or after January 1, 1972, for a 1-year suspension of the effective date of these standards. In acting on such a request, the Administrator is obligated to consider the Academy's findings with respect to technological feasibility.

In order to assist the Committee in its work and to elicit as wide as possible a range of technical opinion, the Academy has asked the Administrator to invite organizations and others possessing technical competence to submit in writing any materials or information directly relevant to the technological feasibility of meeting the 1975 Clean Air Act auto emission standards. It should be emphasized that the following matters are beyond the scope of the Academy's present undertaking: (1) Public health consequences of air pollution, (2) emissions other than carbon monoxide and hydrocarbons and, (3) new power sources which cannot be mass produced by 1975.

All materials submitted in response to this invitation should be sent to the Academy and received not later than December 20, 1971.

Submissions should be addressed to:

National Academy of Sciences, Committee on Motor Vehicle Emissions, Attention: Public Comments, Washington, D.C. 20418.

Dated: November 29, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-17657 Filed 12-2-71;8:47 am]

REGION IX OFFICE, SAN FRANCISCO, CALIF.

Change of Address

Notice is hereby given that the Region IX office of the Environmental Protection Agency will move to 100 California

Street, San Francisco, CA 94111, on November 27, 1971. The Regional Administrator's telephone number will be 415–556–2320 effective November 29, 1971.

Dated: November 30, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71–17677 Filed 12–2–71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23910]

NIGERIA AIRWAYS, LTD.

Foreign Air Carrier Permit Application; Notice of Postponement of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference in the above-entitled proceeding now scheduled for December 9, 1971, is hereby postponed to January 11, 1972, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before January 4, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71–17708 Filed 12–2–71;8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19351, 19352; File Nos. 49–A–L–91, 129–A–L–91]

ANTHONY MAIER ENTERPRISES, INC., AND CINCINNATI AIRCRAFT, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Anthony Maier Enterprises, Inc., Cincinnati, Ohio, and Cincinnati Aircraft, Inc., Cincinnati, Ohio, for aeronautical advisory station to serve the Lunken Airport, Cincinnati, Ohio.

1. The Commission's rules (§ 87.251 (a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications are for Commission authority to operate an aeronautical advisory station to serve Lunken Airport, Cincinnati, Ohio, and, therefore, are mutually exclusive. Accordingly, it is necessary to designate the applications for comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. At present, there is an outstanding license (KRK2) in the name of Queen City Flying Service, Inc., to serve Lunken Airport. However, information from the city of Cincinnati and Cincinnati Aircraft, Inc., indicates that Queen City is in bankruptcy and is not operating the station. In view of this, Cincinnati Aircraft, Inc., applied by telegram received September 2, 1971, for special temporary authority to operate an aeronautical advisory station because this type of station "is a vital and necessary part of a landing area." Pursuant to § 87.251(a) temporary authority for Cincinnati Aircraft, Inc., to operate an aeronautical advisory station at Lunken Airport was granted on September 3, 1971, to expire November 3, 1971. On September 9, 1971, Anthony Maier Enterprises, Inc., filed an application for regular authorization which was followed on September 17, 1971, by the application of Cincinnati for regular authorization. These latter two applications are the applications that are the subject of this proceeding.

3. In view of the foregoing, *It is ordered*, That, pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 (b)(21) of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

(a) To determine if Queen City Flying Service, Inc., has ceased operation of aeronautical advisory station KRK 2 at Lunken Airport, and if so;

(b) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

1. Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;
2. Hours of operation;
3. Personnel available to provide advisory service;
4. Experience of applicant and employees in aviation and aviation communications;
5. Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;
6. Proposed radio system including control and dispatch points; and
7. The availability of the radio facilities to other fixed-base operators.

(c) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, Queen City Flying Service, Inc., Anthony Maier Enterprises, Inc., and Cincinnati Aircraft, Inc., 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 set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice. The Chief, Safety and Special Radio Services Bureau is a party to this proceeding and shall be served with filings in this proceeding.

5. *It is futher ordered*, That the special temporary authority issued to Cincinnati Aircraft, Inc., is extended until final action is taken with respect to the above-captioned applications in order that Lunken Airport will not be deprived of aeronautical advisory service during the course of this proceeding.

Adopted: November 22, 1971.

Released: November 24, 1971.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.71–17672 Filed 12–2–71;8:49 am]

[Dockets Nos. 19353–19355; FCC 71–1178]

TELESANJUAN, INC. (WTSJ(TV)), ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues and Notice of Apparent Liability

In re applications of: Telesanjuan, Inc. (WTSJ(TV)), San Juan, P.R., Docket No. 19353, File No. BRCT–602, for renewal of license; Telesanjuan, Inc. (WMGZ(TV)), Mayaguez, P.R., Docket No. 19354, File No. BLCT–1988, for license to cover construction permit; Telesanjuan, Inc. (WPSJ(TV)), Ponce, P.R., Docket No. 19355, File No. BLCT–2065, for license to cover construction permit.

1. The Commission has before it for consideration: (a) The above-captioned applications; (b) the Commission's field inquiry into the operation of Station WTSJ(TV); and (c) other information before the Commission, including a petition for immediate suspension or revocation of the program test authority of television broadcast Station (WMGZ (TV)), Mayaguez, P.R., filed January 18, 1971, by Quality Telecasting Corp., licensee of broadcast Station WORA–TV, Mayaguez, P.R.

2. Information before the Commission raises a number of serious questions bearing upon whether the above-captioned applicant possesses the qualifications to remain or to be a licensee of the Commission. In view of these questions, the Commission is unable to find that a grant of the above-captioned applications would serve the public interest, convenience, and necessity, and must therefore designate the applications for hearing.

3. We have specified two issues concerning the matters raised by Quality Telecasting Corp. (Quality) in its petition. These issues relate to changes in the program format of Stations WMGZ (TV) and WPSJ(TV) and failure to comply with section 1.65 of the rules. Quality also contends that the change from English to Spanish language programing on Station WMGZ(TV), which

arose from a contract between the applicant and Telemundo, Inc., licensee of Station WKAQ-TV, San Juan, P.R., raises issues concerning whether Telemundo, Inc., has acquired Station WMGZ (TV) as a Mayaguez satellite without prior Commission approval and whether the operation of Station WMGZ(TV) with a Spanish-language format would seriously threaten the economic viability of Quality's Mayaguez Station WORA-TV. However, Quality has not supported its request for these issues with allegations of fact sufficient to warrant specification of the issues requested. Therefore, no issues have been specified in that regard.

4. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing at a place and time to be specified in a subsequent order, upon the following issues:

(1) To determine all of the facts and circumstances with respect to the submission to American Airlines, Inc., of program logs of Station WTSJ(TV) for the months of January, February, and March 1970, and whether such program logs were falsified.

(2) To determine all of the facts and circumstances with respect to the charges for advertising over Station WTSJ(TV) submitted to American Airlines, Inc., for the months of October, November, and December, 1970, and whether the amounts charged represented disparate amounts from that charged other advertisers.

(3) To determine, in the light of evidence adduced under issue (2), whether the licensee utilized its broadcasting facilities in a deceptive effort to enrich itself unjustly at the expense of American Airlines, Inc.

(4) To determine whether the applicant violated §§ 73.669 and 73.670 of the Commission's rules.

(5) To determine whether, and if so the extent to which, the applicant herein has engaged in fraudulent billing practices.

(6) To determine whether the applicant exercised reasonable diligence to see that its officers, directors, employees, representatives or agents did not issue documents which would violate § 73.1205 of the Commission's rules.

(7) To determine whether in written or oral statements to the Commission the applicant or directors, officers, employees, representatives or agents misrepresented facts to the Commission or were lacking in candor.

(8) To determine whether the applicant conformed to its proposals to present English language programing on Stations WMGZ(TV) and WPSJ(TV).

(9) To determine whether the applicant failed to amend its license applications in accordance with the provisions of § 1.65 of the Commission's rules in order to advise the Commission of its change in program format for Stations WMGZ(TV) and WPSJ(TV).

(10) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the applicant herein has exercised reasonable licensee responsibility in the management of the station, and possesses the requisite qualifications to continue to be a licensee of the Commission.

(11) To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the applications for renewal of the license of Station WTSJ(TV) and licenses for Stations WMGZ(TV) and WPSJ(TV) would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the Commission's resolution of these issues will be binding on any other licensee commonly owned or controlled with the captioned licensee and will be res judicata as to any such other licensee.

5. *It is further ordered,* That, to the extent indicated herein, the petition filed by Quality Telecasting Corp. is granted, and in all other respects is denied.

6. *It is further ordered,* That, on the Commission's own motion, Quality Telecasting Corp. is made a party respondent in this proceeding with respect to issue (8) only.

7. *It is further ordered,* That, if it is determined that the hearing record does not warrant an order denying the captioned applications for renewal of license for television broadcast station WTSJ and licenses for television broadcast Stations WMGZ and WPSJ, it shall also be determined whether applicant has repeatedly or willfully violated §§ 1.65, 73.669, 73.670, or 73.1205 of the Commission's rules or the terms of the authorizations for said stations* and, if so, whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within 1 year of issuance of the Bill of Particulars in this matter.

8. *It is further ordered,* That this document constitutes Notice of Apparent Liability for forfeiture for violation of §§ 1.65, 73.669, 73.670, and 73.1205 of the Commission's rules and the terms of the stations authorization. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

9. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the captioned licensee within thirty (30) days of the release of this order, a Bill of Particulars setting forth the basis for adoption of the above hearing issues.

10. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (1) through (9), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

11. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicant and party respondent, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (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.

12. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594 of the rules.

13. *It is further ordered,* That the Secretary of the Commission send a copy of this order by Certified Mail—Return Receipt requested to Telesanjuan, Inc.

Adopted: November 24, 1971.

Released: November 29, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-17680 Filed 12-2-71;8:49 am]

FEDERAL MARITIME COMMISSION

[No. 71-87]

ASSOCIATED LATIN AMERICAN FREIGHT CONFERENCES AND ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

Wharfage and Handling Charges; Rescheduling of Filing Dates; Petition To Intervene

Upon request of counsel for respondents, and good cause appearing, filing dates in this proceeding will be rescheduled to allow additional time for responses to the show cause order.

(1) Affidavits of fact and memoranda of law shall be filed by respondents and interveners in support of respondents on or before December 10, 1971.

(2) Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and interveners in

[1] Commissioner Reid absent.

opposition to respondents on or before December 23, 1971.

A petition to intervene in this proceeding has been submitted by the Port of New York Authority. Good cause appearing, the petition is hereby granted.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17662 Filed 12-2-71;8:48 am]

[Docket No. 71-89]

J. E. BERNARD & CO., INC., ET AL.

Cooperative Working Arrangement; Order of Investigation and Hearing

The Commission has been requested to approve, pursuant to section 15 of the Shipping Act, 1916, Federal Maritime Commission Agreement No. FF 71-7, between J. E. Bernard & Co., Inc., Quast & Co., Inc., E. Besler & Co., KSA Illinois, Inc., Nettles & Co., Inc., and William A. McGinty. The purpose of the agreement is to allow the parties through Customs Forwarders, Inc. (Customs), an Illinois corporation, to engage in the business of international and domestic freight forwarding. Agreement No. FF 71-7 provides that Customs will operate as a domestic Freight Forwarder upon appropriate governmental approvals of their acquisition of J. E. Bernard & Co., Inc.'s freight forwarding rights issued pursuant to Part IV of the Interstate Commerce Act.

Agreement No. FF 71-7 was published in the FEDERAL REGISTER on September 16, 1971. In the notice, the usual 20-day period was allowed for comments, statements, and protests by interested persons. Protests and requests for hearing were submitted by: Lyons Transport, Inc., Import Freight Carriers, Inc., Alltransport, Inc., and C. S. Greene and Co., Inc. It appearing that Agreement No. FF 71-7 may affect competition as to be detrimental to the commerce of the United States or otherwise in contravention of the statutory requirements of section 15 of the Shipping Act, 1916, and in order that a record may be developed upon which the Commission may determine whether to approve, disapprove, or modify Agreement No. FF 71-7;

Now therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, an investigation be and hereby is instituted to determine whether Agreement FF 71-7 is a true and complete copy of the understanding or arrangements between the parties;

It is further ordered, That the investigation determine whether the parties have in any manner, entered into and implemented an agreement or agreements, understandings and/or arrangements without prior approval in violation of section 15, Shipping Act, 1916;

It is further ordered, That the investigation determine whether the agreement, agreements, understandings, or arrangements may be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916, and whether the agreement should be approved, disapproved or modified;

It is further ordered, That the parties listed below be made respondents, petitioners, or otherwise appropriate parties in this proceeding;

It is further ordered, That this matter be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and place to be determined and announced by the Hearing Examiner;

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents and petitioners;

It is further ordered, That any person, other than respondents, petitioners and the Commission's Bureau of Hearing Counsel, who desires to become a party to this proceeding and participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with copies to all parties.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

RESPONDENTS

Customs Forwarders, Inc., 39 South LaSalle Street, Chicago, IL 60603.
J. E. Bernard & Co., Inc., 11 South LaSalle Street, Chicago, IL 60603.
E. Besler & Co., Inc., 4825 North Scott Street, Schiller Park, IL 60176.
KSA Illinois, Inc., 327 South LaSalle Street, Chicago, IL 60604.
William A. McGinty, 327 South LaSalle Street, Chicago, IL 60604.
Nettles & Co., Inc., 327 South LaSalle Street, Chicago, IL 60604.
Quast & Co., Inc., 327 South LaSalle Street, Chicago, IL 60604.

PETITIONERS

Alltransport, Inc., 327 South LaSalle Street, Chicago, IL 60604.
C. S. Green and Co., Inc., 327 South LaSalle Street, Chicago, IL 60604.
Lyons Transport, Inc., H. Neil Garson, Esq., Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201.
Import Freight Carriers, Inc., H. Neil Garson, Esq., Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201.

[FR Doc.71-17663 Filed 12-2-71;8:48 am]

AMERICAN EXPORT ISBRANDTSEN LINES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularly the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

American Export Isbrandtsen Lines, Inc., Atlantic Container Line, Ltd., Dart Containerline Co., Ltd., Hapag-Lloyd Aktiengesellschaft, Sea-Land Service, Inc., Seatrain Lines, Inc./Seatrain International S.A., United States Lines, Inc.

Notice of agreement filed by:

John Mason, Esq., Ragan & Mason, and Richard W. Kurrus, Esq., Kurrus & Jacobi, 2000 K Street NW., Washington, DC 20006.

Agreement No. 10,000, among the above named parties, provides for the pooling of freight revenues earned in the carriage of containerizable general cargo and the rationalization of services between U.S. North Atlantic ports and ports in Continental Europe, United Kingdom, Scandinavia, and Baltic under terms and conditions set forth in the Agreement.

Dated: November 29, 1971.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17664 Filed 12-2-71;8:48 am]

[Docket No. 71-90]

DORSEY EXPRESS, INC.

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated November 1, 1971, Dorsey Express, Inc., was notified of the Federal Maritime Commission's intention to deny its application for an independent ocean freight forwarder license. The reason for the intended denial is that no officer of the applicant corporation has the requisite experience necessary to conduct the business of ocean

freight forwarding pursuant to the standards of section 44(b), Shipping Act, 1916.

Dorsey Express, Inc., has requested a hearing to show that denial of the application is unwarranted.

Now, therefore, it is ordered, That pursuant to sections 22 and 44 of the Shipping Act, 1916, that a proceeding is hereby instituted to determine whether Dorsey Express, Inc., is fit, willing, and able to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied;

It is further ordered, That Dorsey Express, Inc., be hereby made respondent in this proceeding;

It is further ordered, That this matter be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and place to be determined and announced by the Hearing Examiner;

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon the respondent;

It is further ordered, That any persons other than the respondent who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to the parties;

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17666 Filed 12-2-71;8:48 am]

[Docket No. 71-91]

FAR EXPRESS CO.

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated October 29, 1971, Mr. Fabio A. Ruiz doing business as Far Express Co., 137 Madeira Avenue, Coral Gables, FL 33134, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license. The reason for the intended denial is that the applicant engaged in illegal freight forwarding activities without a license in apparent violation of section 44(a), Shipping Act, 1916. Among these were shipments handled for Arcco Import and Export Co., to Aruba, N.A.; Graco Paper International, Inc., to Aruba, N.A., Puerto Rico, and Jamaica; UNI-PAK International, Corp., to the Dominican Republic and Jamaica; The Bruning Paint Co., to the Dominican Republic and Puerto Rico; The Suave Shoe Co., to Puerto Rico; The Monroe Auto Equipt. Co., to El Salvador; Chris-Craft Sales to Puerto Rico; Endure A Lifetime, Inc., to Puerto Rico and the U.S. Virgin Islands; and the Silica Sand Co., to Puerto Rico. These shipments were handled by Far Express Co. between the period starting with about August 1, 1971, and continuing through September 17, 1971.

Fabio A. Ruiz doing business as Far Express Co. has requested a hearing to show that denial of the application is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(b)), that a proceeding is hereby instituted to determine whether, in view of its past activities, Fabio A. Ruiz doing business as Far Express Co. is fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether Fabio A. Ruiz doing business as Far Express Co. has violated section 44(a), Shipping Act, 1916.

It is further ordered, That Fabio A. Ruiz doing business as Far Express Co. be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of this Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

It is further ordered, That any persons other than the respondent, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17667 Filed 12-2-71;8:48 am]

FEDERAL RESERVE SYSTEM

BANQUE NATIONALE DE PARIS

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Banque Nationale de Paris, Paris, France, for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of French Bank of California, San Francisco, Calif., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, November 29, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-17632 Filed 12-2-71;8:45 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COSTA RICA

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 29, 1971.

On October 1, 1971, the U.S. Government requested the Government of Costa Rica to enter into consultations concerning exports to the United States of cotton textile products in Categories 53 and 61 produced or manufactured in Costa Rica. Public notice of this request was published in the FEDERAL REGISTER on October 13, 1971 (36 F.R. 19947). In that request the U.S. Government indicated the specific levels at which it considered that

exports in these categories from Costa Rica should be restrained for the 12-month period beginning October 1, 1971, and extending through September 30, 1972. Since no solution has been mutually agreed upon, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 3, paragraph 3 and Article 6(c) which relates to nonparticipants, is establishing restraints at the levels indicated in that request for the 12-month period beginning October 1, 1971, and extending through September 30, 1972. These restraints do not apply to cotton textile products in Categories 53 and 61, produced or manufactured in Costa Rica exported to the United States prior to the beginning of the designated 12-month period.

There is published below a letter of November 29, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textile products in Categories 53 and 61, produced or manufactured in Costa Rica, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1971, be limited to the designated levels.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20226.

NOVEMBER 29, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning October 1, 1971, and extending through September 30, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Categories 53 and 61, produced or manufactured in Costa Rica, in excess of the following levels of restraint:

Category		*Twelve-month level of restraint* [1]
53	dozen	29,400
61	do	89,250

[1] These levels have not been adjusted to reflect any entries made on or after Oct. 1, 1971.

In carrying out this directive, entries of cotton textile products in Categories 53 and 61, produced or manufactured in Costa Rica and which have been exported to the United States from Costa Rica prior to October 1, 1971, shall not be subject to this directive.

Cotton textile products in Categories 53 and 61, produced or manufactured in Costa Rica, which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Categories 53 and 61, in terms of T.S.U.S.A. numbers, was published in the FEDERAL REGISTER on October 9, 1971 (36 F.R. 19722).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of cotton textile products from Costa Rica have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

JAMES T. LYNN,
Acting Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71-17683 Filed 12-2-71;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[70-4538]

MICHIGAN POWER CO. AND AMERICAN ELECTRIC POWER CO., INC.

Notice of Posteffective Amendment Regarding Issue and Sale of Notes to Bank by Subsidiary Company and Open Account Advances by Holding Company

NOVEMBER 29, 1971.

Notice is hereby given that American Electric Power Co., Inc. (AEP), 2 Broadway, New York, NY 10004, a registered holding company, and its public-utility subsidiary company, Michigan Power Co. (MPC), formerly known as Michigan Gas and Electric Co., have filed with this Commission, pursuant to sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 (Act) and Rule 45 promulgated thereunder, a fifth posteffective amendment to the declaration in this matter. All interested persons are referred to the declaration as now amended, which is summarized below, for a complete statement of the proposed transactions.

By order dated October 16, 1967 (Holding Company Act Release No. 15872), this Commission authorized the issue and sale by MPC to National Bank of Detroit (National) of up to $850,000 of notes outstanding at any one time and maturing on June 30, 1968. At the time of said order, there were also outstanding $2,750,000 of MPC's notes which were issued to National prior to AEP's acquisition of MPC. The Commission's order of October 16, 1967, also authorized AEP to make open account advances to MPC of up to $4,500,000 outstanding at any one time. By a first supplemental order dated May 2, 1968 (Holding Company Act Release No. 16051), MPC was authorized to reissue, from time to time prior to June 30, 1969, its notes to National outstanding in the amount of $2,950,000 and to issue and reissue, from time to time prior to June 30, 1969, additional notes to National in an aggregate amount not to exceed $650,000 outstanding at any one time. The notes were to mature on or prior to June 30, 1969. The first supplemental order also authorized AEP to make open account advances to MPC, from time to time during the same period, not to exceed $7,500,000 outstanding at any one time. Such advances were to be repaid on or before June 30, 1969, except that, unless otherwise authorized by the Commission, such repayment was not to be made before the outstanding preferred stock of MPC was retired. By a second supplemental order dated May 26, 1969 (Holding Company Act Release No. 16383), the Commission granted authorization for an extension from June 30, 1969, to December 31, 1969, of the time in which MPC could issue and sell its notes to National and of the time for repayment of the open account advances from AEP, provided that the advances were not to be repaid before the preferred stock of MPC was retired. The notes to National were to mature on or prior to December 31, 1969. By a third supplemental order dated December 16, 1969 (Holding Company Act Release No. 16559), the Commission granted authorization for an extension from December 31, 1969, to December 31, 1970, of the time in which MPC could issue and sell its notes to National and of the time for repayment of the open account advances from AEP, provided that the advances were not to be repaid before the preferred stock of MPC was retired. The notes to National were to mature on or prior to December 31, 1970. The third supplemental order also authorized an increase of the amount of the open account advances from AEP to MPC from $7,500,000 to $8,500,000. By a fourth supplemental order dated October 28, 1970 (Holding Company Act Release No. 16880), the Commission granted authorization for an extension from December 31, 1970, to December 31, 1971, of the time in which MPC could issue and sell its notes to National and of the time for repayment of the open account advances from AEP, provided that the advances were not to be repaid before the preferred stock of MPC was retired. The fourth supplemental order also authorized an increase in the amount of notes to National outstanding at any one time from $2,950,000 to $4 million and an increase in the amount of the open account advances from AEP to MPC from $8,500,000 to $10 million.

The fifth posteffective amendment requests authorization for an extension from December 31, 1971, to December 31, 1972, of the time in which MPC may have its notes to National outstanding and of the time for repayment of the

open account advances from AEP: *Provided*, That the advances will not be repaid before the preferred stock of MPC has been retired. It is also requested that the amount of the authorized open account advances from AEP to MPC be increased from $10 million to $11 million.

The proposed notes to National will not exceed $4 million outstanding at any one time, will be dated as of the date of the borrowing, and will mature in not more than 270 days from the date of issuance or reissuance thereof, but in no event after December 31, 1972. The notes will bear interest at a rate per annum equal to the prime credit rate in effect (currently 5½ percent) from time to time at National, which rate shall change whenever said prime credit rate of National shall change, and will be prepayable, in whole or in part, at any time by MPC, without premium or penalty. It is stated that sufficient bank balances to meet operating and financial needs are generally kept at National, so that no additional balances will, generally, be required in connection with the borrowings. If the average of such balances were maintained solely in order to fulfill prevailing compensating balance requirements of approximately 20 percent, the effective interest cost to MPC of the issuance and sale of the notes would be approximately 6.9 percent based on the current prime commercial credit rate of 5½ percent.

The proceeds from the notes to National and the open-account advances are required by MPC in connection with its construction program, which for the year 1972 is expected to amount to approximately $4 million, to pay bank loans the proceeds of which were used in connection with past expenditures in connection with MPC's construction program, and for other corporate purposes. MPC states that the open-account advances will be repaid with a portion of the proceeds to be realized by MPC in connection with the divestment by MPC of its gas assets and that the bank loans will be repaid from internal cash sources or the issuance of such securities by MPC as the Commission may authorize.

No fees or commissions are to be incurred in connection with the proposed transactions, and no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 20, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17633 Filed 12-2-71;8:45 am]

[70-5116]

TRANSOK PIPE LINE CO. AND PUBLIC SERVICE COMPANY OF OKLAHOMA

Notice of Proposed Issue and Sale of Notes, Bonds at Competitive Bidding, and Sale of Certain Assets to Parent Company

NOVEMBER 26, 1971.

Notice is hereby given that Public Service Company of Oklahoma (Public Service), 600 South Main Street, Tulsa, OK 74102, a public-utility subsidiary company of Central and South West Corp., a registered holding company, and Transok Pipe Line Co. (Transok), an intrastate pipeline company and a subsidiary company of Public Service, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9(a), 10, 12, 12(b), and 12(f) of the Act and Rules 43, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Transok proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $15 million principal amount of its first mortgage pipeline bonds, _____ percent series due 1980. The interest of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Transok (which will be not less than 99 percent nor more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an indenture between Transok and the National Bank of Tulsa, Oklahoma, trustee, dated as of May 1, 1955, as heretofore supplemented by various indentures and as to be further supplemented by a fifth supplemental indenture to be dated as of December 1, 1971, which contains a prohibition against redeeming any of the bonds prior to December 1, 1976, directly or indirectly, with borrowed funds, or in anticipation of funds to be borrowed, having an annual interest cost to Transok of less than the annual interest cost of the bonds.

The net proceeds to be derived from the sale of the bonds will be used by Transok (a) to repay approximately $12 million borrowed from Public Service for construction purposes and (b) for the construction of additional gas transmission pipelines and gas gathering facilities, lease acquisitions, and exploration and development expenditures.

Public Service proposes to guarantee the payment of principal and interest on the proposed bonds and on Transok's other outstanding first mortgage pipeline bonds, represented by $3,216,000 principal amount of 3⅛ percent Series, $550,000 of 4.90 percent Series, and $2,709,000 of 4⅞ percent Series, the total aggregating $6,475,000 at July 31, 1971, all of which are due November 1, 1980. The guarantee of the outstanding bonds reflects an existing contractual guarantee.

In addition, Public Service proposes to sell, and Transok proposes to acquire, certain property and rights, consisting primarily of gas pipelines and gas gathering facilities, all located in Oklahoma. The consideration to be paid Public Service by Transok for said property and rights is the sum of $1,603,191.33, being the original cost ($4,373,618.69) of said property and rights as of July 31, 1971, less reserve for depreciation at said date ($2,770,427.36), as shown by Public Service's books. The consideration is to be payable in common stock of Transok at par value of $100 per share. It is stated that the purposes of such transfer by Public Service of its gas properties and rights to Transok is to (a) increase the ratio of common stock equity of Transok to its total capitalization and (b) enable Transok to own and operate all gas facilities for the fuel supply of the electric generating stations of Public Service, thereby consolidating the gas systems and the operations thereof.

Transok also proposes to issue and sell from time to time, and Public Service proposes to acquire, Transok's unsecured promissory notes in an amount not to exceed $15 million at any one time outstanding. Each note will be dated the date each such borrowing is made, will mature on a date not more than 2½ years from the date of the first borrowing, which is expected to be in December 1971, and will bear interest from the date thereof until maturity at one-half of 1 percent above the prime rate of interest in effect at The First National Bank of Chicago on the date each such borrowing is made. The notes may be prepaid by Transok in whole or in part at any time without premium or penalty.

The proceeds of the notes will be used by Transok to finance a part of its construction expenditures, lease acquisitions, and exploratory and development program for the period ended December 31, 1973, estimated at $19 million.

Fees and expenses to be incurred in connection with the proposed bonds are estimated at $64,000, including counsel fees of $20,000 and accountants' fees of $7,500. The fee of counsel for the underwriters of the bonds is estimated at $12,500 and is to be paid by the successful bidders. Expenses to be incurred in connection with the transfer of the properties and the issuance of notes are estimated at $30,900 and $150, respectively.

It is represented that the Corporation Commission of Oklahoma has jurisdiction over the proposed sale of assets by Public Service to Transok and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 20, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17634 Filed 12-2-71;8:45 am]

TARIFF COMMISSION

[AA1921-83]

ICE CREAM SANDWICH WAFERS FROM CANADA

Postponement of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921-83, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m., e.s.t., on December 7, 1971, has been postponed until 10 a.m., e.s.t., on December 14, 1971.

The postponement has been granted at the request of the complainant with the concurrence of the respondent in order to afford more time for the gathering of data and to better accommodate the schedules of the parties involved.

The hearing is being held in connection with a Commission investigation under the provisions of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of ice cream sandwich wafers from Canada which the Assistant Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value. Notice of the investigation was published in the FEDERAL REGISTER of November 12, 1971 (36 F.R. 21715).

Issued: November 30, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-17689 Filed 12-2-71;8:50 am]

[TEA-I-24]

MICROSCOPES, APPARATUS, AND PARTS

Notice of Investigation and Hearing

Investigation instituted. Following the receipt of petitions filed on November 18, 1971, by several domestic producers who represent the bulk of the U.S. producers of electron microscopes, the U.S. Tariff Commission on November 29, 1971, instituted an investigation under section 301(b) of the Trade Expansion Act of 1962 and section 9 of the Educational, Scientific, and Cultural Materials Importation Act of 1966 to determine whether, as a result in major part of concessions granted under trade agreements—

Electron, proton, and similar microscopes and diffraction apparatus, frames and mountings for the foregoing articles, and parts of such frames and mountings, which are dutiable under items 708.78 and 708.82 of the Tariff Schedules of the United States (TSUS); and electron, proton, and similar microscopes and diffraction apparatus, and repair components therefor, which are free of duty under items 851.60 and 851.65 of the TSUS,

are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry producing articles which are like or directly competitive with the imported articles.

Public hearing ordered. A public hearing will be held at 10 a.m., e.s.t., on February 8, 1972, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Inspection of petition. The petition filed in this case is available for inspection by persons concerned at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: November 30, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-17688 Filed 12-2-71;8:50 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

There is set forth below general Area Wage Determination Decision No. AM-554 of the Secretary of Labor. This decision specifies in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the locality specified therein. The decision is applicable to Federal and federally assisted construction in the described locality situated within the State of Alabama.

The determination in this decision of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in this decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the locality described therein.

Good cause is hereby found for not utilizing notice and public procedure

thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533, and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes such procedures to be impractical and contrary to the public interest.

This wage determination is effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and is to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decision for the locality within the above State is set forth below.

MODIFICATION TO AREA WAGE DETERMINATION DECISIONS

Modification to Area Wage Determination Decisions for specified localities in California, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Oklahoma, Texas, Virginia, and Wisconsin and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-329, AM-351, AM-353, AM-354, AM-357, AM-365, AM-368	Aug. 13, 1971
AM-375, AM-389, AM-408, AM-410, AM-411, AM-413, AM-415, AM-423, AM-425, AM-427, AM-430, AM-432, AM-434, AM-439, AM-441	Aug. 18, 1971
AM-470, AM-479, AM-482, AM-489, AM-1843, AM-1872	Aug. 20, 1971
AM-3602, AM-3616, AM-3623, AM-3624	Aug. 25, 1971
AM-3631, AM-3632	Aug. 27, 1971
AM-2525, AM-2527	Sept. 3, 1971
AM-6131, AM-6142, AM-7489	Nov. 12, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 46 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following the Secretary of Labor's Order No. 24-70) containing provisions for payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 26th day of November 1971.

HORACE E. MENASCO,
Administrator,
Employment Standards Administration.

State: Alabama; Counties: Mobile, Baldwin, Conecuh, and Washington; Decision No. AM-554; date of decision: December 3, 1971.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including four stories.

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
49-R-ALABAMA-A:						
Air conditioning mechanic	$3.95					
Bricklayers	4.55					
Carpenters	4.00					
Carpenters' helpers	2.50					
Cement masons	3.45					
Dry wall hangers	4.50					
Dry wall finishers	4.85					
Dry wall sanders	2.25					
Electricians	3.75					
Electricians' helpers	2.67					
Laborers:						
Unskilled	2.00					
Mason tender	2.25					
Painters	4.00					
Painters' helpers	3.00					
Plumbers	5.50					
Plumbers' helpers	2.75					
Roofers	4.00					
Roofers' helpers	3.50					
Sheet metal workers	3.50					
Sheet metal workers' helpers	2.30					
Soft floor layers	4.00					
Soft floor layers' helpers	2.00					
Tile setters	4.00					
Tile setters' helpers	2.00					
Truck drivers	2.00					
Power equipment operators:						
Backhoe	3.00					
Bulldozer	3.75					
Dragline	3.75					

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Others
WD No. AM-2,585—36 F.R. 17708, the 50 northern California counties are all those located north of Kern and San Luis Obispo Counties and west of Inyo and Mono Counties, Calif. Modification No. 4						
Alpine County						
CHANGE:						
Plumbers; steamfitters	$8.39	$0.77	$0.79		$0.03	
Amador County						
CHANGE:						
Plumbers; steamfitters (southern half of county)	8.39	.77	.79		.03	
Butte and Glenn Counties						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Calaveras and San Joaquin Counties						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Colusa County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
El Dorado-Nevada-Placer-Sierra Counties						
CHANGE:						
Plumbers; steamfitters (Sierra County)	8.39	.77	.79		.03	
Fresno-Kings-Madera-Tulare Counties						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Lassen County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
WD No. AM-2,587—36 F.R. 17752, 11 southern California counties: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, Calif. Modification No. 5						
Inyo County						
ADD:						
Lathers	6.73	.35	.65	$0.50		
Kern County						
CHANGE:						
Electricians (Edwards Air Force Base and Naval Ordnance Test Station):						
Electricians; technicians	9.80	.35	1%+.50		.10	
Cable splicers	10.78	.35	1%+.50		.10	
Electricians (remainder of county):						
Electricians; technicians	7.80	.35	1%+.50		.10	
Cable splicers	8.58	.35	1%+.50		.10	
Lathers	6.73	.35	$0.65	.50		
Line construction (Edwards Air Force Base and Naval Ordnance Test Station):						
Groundmen	7.85	.35	1%+.50		.10	
Linemen	9.80	.35	1%+.50		.10	
Cable splicers	10.78	.35	1%+.50		.10	
Line construction (remainder of county):						
Linemen	7.80	.35	1%+.50		.10	
Cable splicers	8.58	.35	1%+.50		.10	
Plasterers' tenders	6.385	.45	$0.85	.30		
Los Angeles County						
CHANGE:						
Bricklayers; stonemasons; tuckpointers	7.50	.40	.40		.05	
Orange County						
CHANGE:						
Bricklayers; stonemasons	7.50	.40	.40		.05	
Santa Barbara County						
CHANGE:						
Electricians (Vandenberg Air Force Base):						
Electricians	9.33	.42	1%+.45		.03	
Cable splicers	10.33	.42	1%+.45		.03	
Electricians (remainder of county):						
Electricians	8.08	.42	1%+.45		.03	
Cable splicers	9.08	.42	1%+.45		.03	
Mariposa County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	$0.79		.03	
Merced County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Modoc County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Monterey County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Plumas County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Santa Cruz County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Shasta and Tehama Counties						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Siskiyou County						
CHANGE:						
Plumbers; steamfitters	$8.39	$0.77	$0.79		$0.03	
Stanislaus and Tuolumne Counties						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Sutter County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Trinity County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
Yuba County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
WD No. AM-6,151—36 F.R. 21785, Amador, Contra Costa, Marin, Sacramento, San Francisco, San Joaquin, Santa Clara, Solano, and Sonoma Counties, Calif., Modification No. 1						
Amador County						
CHANGE:						
Plumbers; steamfitters (southern half of county)	8.39	.77	.79		.03	
San Joaquin County						
CHANGE:						
Plumbers; steamfitters	8.39	.77	.79		.03	
WD No. AM-6,148—36 F.R. 21755, Los Angeles County, Calif. Modification No. 1						
CHANGE:						
Bricklayers; stonemasons; tuckpointers	7.50	.40	.40		.06	
WD No. AM-5,631—36 F.R. 17074, El Paso County, Colo., Modification No. 3						
CHANGE:						
Building construction ironworkers:						
Southern half of county:						
Fence erectors, machine movers, ornamental, reinforcing, riggers, structural	6.75	.45	.45		.01	
WD No. AM-5,633—36 F.R. 17079, Statewide (County), Colorado, Modification No. 3						
CHANGE:						
Highway construction ironworkers: (Alamosa, Archuleta, Baca, Bent, Cheyene, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, and Saguache Counties; the southern portions of Chaffee, Elbert, El Paso, Kit Carson, Lincoln and Teller Counties; the southern one-third portion of Park County).						
Structural, ornamental, reinforcing, and fence erectors	6.75	.45	.45		.01	
WD No. AM-470—36 F.R. 16416, Chatham County, Ga., Modification No. 3						
CHANGE:						
Building Construction:						
Carpenters:						
Carpenters	5.45	.10	.05			
Millwrights	5.95	.10	.05			
Piledrivermen	5.70	.10	.05			
Soft-floor layers	5.45	.10	.05			
OMIT:						
Building Construction:						
Carpenters:						
Stationary power saw operators	5.30					
WD No. AM-589—36 F.R. 15151, Champaign County, Ill., Modification No. 1						
CHANGE:						
Cement masons	7.875	.25			.025	
WD No. AM-551—36 F.R. 15277, Allen County, Ind., Modification No. 4						
OMIT:						
Building construction:						
Cement masons (swings scaffold 5 feet or over)	6.60	.15				
CHANGE:						
Building construction:						
Cement masons	6.55	.30				
Plasterers	6.61	.30				
Roofers	6.95		.10			
INDIANA-5-LAB T&S M:						
Laborers (Sewer and tunnel):						
Top laborer	4.32	.18	.25		.07	
Well point lead man	4.37	.18	.25		.07	
Jackhammer and air tool operators	4.42	.18	.25		.07	
Bottom man	4.62	.18	.25		.07	
Pipelayer	4.62	.18	.25		.07	
Free air tunnel and caisson work:						
Miners or header men	5.40	.18	.25		.07	
Muckers and tunnel laborers	4.90	.18	.25		.07	
Bottom men and concrete men	4.80	.18	.25		.07	
Topmen	4.70	.18	.25		.07	
WD No. AM-553—36 F.R. 15287, Benton and Tippecanoe Counties, Ind., Modification No. 4						
OMIT:						
Building construction:						
Glaziers	7.27					
ADD:						
Building construction:						
Glaziers (Benton County)	7.05					
Glaziers (Tippecanoe County)	7.77					
CHANGE:						
Building construction:						
Carpenters	6.40	.20	.15		.02	
Cement masons	6.40	.30	.10			
Millwrights	6.70	.20	.15		.02	
Piledrivermen	6.60	.20	.15		.02	
Soft floor layers	6.40	.20	.15		.02	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-854—36 F.R. 15898, Dearborn County, Ind., Modification No. 2						
CHANGE:						
Building construction:						
Bricklayers and stonemasons	$6.60					
OMIT:						
Building construction:						
Laborers:						
Laborers	4.25	$.13	$.20		$.02	
Hod carriers, jackhammerman, vibrator tool operators, tile layers (concrete and clay), powder monkeys, cement handlers (bulk or bag), concrete puddlers, bottom men	4.45	.13	.20		.02	
Dynamite men	4.65	.13	.20		.02	
ADD:						
Building construction:						
Laborers:						
Group A:						
Building and construction laborers, scaffold builders other than for mason or plasterers, ironworkers' helpers, mechanic helpers, mechanic tenders, window washers and cleaners, roofers' helpers, railroad laborer, masonry wall washers (interior and exterior), cement finisher helper, carpenter helper, all portable water pumps with discharge up to 3 inches	4.75	.18	.25		.07	
Group B:						
Waterproofing, handling of cresote lumber or like treated material (excluding railroad material), asphalt rakers and lutemen, kettlemen, air tool operators, vibrators, chipping hammer operators and all other pneumatic tool operators, jackmen and sheeting men working in ditches deeper than 6 feet, laborers working in ditches 6 feet in depth or deeper, assembly of unicrete pump, chain saw operators, tile layers (sewer or field), sewer pipe layers (metallic and nonmetallic), motor-driven wheelbarrows and concrete buggies, hyster operators, pump crete assemblers, conveyor assemblers, core drill operators, cement, lime, or silica clay handlers (bulk or bag), pneumatic spikers, deck, engine and winch operator, water main and cable ducking (metallic and nonmetallic)	4.35	.18	.25		.07	
Group C:						
Plaster tenders, mortar mixers, welders (acetylene or electric), cutting torch or burner, cement nozzle laborers, cement gun operator, scaffold builders when working for plasterer or masons, mason tenders	5.05	.18	.25		.07	
Group D:						
Tunnel work in free air:						
Muckers or tunnel laborers, bottom men, concrete men (bottom), miners and header men	5.35	.18	.25		.07	
Group E:						
Dynamite men	5.75	.18	.25		.07	
Stacks and chimneys:						
Base to 25'—$0.25 per hour over base rate.						
25' to 50'—$0.50 per hour over base rate.						
50' to 75'—$0.75 per hour over base rate.						
75' to 100'—$1.00 per hour over base rate.						
100' to 150'—$1.25 per hour over base rate.						
150' to 200'—$1.50 per hour over base rate.						
200' to 250'—$1.75 per hour over base rate.						
250' and up—$2.00 per hour over base rate.						
WD No. AM-857—36 F.R. 15810, Lake County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Remainder of county:						
Glaziers	7.05					
Hammond area:						
Plumbers	8.19	.35	.35			
WD No. AM-865—36 F.R. 15365, Adams, Allen, DeKalb, Elkhart, Huntington, Kosciusko, La Grange, Marshall, Noble, Stark, Steuben, Wells, and Whitley Counties, Ind. Modification No. 1						
OMIT:						
Paid holidays:						
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote:						
a. Holidays, A through F.						
CHANGE:						
Cement masons:						
Marshall County	7.12	.30	.50		.01	
Elkhart, Kosciusko and La Grange Counties	7.38				.02	
Remainder of counties	6.55	.30				
Truck drivers:						
Group A:						
Acey wagons over 3 buckets	4.95	a	b			
Group B:						
Acey wagons to and including 3 buckets	4.90	a	b			
Group C:						
Tandem; tandem semitrucks; truck mechanics—heavy equipment type water wagon over 5,000 gallons; tri-axle trucks pulling tilt-top trailers						
Lowboys; tandem; tandem axle	4.85	a	b			
Group D:						
Tri-axle trucks; tandem axle semitrucks; equipment not self-loaded or pusher-loaded, such as Koehring or similar dumpster, truck truck, Euclid bottom and hug-bottom dump, tournatrailers, tournarockers, Athey wagons, or similar equipment over 12 cu. yds.; tandem axle trucks pulling tilt-top trailers; lowboys, tandem axle; tri-axle batch truck	4.80	a	b			

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
CHANGE—Continued						
Truck drivers—Continued						
Group E:						
Tandem "dog-legs" trucks; semiwater trucks; sprinkler trucks; heavy equipment type water wagon, 5,000 gallons and under	$4.75	a	b			
Group F:						
Truck-mounted pavement breakers; tandem trucks over 15 ton payload; single-axle semi-trucks; farm tractors hauling material; equipment not self-loaded or pusher-loaded, such as Koehring or similar dumpster; track truck, Euclid bottom dump and hug-bottom dump; tournarockers, Athey wagons, or similar equipment, 12 cu. yds. and under; mixer trucks, all types; single-axle trucks pulling tilt-top trailer; lowboys, single-axle	4.70	a	b			
Group G:						
Tandem axle fuel trucks; tandem axle water trucks; bituminous distributor, one-man	4.65	a	b			
Group H:						
Single-axle "dog legs"; tandem trucks or "dog legs"; winch trucks or A-frames used for transportation; batch trucks, wet or dry over 3 (34E) batches; grease and maintenance trucks servicing tandem axle trucks	4.60	a	b			
Group I:						
Single-axle fuel trucks; single-axle water trucks; bituminous distributors, two-man	4.55	a	b			
Group J:						
Single-axle straight trucks; batch trucks, wet or dry 3 (34E) batches or less; grease and maintenance trucks servicing single-axle trucks	4.50	a	b			
Group K:						
Helpers, greasers, tire men, batch board tenders	4.45	a	b			
Group L:						
Pick-up trucks	4.35	a	b			

Footnotes:
a. $6 per week for each employee on payroll of employer 30 days or more.
b. $8 per week for each employee on payroll of employer 30 days or more.

WD No. AM-978—36 F.R. 15378, Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, and Warren Counties, Ind., Modification No. 1

CHANGE:						
Cement masons:						
Green County	6.20	$0.20				
Daviess and Knox Counties	6.65	.30			$0.01	
Southern half of Morgan County and southern half of Owen County	6.90					
Vermillion, Vigo, the southern half of Clay County, and Parke County	6.00	.25	$0.25			
Fountain, Montgomery, and Warren Counties	6.40	.30	.10			

WD No. AM-3,623—36 F.R. 16849, Shawnee County, Kansas Modification No. 3

CHANGE:						
Building construction:						
Asbestos workers	7.95	.30	.30		.02	
Electricians:						
Electricians	7.65	.25	1%+.30		2/10%	
Cable splicers	8.41	.25	1%+.30		2/10%	
Roofers:						
Flat, slate, tile	6.49	.18	$0.40			
Using pitch	7.34	.18	.40			
Dampproofers and waterproofers	6.49	.18	.40			

WD No. AM-3,624—36 F.R. 16863, Leavenworth County, Kansas Modification No. 4

CHANGE:						
Building construction:						
Asbestos workers	7.95	.30	.30		$0.02	
Sheet metal workers	8.225	.25	.25			
OMIT:						
Building construction:						
Delaware, High Prairie, Kickapoo, the city of Leavenworth and the Fort Leavenworth Military Reservation:						
Electricians	7.30	.15	1%+.30		2/10%	
Cable splicers	8.03	.15	1%+.30		2/10%	
ADD:						
Building construction:						
Leavenworth County, except Delaware, Kickapoo, High Prairie and Leavenworth Township:						
Electricians	7.65	.25	1%+.30		2/10%	
Cable splicers	8.41	.25	1%+.30		2/10%	

WD No. AM-479—36 F.R. 16432, Fayette County, Ky., Modification No. 4

CHANGES:						
Plasterers	6.50					

WD No. AM-482—36 F.R. 16446, Warren County, Ky., Modification No. 3

CHANGE:						
Cement masons	5.75	.20	$0.10		$0.61	
Plasterers	5.75	.20	.10		.01	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-375—36 F.R. 18787, Berrien County, Mich., Modification No. 3						
ADD:						
Dipper and hydraulic dredging:						
Chief engineer	$7.5850	$0.25	$0.15	a		
Operators	7.52875	.25	.15	a		
Assistant engineers	7.28125	.25	.15	a		
Firemen, oilers	6.44875	b 3.00	.25	a		
Welder	7.17125	.25	.15	a		
Deckhands	6.40375	b 3.00	.25	a		
Scowman, Chicago and South Chicago	6.425	b 3.00	.25	a		
Scowman, other ports	6.40375	b 3.00	.25	a		
Pipeline men	6.40375	b 3.00	.25	a		
Cranemen, dipper dredging	7.17125	.25	.15	a		
Spill barge operator, hydraulic dredging	7.17125	.25	15	a		
Drill boats:						
Engineers	7.1575	.25	.15	c		
Blasters	7.2575	.25	.15	c		
Firemen	6.88	.25	.15	c		
Drillers, welders, or machinists	7.15875	.25	.15	c		
Oilers and helpers	6.73875	.25	.15	c		
Tug engineers and operators	6.94125		.40	a		
Tug firemen, linemen and oilers:						
Chicago and South Chicago (Michigan City, Ind., to Waukegan, Ill., both included)	6.54	b 3.00	.40	a		
All other parts	6.505	b 3.00	.25	a		
Floating equipment (clamshell, dragline and marine construction):						
Engineer and operator	8.55f			d & e		
Equipment operator	7.86f			d & e		
Firemen	7.47f			d & e		
Oilers	7.18f			d & e		
Engineer helpers, rangermen, rodmen, sweepers:						
Engineer helpers, rangermen, rodmen or sweepmen	5.10	b 3.00		a		
Service truck drivers	4.75	b 3.00		a		

Paid holidays (where applicable):
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. 8 paid holidays; A through F plus Washington's Birthday and Veterans Day; 6½ days vacation with pay for 104 days of service, 1 additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in 1 calendar year. Employee not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in 1 calendar year.
b. Per day, per employee.
c. 8 paid holidays, A through F plus Washington's Birthday and Veterans Day; 6½ days vacation with pay for 104 days of service, 1 additional day of vacation with pay for each additional 21⅝ days of service, all in 1 calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in 1 calendar year.
d. 8 paid holidays, A through F plus Washington's Birthday and Veterans Day.
e. ½ day vacation for each full 12 days employment in 1 calendar year.
f. Plus $.80 in fringe benefits.

WD No. AM-389—36 F.R. 15850, Mason County, Mich. Modification No. 4						
CHANGE:						
Laborers:						
Laborers	4.75	.30	.20			
Mason tenders, etc	4.90	.30	.20			
Jackhammer, etc	5.20	.30	.20			
Concrete shovels	5.10	.30	.20			
Crock layers	5.30	.30	.20			
Plaster tender	5.15	.30	.20			
Work on scaffold	5.00	.30	.20			
WD No. AM-489—36 F.R. 16461, Harrison and Pearl River Counties, Miss. Modification No. 2						
CHANGE:						
Plumbers and steamfitters	6.20	.16	.17		$0.01	
WD No. AM-5,616—36 F.R. 16863, Clay, Jackson, Platte and Ray Counties, Mo. Modification No. 4						
CHANGE:						
Building construction:						
Asbestos workers	7.95	.30	.30		.02	
Sprinkler fitters	8.485	.25	.40		.05	
WD No. AM-408—36 F.R. 15915, Greene and Montgomery Counties, Ohio. Modification No. 3						
CHANGE:						
Plumbers and steamfitters:						
Remainder of Greene County and all of Montgomery County	8.45	.25	.45		.05	
WD No. AM-410—36 F.R. 15925, Licking County, Ohio. Modification No. 4						
CHANGE:						
Modification No. 2 in FEDERAL REGISTER issued November 19, 1971, to read "Modification No. 3."						
WD No. AM-411—36 F.R. 15929, Lucas County, Ohio. Modification No. 5						
CHANGE:						
Plumbers and steamfitters	9.285	.50	.55	j	.025	
Elevator constructors	9.31	.195	.20	2%+b&c	.005	
Elevator constructors' helpers	70%J R	.195	.20	2%+b&c	.005	
WD No. AM-415—36 F.R. 15938, Muskingum County, Ohio. Modification No. 4						
CHANGE:						
Plumbers and steamfitters	$8.20	.25			.02	
WD No. AM-415—36 F.R. 15948, Stark County, Ohio. Modification No. 4						
CHANGE:						
Soft floor layers	6.58	.30	.20	g		

ADD:
Footnotes:
g. 1 year of service, 1 week's paid vacation; 2 or more years of service, 2 weeks paid vacation.

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-5,902—36 F.R. 10758, Tulsa County, Okla. Modification No. 4						
CHANGE:						
Plasterers	$6.05				$0.01	
Plumbers	6.71	$0.35	$0.40		.05	
WD No. AM-7,489—36 F.R. 21737, Harris County, Tex. Modification No. 1						
CHANGE:						
Building construction:						
Carpenters:						
Carpenters	6.00	.40	.22		.05	
Millwrights	6.17	.48	.22		.05	
Piledrivermen	6.00	.40	.22			
ADD:						
Line construction:						
Linemen	7.115	.17	1%		1/2%	
Ground mechanics	6.12	.17	1%		1/2%	
Groundmen	4.91	.17	1%		1/2%	
Groundmen (1st 6 mos.)	3.89	.17	1%		1/2%	
WD No. AM-1,878—36 F.R. ....., Accomack, Greensville, Isle of Wight, James City, Nansemond, Northampton, Southampton, Surry, Sussex, and York Counties, Va. Modification No. 1						
ADD:						
To the geographic area of wage determination the independent cities of: Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach.						
WD No. AM-423—36 F.R. 15966, Brown County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Plumbers	7.20	.30	$0.60	.45+g	$0.03	
Roofers, composition	6.05			$0.25		
Steamfitters	7.20	.30	.60	.45+g	.03	
WD No. AM-425—36 F.R. 15973, Eau Claire County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Cementmasons	7.18			$0.40		
WD No. AM-427—36 F.R. 15979, Kenosha County, Wis. Modification No. 3						
CHANGE:						
Roofers	6.80	.25	.15			
WD No. AM-430—36 F.R. 15991, Milwaukee County, Wis. Modification No. 5						
CHANGE:						
Building construction:						
Lathers	6.32	.40	.50	.65	.03	
WD No. AM-432—36 F.R. 16000, Racine County, Wis. Modification No. 5						
CHANGE:						
Building construction:						
Roofers	6.80	.25	.15			
OMIT:						
Building construction:						
Carpenters (Burlington and vicinity):						
Carpenters and soft floor layers	6.17	.25	.25	.30	.03	
Millwrights	6.52	.25	.25	.30	.03	
Piledrivermen	6.52	.25	.25	.30	.03	
ADD:						
Building construction:						
Carpenters (west of Highway 75):						
Carpenters and soft floor layers	6.67	.25	.20	.40	.03	
Millwrights and piledrivermen	7.02	.25	.20	.40	.03	
WD No. AM-434—36 F.R. 16008, Waukesha County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Lathers	6.32	.40	.50	.65	.03	
WD No. AM-439—36 F.R. 16024, Crawford, Columbia, Dodge, Grant, Green, Iowa, Jackson, Jefferson, Lafayette, Monroe, Richland, Sauk, and Vernon Counties, Wis. Modification No. 3						
CHANGE:						
Change masons:						
Jackson (north ½ of county)	7.18			.40		
WD No. AM-441—36 F.R. 16029, Fond du lac, Ozaukee, Sheboygan, Walworth, and Washington Counties, Wis. Modification No. 3						
CHANGE:						
Carpenters:						
Walworth County	6.67	.25	.20	.40	.03	
Piledrivermen:						
Walworth County	7.02	.25	.20	.40	.03	
WD No. AM-1,842—36 F.R. 16241, Washington, D.C. Modification No. 5						
Sewer and Water Lines						
CHANGE:						
Laborers:						
Open cut:						
Laborers, probationary (first 60 days)	3.83	.25	.17		.03	
Laborers, jackhammers, rammers, and spaders (after 60 days)	4.79	.25	.17		.03	

Correction. In F.R. Doc. 71-16416 appearing at page 21720 in the issue for Friday, November 12, 1971, the center heading "Modifications" which appears in the tables on pages 21721, 21723, 21725, 21733, 21736, and 21737 should be deleted.

[FR Doc.71-17500 Filed 12-2-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 30, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F 11127, The Aetna Freight Lines, Inc.—Purchase (Portion)—Adkins Transfer, Inc., hearing now being assigned February 10, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 14702 Sub 35, Ohio Fast Freight, Inc., hearing now being assigned February 16, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 105566 Sub 58, Sam Tanksley Trucking, Inc., hearing now being assigned February 7, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 107295 Sub 516, Pre-Fab Transit Co., now being assigned hearing February 9, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 112184 Sub 33, The Manfredi Motor Transportation Co., hearing now being assigned February 14, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 116101 Sub 9, Quick Air Freight, Inc., hearing now being assigned February 8, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 128698 Sub 4, Erdner Bros. Inc., Now assigned December 1, 1971, at Washington, D.C., is postponed indefinitely.

MC-F 11065, Arbet Truck Lines, Inc.—Purchase—Keech Transfer Co., Inc. (Leonard M. Spira—Trustee for Benefit of Creditors), now assigned December 8, 1971, at Chicago, Ill., postponed indefinitely.

MC 134194 Sub 3, Norman C. Emerson, now being assigned hearing January 31, 1972, at Boston, Mass., in a hearing room to be later designated.

MC 115703 Sub 3, Kreitz Motor Express, Inc., application dismissed.

MC 105566 Sub 6, Sam Tanksley Trucking, Inc., application dismissed.

MC 61592 Sub 168, Jenkins Truck Line, Inc., application dismissed.

MC 135597 Sub 2, C. K. Brough, doing business as Straight Arrow Trucking Co., assigned December 1, 1971, at Salt Lake City, Utah, is canceled and application dismissed.

MC 83835 Sub 79, Wales Transportation, MC 105045 Sub 26, R. L. Jeffries Trucking, MC 113459 Sub 63, H. J. Jeffries Truck Line, now being assigned hearing January 27, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 117574 Sub 204, Daily Express, now being assigned hearing February 1, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 119632 Sub 44, Reed Lines, MC 119670 Sub 18, The Victor Transit Corp., now being assigned hearing January 24, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 129340 Sub 1, A. C. Enterprises, now being assigned hearing February 2, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 135232, Crown Metal & Salvage Co., now being assigned hearing January 31, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 135580, Lambert Transfer & Storage, now being assigned hearing January 25, 1972, at Columbus, Ohio, in a hearing room to be designated later.

MC 2900 Sub 208, Ryder Truck Lines, Inc., now being assigned for continued hearing on January 10, 1972, in the Texas State Hotel, Fannin Street at Rusk, in Houston, Tex.

MC 105881 and Subs 19, 21, 23, 25, 26, 30, 32, 35, 40, 41, 42, M.R. & R. Trucking Co., now being assigned hearing January 24, 1972, at Tallahassee, Fla., in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17690 Filed 12-2-71;8:50 am]

ASSIGNMENT OF HEARINGS

NOVEMBER 29, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107409 Sub 36, Ratliff & Ratliff, Inc., assigned December 7, 1971, at Washington, D.C., postponed to February 2, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107576 Sub 20, Silver Wheel Freightlines, Inc., heard November 8, 1971, and continued to January 4, 1972, at the Davenport Hotel, West 823 Sprague Avenue, Spokane, WA, and to January 10, 1972, at the Cosmopolitan Airtel, 6221 Northeast 82d Avenue, Portland, OR.

MC-F-11122, Duff Truck Line—Purchase—Vernon R. Doering, now assigned December 16, 1971, at Washington, D.C., postponed indefinitely.

MC 55889 Sub 38, Cooper Transfer, now being assigned hearing January 10, 1972, at Jacksonville, Fla., in a hearing room to be designated later.

MC-F 11129, Paramount Movers, Inc., Purchase (Portion), Shamrock Van Lines, Inc., now assigned February 7, 1972, postponed to February 22, 1972, Dallas, Tex., hearing room to be designated later.

MC-F 11130, Towne Services Household Goods Transportation Co., Inc., Purchase (Portion)—Shamrock Van Lines, Inc., now assigned February 7, 1972, at Dallas, Tex., postponed to February 22, 1972, at Dallas, Tex., hearing room to be designated later.

MC-F 11139, North American Van Lines, Inc.—Purchase (Portion)—Shamrock Van Lines, Inc., now assigned February 7, 1972, at Dallas, Tex., postponed to February 22, 1972, at Dallas, Tex., hearing room to be later designated.

I & S No. 8683, Airplanes and Parts, Westbound Transcontinental, now being assigned hearing January 17, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 113855 Sub 233, International Transport, now assigned January 20, 1972, at Denver, Colo., canceled and application dismissed.

MC 118989 Subs 42 and 62, Container Transit, Inc., now assigned November 30, 1971, at Washington, D.C., hearing canceled and applications dismissed.

MC-F 10502, Ringsby Truck Lines, Inc.—Control—United Buckingham Freight Lines, Inc., et al., MC-F 10536 Central Transport, Inc.—Purchase (Portion)—Norwalk Truck Lines, Inc., MC-F 10537 International Cartage, Inc.—Purchase (Portion)—Norwalk Truck Lines, Inc., MC-F 11052, United Buckingham Freight Lines, Inc.—Merger—Norwalk Truck Lines, Inc., Norwalk Truck Lines, Inc.—Merger—Norwalk Truck Lines, of Delaware, assigned January 17, 1972, will be held in Room 595, U.S. Courthouse, 1929 Stout Street, Denver, CO.

MC 119789 Sub 70, Caravan Refrigerated Cargo, now assigned December 14, 1971, at Baton Rouge, La., canceled and application dismissed.

MC 126034 Subs 1, 3, and 4, Bucks County Construction Co., Penndel, Pa., assigned December 13, 1971, at Washington, D.C., canceled and dismissed.

MC 112823 Sub 199, Bray Lines, Inc., now being assigned February 7, 1972, at Dallas, Tex., in a hearing room to be later designated.

MC 112822 Sub 211, Bray Lines, Inc., now being assigned February 8, 1972, at Dallas, Tex., hearing room to be designated later.

MC 123392 Sub 31, Jack B. Kelley, Inc., now being assigned February 10, 1972, at Dallas, Tex., hearing room to be designated later.

MC 114457 Sub 97, Dart Transit Co., now assigned December 6, 1971, at St. Paul, Minn., postponed to December 9, 1971, in Room 525, New Federal Building, 316 North Robert Street, St. Paul, MN.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17691 Filed 12-2-71;8:50 am]

[S.O. 1082, Amdt. 1]

STAR FORWARDERS, INC.

Authorization To Operate Through Halifax, Nova Scotia, and Montreal, Quebec, Canada, and Other Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1971.

Upon further consideration of Service Order No. 1082 (36 F.R. 21015), and good cause appearing therefor:

It is ordered, That pursuant to sections 1(16) and 420 of the Interstate Commerce Act, 49 U.S.C. 1(16) and 1020, Service Order No. 1082 be, and it is hereby, amended by extending the expiration date thereof from 11:59 p.m., November 26, 1971, to 11:59 p.m., December 15, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That copy of this amendment shall be served upon Star Forwarders, Inc., and that notice of this order shall be given to the general public by depositing a copy in the Office of the

Secretary of the Commission, at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17696 Filed 12-2-71;8:51 am]

[Suspension Docket No. 8688 (Sub No. 1)]

STABILIZATION OF RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 19th day of November 1971.

The President of the United States, by virtue of the authority vested in him by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, issued Executive Order 11627, dated October 15, 1971, providing for the continuation of the stabilization of prices, rents, wages and salaries at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services, pending action by competent authority pursuant to the provisions of such order. The Executive Order also provides, inter alia, that no person shall charge, assess, or receive, directly or indirectly, in any transaction, prices in any form higher than those permitted therein.

It appearing that there have been filed with the Interstate Commerce Commission schedules setting forth new increased rates, fares and charges and new rules, regulations and practices having the effect of increasing rates, fares and charges, applicable on interstate or foreign commerce, to become effective November 20, 1971, and later;

And it further appearing that certain of the said schedules would, if permitted to become effective, result in rates, fares, charges, rules, regulations or practices which would be in violation of the Executive Order described above; and good cause appearing therefor:

It is ordered, That the operation of the schedules described in the preceding paragraph be and it hereby is suspended, and that the use thereof on interstate and foreign commerce be deferred for an indefinite period pending further order of this Commission.

It is further ordered, That neither the schedules hereby suspended nor those sought to be altered thereby shall be changed until further order of this Commission, except that rates, fares, charges, rules, regulations and practices may be changed of such change does not result in an increase above the highest level pertaining to a substantial volume of actual transactions during the 30-day period ending August 14, 1971, for like or similar commodities or services.

It is further ordered, That all carriers, respondents to this order, be, and they are hereby, directed to file with this Commission supplements containing notice of suspension of all increased rates, fares, charges, rules, regulations and practices which are subject to this order.

It is further ordered, That schedules setting forth new increased rates, fares and charges and new rules, regulations and practices having the effect of increasing rates, fares and charges, the operation of which has been suspended and investigation instituted under the provisions of the Interstate Commerce Act, are not subject to the terms of this order.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary and in the Section of Tariffs of the Interstate Commerce Commission and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17692 Filed 12-2-71;8:50 am]

[Suspension Docket No. 8688 (Sub No. 3)]

STABILIZATION OF RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 24th day of November 1971.

The President of the United States, by virtue of the authority vested in him by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, issued Executive Order 11627, dated October 15, 1971, providing for the continuation of the stabilization of prices, rents, wages and salaries at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services, pending action by competent authority pursuant to the provisions of such order. The Executive order also provides, inter alia, that no person shall charge, assess, or receive, directly or indirectly, in any transaction, prices in any form higher than those permitted therein.

It appearing that there have been filed with the Interstate Commerce Commission schedules setting forth new increased rates, fares and charges and new rules, regulations and practices having the effect of increasing rates, fares and charges, applicable on interstate or foreign commerce, to become effective November 25, 1971, and later;

And it further appearing that certain of the said schedules would, if permitted to become effective, result in rates, fares, charges, rules, regulations or practices which would be in violation of the Executive order described above; and good cause appearing therefor:

It is ordered, That the operation of the schedules described in the preceding paragraph be and it hereby is suspended, and that the use thereof on interstate and foreign commerce be deferred for an indefinite period pending further order of this Commission.

It is further ordered, That neither the schedules hereby suspended nor those sought to be altered thereby shall be changed until further order of this Commission, except that rates, fares, charges, rules, regulations and practices may be changed if such change does not result in an increase above the highest level pertaining to a substantial volume of actual transactions during the 30-day period ending August 14, 1971, for like or similar commodities or services.

It is further ordered, That all carriers, respondents to this order, be, and they are hereby, directed to file with this Commission supplements containing notice of suspension of all increased rates, fares, charges, rules, regulations and practices which are subject to this order.

It is further ordered, That schedules setting forth new increased rates, fares and charges and new rules, regulations and practices having the effect of increasing rates, fares and charges, the operation of which has been suspended and investigation instituted under the provisions of the Interstate Commerce Act, are not subject to the terms of this order.

It is further ordered, That schedules containing general increases in rates and charges which were filed with the Commission pursuant to the requirements of the Commission's orders in Ex Parte No. MC-82, New Procedures in Motor Carrier Revenue Proceedings, are not subject to the terms of this order nor to the terms of the Commission's order of November 19, 1971, in Suspension Docket No. 8688 (Sub No. 1).

And it is further ordered, That a copy of this order be posted in the Office of the Secretary and in the Section of Tariffs of the Interstate Commerce Commission and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17693 Filed 12-2-71;8:50 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Price Commission Ruling 1971-2]

SEWER AND WATER SERVICE CHARGES

Price Commission Ruling

Facts. City A is limited by State law to a real property tax rate below that necessary to pay for its general governmental

functions. It generates the additional revenues necessary to perform those functions by charging more for sewer and water services than is necessary to pay for those services. It has incurred additional costs in performing its general governmental functions.

Issue. May the city raise the service charges on its sewer and water service to pay the increased costs incurred in performing its general governmental functions?

Ruling. The city may not increase its sewer and water service charges to pay the increased costs incurred in performing its general governmental functions. A city which operates a sewer and water department is to that extent a "service organization" within the definition provided by Economic Stabilization Regulations § 300.101(b)(3). Therefore, it can increase its charges only to reflect its allowable costs in effect on November 14, 1971, and cost increases it incurred after November 14, 1971, reduced to reflect productivity gains. On these facts, the city itself, and not the sewer and water department, incurred the additional costs, and thus the sewer and water department cannot increase its rates to reflect such additional costs.

This ruling has been approved by the General Counsel of the Price Commission.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

NOVEMBER 30, 1971.

[FR Doc.71-17823 Filed 12-2-71;11:06 am]

[Price Commission Ruling 1971-1]

WATER SERVICE CHARGES

Price Commission Ruling

Facts. City A is composed of several departments under the supervision of a city council and mayor. Some of the departments are financed by property tax revenues (e.g. police and fire departments), while others are financed by service charges (e.g. garbage collection and water departments). The garbage collection department has incurred cost increases after November 14, 1971, without any gain in productivity. The water department has incurred no such cost increases.

Issues. May the city increase its service charge for water service to cover the increased costs of the garbage collection department?

Ruling. No. The city may not increase the water service rates to cover the increased costs of the garbage collection department. Even though State and local income, sales, and real estate taxes are not subject to the provisions of the Economic Stabilization Act of 1970 because they are not prices (Economic Stabilization Regulations § 101.1(c)(1)), service charges imposed by State or local governments are not exempt. Any person who carries on the trade or business of selling or making available services is a service organization, as defined in Economic Stabilization Regulations § 300.101(b)(3), and this definition includes government instrumentalities. Therefore, each city department which renders services financed by service charges imposed on the recipients of that service is a service organization, and may charge a price in excess of the base price only to reflect allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971, reduced to reflect productivity gains. On the facts given above, only the garbage collection department has incurred such increased costs and therefore only the service charges imposed for the garbage collection service could be increased.

This ruling has been approved by the General Counsel of the Price Commission.

K. MARTIN WORTHY,
Chief Counsel,
Internal Revenue Service.

NOVEMBER 30, 1971.

[FR Doc.71-17822 Filed 12-2-71;11:06 am]

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PART II

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

■

National Poultry Improvement Plan

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter IV—Agricultural Research Service, Department of Agriculture

PART 445—NATIONAL POULTRY IMPROVEMENT PLAN

PART 446—NATIONAL TURKEY IMPROVEMENT PLAN (TURKEYS AND CERTAIN OTHER POULTRY)

PART 447—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

On May 19, 1971, there was published in the FEDERAL REGISTER (36 F.R. 9104) a notice of proposed amendments of the National Poultry and Turkey Improvement Plans and Auxiliary Provisions recommended by the 1970 Conference of representatives of the State agencies cooperating in the administration of the Plans. After due consideration of all relevant material submitted in connection with such notice, and pursuant to section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429), Parts 445 and 447 of Title 9, Chapter IV, Subchapter A, Code of Federal Regulations, are hereby revised and Part 446 is reserved to read as follows:

Subpart A— General Provisions

Sec.

Subpart B—Special Provisions for Egg Type Chicken Breeding Flocks and Products

Subpart C—Special Provisions for Meat Type Chicken Breeding Flocks and Products

Subpart D—Special Provisions for Turkey Breeding Flocks and Products

Subpart E—Special Provisions for Waterfowl, Exhibition Poultry, and Game Bird Breeding Flocks and Products

AUTHORITY: The provisions of this Part 445 issued under section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429).

Subpart A—General Provisions

§ 445.1 Definitions.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. Except where the context otherwise requires, for the purposes of this part the following terms shall be construed, respectively, to mean:

(a) *Plan.* The provisions of the National Poultry Improvement Plan contained in this part.

(b) *Person.* A natural person, firm, or corporation.

(c) *Department.* The U.S. Department of Agriculture.

(d) *ASR Division.* The Animal Science Research Division of the Agricultural Research Service of the Department.

(e) *State.* Any State, the District of Columbia, or Puerto Rico.

(f) *Official State Agency.* The State authority recognized by the Department to cooperate in the administration of the Plan.

(g) *State Inspector.* Any person employed or authorized under § 445.11(b) to perform functions under this part.

(h) *Authorized Agent.* Any person designated under § 445.11(a) to perform functions under this part.

(i) *Affiliated flockowner.* A flockowner who is participating in the Plan through an agreement with a participating hatchery.

(j) *Flock*—(1) *As applied to breeding.* All poultry of one kind of mating (breed and variety or combination of stocks) and of one classification on one farm;

(2) *As applied to disease control.* All of the poultry on one farm except that, at the discretion of the Official State Agency, any group of poultry which is segregated from another group and has been so segregated for a period of at least 21 days may be considered as a separate flock.

(k) *Hatchery.* Hatchery equipment on one premises operated or controlled by any person for the production of baby poultry.

(l) *Poultry.* Domesticated fowl, including chickens, turkeys, waterfowl, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.

(m) *Domesticated.* Propagated and maintained under the control of a person.

(n) *Products.* Poultry breeding stock and hatching eggs, baby poultry, and started poultry.

(o) *Baby poultry.* Newly hatched poultry (chicks, poults, ducklings, goslings, keets, etc.) that have not been fed or watered.

(p) *Started poultry.* Young poultry (chicks, pullets, cockerels, capons, poults, ducklings, goslings, keets, etc.) that have been fed and watered and are less than 6 months of age.

(q) *Strain.* Poultry breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.

(r) *Stock.* A term used to identify the progeny of a specific breeding combination within a species of poultry. These breeding combinations may include pure strains, strain crosses, breed crosses, or combinations thereof.

(s) *Primary breeding flock.* A flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

(t) *Multiplier breeding flock.* A flock that originated from a primary breeding flock and is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg or meat production or for other nonbreeding purposes.

(u) *Trade name or number.* A name or number compatible with State and Federal laws and regulations applied to a specified stock or product thereof.

(v) *Franchise breeder.* A breeder who normally sells products under a specific strain or trade name and who authorizes other hatcheries to produce and sell products under this same strain or trade name.

(w) *Franchise hatchery.* A hatchery which has been authorized by a franchise breeder to produce and sell products under the breeder's strain or trade name.

(x) *Pullorum disease or pullorum.* A disease of poultry caused by Salmonella pullorum.

(y) *Fowl typhoid or typhoid.* A disease of poultry caused by Salmonella gallinarum.

(z) *S. typhimurium infection or typhimurium.* A disease of poultry caused by Salmonella typhimurium or S. typhimurium var. copenhagen.

(aa) *Official supervision*—(1) *As applied to Plan programs.* The direction, inspection, and critical evaluation by the Official State Agency of compliance with the provisions of the Plan;

(2) *As applied to non-Plan but equivalent State poultry improvement programs.* The direction, inspection, and critical evaluation by an officer or agency of a State government, of compliance with a publicly announced State poultry improvement program.

(bb) *Authorized laboratory.* A laboratory designated by an Official State Agency, subject to review by ASR Division, to perform the blood testing and bacteriological examinations provided for in this part.

§ 445.2 Administration.

(a) The Department cooperates through a Memorandum of Understanding with Official State Agencies in the administration of the Plan.

(b) The administrative procedures and decisions of the Official State Agency are subject to review by the ASR Division. The Official State Agency shall carry out the administration of the Plan within the State according to the applicable provisions of the Plan and the Memorandum of Understanding.

(c) An Official State Agency may accept for participation an affiliated flock located in another State under a mutual

understanding and agreement, in writing, between the two Official State Agencies regarding conditions of participation and supervision.

(d) The Official State Agency of any State may, except as limited by § 445.3 (d), adopt regulations applicable to the administration of the Plan in such State further defining the provisions of the Plan or establishing higher standards compatible with the Plan.

§ 445.3 Participation.

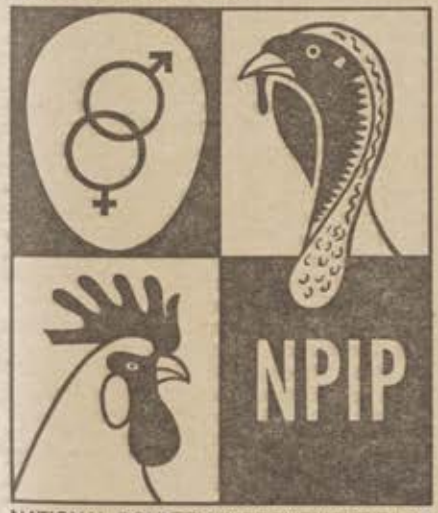
(a) Any person producing or dealing in products may participate in the Plan when he has demonstrated, to the satisfaction of the Official State Agency, that his facilities, personnel, and practices are adequate for carrying out the applicable provisions of the Plan, and has signed an agreement with the Official State Agency to comply with the general and the applicable specific provisions of the Plan and any regulations of the Official State Agency under § 445.2. Affiliated flockowners may participate without signing an agreement with the Official State Agency.

(b) Each participant shall comply with the Plan throughout the operating year of the Official State Agency, or until released by such Agency.

(c) A participant in any State shall participate with all of his poultry hatching egg supply flocks and hatchery operations within such State.

(d) No person shall be compelled by the Official State Agency to qualify products for any of the other classifications described in § 445.10 as a condition of qualification for the U.S. Pullorum-Typhoid Clean classification.

(e) Participation in the Plan shall entitle the participant to use the Plan emblem reproduced below:



NATIONAL POULTRY IMPROVEMENT PLAN

FIGURE 1.

§ 445.4 General provisions for all participants.

(a) Records of purchases and sales and the identity of products handled shall be maintained in a manner satisfactory to the Official State Agency.

(b) Products, records of sales and purchase of products, and material used to advertise products shall be subject to inspection by the Official State Agency at any time.

(c) Advertising must be in accordance with the Plan, and applicable rules and regulations of the Official State Agency and the Federal Trade Commission. A participant advertising products as being of any official classification may include in his advertising reference to associated or franchised hatcheries only when such hatcheries produce the same kind of products of the same classification.

(d) Participants may not buy or receive for any purpose products from nonparticipants, or sell products of nonparticipants, except with the permission of the Official State Agency for use in breeding flocks or for experimental purposes.

(e) Each shipment of products to points outside the United States and its territories and possessions shall be accompanied by a properly executed NPIP Form 15F, Report of Sales of Hatching Eggs, Chicks and Poults (For Shipment Outside the United States).

§ 445.5 Specific provisions for participating flocks.

(a) Poultry equipment, and poultry houses and the land in the immediate vicinity thereof, shall be kept in sanitary condition as recommended in §§ 447.21 and 447.22 (a) and (e) of this chapter. The participating flock, its eggs, and all equipment used in connection with the flock shall be separated from nonparticipating flocks, in a manner acceptable to the Official State Agency.

(b) All flocks shall consist of healthy, normal individuals characteristic of the breed, variety, cross, or other combination which they are stated to represent.

(c) A flock shall be deemed to be a participating flock at any time only if, within the past 12 months, it has qualified for the U.S. Pullorum-Typhoid Clean classification, as prescribed in Subpart B, C, D, or E of this part.

(d) Each bird shall be identified with a sealed and numbered band obtained through or approved by the Official State Agency: *Provided*, That exception may be made at the discretion of the Official State Agency.

§ 445.6 Specific provisions for participating hatcheries.

(a) Hatcheries, including brooder rooms, shall be kept in sanitary condition, acceptable to the Official State Agency. The procedures outlined in §§ 447.22 through 447.25 of this chapter shall be considered as a guide in determining compliance with this provision. The minimum requirements with respect to sanitation shall include the following:

(1) Incubator walls, floors, and trays shall be kept free from broken eggs and eggshells.

(2) Tops of incubators and hatchers shall be kept clean (not used for storage).

(3) Entire hatchery, including sales room, shall be kept in a neat, orderly condition and free from accumulated dust.

(4) Hatchery residue, such as eggshells, infertile eggs, and dead germs, shall be disposed of promptly and in a manner satisfactory to the Official State Agency.

(5) Hatchers and hatching trays shall be cleaned and fumigated or disinfected after each hatch, preferably using the procedures outlined in §§ 447.24(b) and 447.25(e) of this chapter. While not mandatory for participation, all eggs set should be fumigated in accordance with the procedures recommended in § 447.25 of this chapter.

(b) A hatchery which keeps started poultry must keep such poultry separated from the incubator room in a manner satisfactory to the Official State Agency.

(c) All baby and started poultry offered for sale under Plan terminology shall be normal and typical of the breed, variety, cross, or other combination represented.

(d) Eggs incubated shall be sound in shell, typical for the breed, variety, strain, or cross thereof and reasonably uniform in shape. Hatching eggs shall be trayed and the baby poultry boxed with a view to uniformity of size.

(e) All hatcheries within a State which are operated under the ownership or management of the same person or persons or related corporations shall participate in the Plan if any of them are to participate.

§ 445.7 Specific provisions for participating dealers.

Dealers in poultry breeding stock, hatching eggs, or baby or started poultry shall comply with all provisions in this part which apply to their operations.

§ 445.8 Terminology and classification; general.

(a) The official classification terms defined in §§ 445.9 and 445.10 and the various designs illustrative of the official classifications reproduced in § 445.10 may be used only by participants and to describe products that have met all the specific requirements of such classifications.

(b) Products produced under the Plan shall lose their identity under Plan terminology when they are purchased for resale by or consigned to nonparticipants.

(c) Participating flocks, their eggs, and the baby and started poultry produced from them may be designated by their strain or trade name. When a breeder's trade name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either birds hatched from eggs produced under the direct supervision of the breeder of such strain, or stock multipled by persons designated and so reported by the breeder to each Official State Agency concerned.

§ 445.9 Terminology and classification; hatcheries and dealers.

Participating hatcheries and dealers shall be designated as "National Plan Hatchery" and "National Plan Dealer", respectively. Each participating hatchery or dealer may be assigned a permanent

approval number by the ASR Division. This number may appear on each invoice and shipping label for each separate sale of products. The approval number shall be withdrawn when the hatchery or dealer no longer qualifies for participation in the Plan. All Official State Agencies shall be notified by the ASR Division of additions, withdrawals, and changes in classification.

§ 445.10 Terminology and classification; flocks and products.

Participating flocks, and the products produced from them, which have met the respective requirements specified in Subpart B, C, D, or E of this part may be designated by the following terms or illustrative designs:

(a) *U.S. Record of Performance.* (See § 445.23(a).)

FIGURE 2.

(b) *U.S. Performance Tested Parent Stock.* (See § 445.23(b) and § 445.33(a).)

FIGURE 3.

(c) *U.S. Certified for Eggs.* (See § 445.23(c).)

FIGURE 4.

(d) *U.S. Certified for Meat.* (See § 445.33(b).)

FIGURE 5.

(e) *U.S. Approved.* (See § 445.23(d), § 445.33(c), § 445.43(a), and § 445.53(a).)

FIGURE 6.

(f) *U.S. Pullorum-Typhoid Clean.* (See § 445.23(e), § 445.33(d), § 445.43(b), and § 445.53(b).)

FIGURE 7.

(g) *U.S. M. Gallisepticum Clean.* (See § 445.23(f), § 445.33(e), § 445.43(c), and § 445.53(c).)

FIGURE 8.

(h) *U.S. Typhimurium Controlled.* (See § 445.43(d).)

FIGURE 9.

§ 445.11 Supervision.

(a) The Official State Agency may designate qualified persons as Authorized Agents to do the blood collecting and blood testing provided for in §§ 445.5 and 445.14, and the selecting required for the U.S. approved classification provided for in § 445.10(e).

(b) The Official State Agency shall employ or authorize qualified persons as State Inspectors to perform or supervise the performance of the selecting and testing of participating flocks, and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

§ 445.12 Inspections.

(a) Each participating hatchery shall be inspected a sufficient number of times each year to satisfy the Official State Agency that the operations of the hatchery are in compliance with the provisions of the Plan.

(b) Each year at least 15 percent of the flocks selected or tested by each Authorized Agent shall be inspected by a State Inspector. This must include the inspection of some flocks of each hatchery. Each flock inspection shall include the examination of a sufficient number of males and females and, in flocks qualified for participation by the whole-blood test, the blood testing of a sufficient number of birds to determine whether the work of the Authorized Agent was satisfactory and that the flock is qualified for participation.

§ 445.13 Debarment from participation.

Participants in the Plan, who after investigation by the Official State Agency or its representative, are notified of their apparent noncompliance with the Plan provisions or regulations of the Official State Agency, shall be afforded a reasonable time, as specified by the Official State Agency, within which to demonstrate or achieve compliance. If compliance is not demonstrated or achieved within the specified time, the Official State Agency may debar the participant from further participation in the Plan for such period, or indefinitely, as the Agency may deem appropriate. The debarred participant shall be afforded notice of the bases for the debarment and opportunity to present his views with respect to the debarment in accordance with procedures adopted by the Official State Agency. The Official State Agency shall thereupon decide whether the debarment order shall continue in effect. Such decision shall be final unless the debarred participant, within 30 days after the issuance of the debarment order, requests the Administrator to determine the eligibility of the debarred participant for participation in the Plan. In such event the Administrator shall determine the matter de novo in accordance with §§ 50.21 through 50.28–14 and §§ 50.30 through 50.33 of the rules of practice in 7 CFR Part 50, which are hereby made applicable to proceedings before the Administrator under this section. The definitions in 7 CFR 50.2 (e), (g), (h), and (l) and the following definitions shall apply with respect to terms used in such rules of practice:

(a) "Director" means the Director of the ASR Division or any officer or employee to whom authority has heretofore been delegated, or to whom authority

may hereafter be delegated, to act in his stead.

(b) "Administrator" means the Administrator, Agricultural Research Service of the U.S. Department of Agriculture or any officer or employee to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(c) "Division" means the Animal Science Research Division of the U.S. Department of Agriculture.

§ 445.14 Blood testing.

Blood samples for official tests shall be drawn by an Authorized Agent or State Inspector and tested by an authorized laboratory, except that the stained-antigen, rapid whole-blood test for pullorum-typhoid may be conducted by an Authorized Agent or State Inspector.

(a) *For Salmonella.* (1) The official blood tests for pullorum-typhoid shall be the standard tube agglutination test or the rapid serum test for all classes of poultry, or the stained-antigen, rapid whole-blood test for all classes of poultry except turkeys. The recommended procedures for conducting such tests are described in §§ 447.1, 447.2, and 447.3 of this chapter. Each lot of antigen used for the whole-blood test shall be approved by the Department and shall be of the polyvalent type.

(2) The official blood test for typhimurium shall be the standard tube agglutination test as described in § 447.4 of this chapter: *Provided,* That, if the following conditions are fulfilled, the tests for pullorum-typhoid and typhimurium may be combined:

(i) The flock is located in a State where an adequate surveillance program for pullorum-typhoid and typhimurium exists, as determined by the Official State Agency and approved by the ASR Division;

(ii) A single combination antigen composed of equal quantities of pullorum antigen and typhimurium antigen is used in a screening test in accordance with the procedures described in § 447.1 of this chapter;

(iii) All serums showing suspicious and positive reactions to the combination antigen are reset with individual antigens. Final determination of the status of each flock is determined by bacteriological examination of representative birds showing suspicious or positive reactions;

(iv) If the flock is found to be infected with S. pullorum, S. gallinarum, or S. typhimurium on the basis of bacteriological examinations, retests of the flock are made with separate antigens (pullorum and typhimurium antigens) until the flock is qualified or barred as a potential participating flock.

(3) There shall be an interval of at least 21 days between any official blood test and any previous test with Salmonella antigen.

(4) Turkeys must be more than 4 months of age and chickens and other poultry more than 5 months of age when tested.

(5) The official blood test shall include the testing of a sample of blood from each bird in the flock: *Provided,* That under specified conditions (see applicable provisions of §§ 445.23, 445.33, 445.43 and 445.53) the testing of a portion or sample of the birds may be used in lieu of testing each bird. When partial or sample testing is specified, the birds tested shall be a random or representative sample drawn on a pro rata basis from all pens or units of the flock. When reactors are found in any flock, or S. pullorum or S. gallinarum isolations are made from baby poultry or fluff samples, the flock may qualify for participation with two consecutive official negative tests. Qualification of this flock, or any other flock on the same premises during the next 12 months, shall be based on the testing of all birds, except that when the flock involved is turkeys, the period during which all birds must be tested shall be 2 years. Such testing shall be conducted by or directly supervised by a State Inspector.

(6) All domesticated fowl, except waterfowl, on the farm of the participant shall either be properly tested to meet the same standards as the participating flock or these birds and their eggs shall be separated from the participating flock and its eggs.

(7) All tests with Salmonella antigens of flocks participating in or candidates for participation in the Plan shall be reported to the Official State Agency within 10 days following the completion of such tests. All reactors shall be considered in determining the classification of the flock.

(8) Reactors shall be submitted to a laboratory for autopsy and bacteriological examination. The laboratory and the number of reactors to be submitted shall be designated by the Official State Agency: *Provided,* That for turkey flocks, all reactors, if four or less, and a minimum of four, if there are more than four, shall be submitted. The recommended minimum procedure for bacteriological examination is described in § 447.11 of this chapter. When reactors are submitted within 10 days from date of reading the test and the bacteriological examination fails to demonstrate infection of the serotype for which the test was conducted, the flock shall be deemed to have had no reactors to the specified test. If other members of the Salmonella group or paracolons are isolated, the Official State Agency may disqualify the flock for participation.

(9) Any drug, for which there is scientific evidence of masking the test reaction or hindering the bacteriological recovery of Salmonella organisms, shall not be fed or administered to poultry within 3 weeks prior to a test or bacteriological examination upon which a Salmonella classification is based.

(10) When suitable evidence, as determined by the Official State Agency or the State Animal Disease Control Official, indicates that baby or started poultry produced by participating hatcheries are infected with organisms for which the parent flock received an official control classification and this evidence indicates that the infection was transmitted from the parent flock, the Official State Agency may, at its discretion, require additional testing of the flock involved. If infection is found in the parent flock, its classification shall be suspended until the flock is requalified under the requirements for the classification. Furthermore, the Official State Agency may require that the hatching eggs from such flocks be removed from the incubator and destroyed prior to hatching. When Salmonella or Arizona organisms are isolated from a specimen which originated in a participating hatchery, the Official State Agency shall attempt to locate the source of the infection. The results of the investigation and the action taken to eliminate the infection shall be reported by the Official State Agency to the ASR Division.

(b) *For M. gallisepticum.* (1) The official blood test for M. gallisepticum shall be either the serum plate agglutination test, the tube agglutination test, the hemagglutination inhibition (HI) test, or a combination of two or more of these tests. The HI test shall be used to confirm the positive results of other serological tests.

(2) The tests shall be conducted using M. gallisepticum antigen approved by the Department or the Official State Agency and shall be performed in accordance with the recommendations of the producer of the antigen.

(3) When reactors are submitted to a laboratory as prescribed by the Official State Agency, the following criteria shall be used to determine if the flock is negative for M. gallisepticum: (i) Active air sac lesions; (ii) recovery of M. gallisepticum; and (iii) supplemental serological tests. If all of these tests are negative, the flock shall be deemed to have had no M. gallisepticum reactors. If M. gallisepticum is recovered, the flock shall be considered infected. If any of the other tests (subdivision (i) or (iii) of this subparagraph) is positive, the flock shall be considered suspicious, and additional laboratory tests shall be conducted before the final disposition of the flock is determined.

Subpart B—Special Provisions for Egg Type Chicken Breeding Flocks and Products

§ 445.21 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

(a) *Egg type chicken breeding flocks.* Flocks that are composed of stock that has been developed for egg production and are maintained for the principal purpose of producing chicks for the ultimate production of eggs for human consumption.

(b) *Baby chicks.* Chicks that have not been fed or watered.

(c) *Started chickens.* Young chickens (chicks, pullets, cockerels, capons) which have been fed and watered and are less than 6 months of age.

(d) *USROP or ROP.* U.S. Record of Performance.

(e) *ROP Supervisor.* The person employed or authorized to perform functions under § 445.23(a).

§ 445.22 Participation.

Participating flocks of egg type chickens, and the eggs and chicks produced from them, shall comply with the applicable general provisions of Subpart A of this part and the special provisions of this Subpart B.

(a) The minimum weight of hatching eggs sold shall be 1½ ounces each, except as otherwise specified by the purchaser of the eggs.

(b) Mediterranean breed eggs shall be reasonably free from tints.

(c) Started chickens shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 445.5 (a).

§ 445.23 Terminology and classification.

Participating flocks, and the eggs and chicks produced from them, which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 445.10:

(a) *U.S. Record of Performance.* The ROP classification may be attained through trapnesting and pedigree breeding under the supervision of an Official State Agency.

(1) Females may qualify as ROP females when they have been trapnested for a period of at least 6 months, and records of egg production and egg weight are maintained by the breeder.

(2) A male may qualify as an ROP male when his pedigree record, maintained by the breeder, shows he was produced from a single-male mating of an ROP female and the son of an ROP female.

(3) When products are sold or offered for sale under the ROP classification, the breeder shall have on file evidence that such products are from single-male matings of ROP males and ROP females.

(4) The ROP Supervisor shall represent the Official State Agency in its supervision of ROP participation. He shall visit and inspect the work of each breeder periodically.

(b) *U.S. Performance Tested Parent Stock.* The Performance Tested Parent Stock classification may be attained by stock represented by an entry in a random sample egg production test for which the records have been included in a combined summary published by the ASR Division. (See §§ 447.31, 447.32, and 447.34 of this chapter.) Application for the classification shall be made to the Official State Agency by the breeder of the parent stock. Such application, if acceptable to the Official State Agency, shall be submitted to the ASR Division.

(1) A stock may qualify as Performance Tested Parent Stock for egg production when the regressed mean of the stock for income above feed and chick cost per pullet housed, as published in the combined summary referred to in § 447.34 of this chapter, exceeds the overall mean for all entries in all tests or is not significantly different, at the 5-percent level of probability, from the stock with the highest regressed mean.

(2) Qualification for the U.S. Performance Tested Parent Stock classification shall be determined by the ASR Division from records published in the combined summary, and that Division shall notify each applicant and his Official State Agency of his qualification or failure to qualify.

(3) Stock classified as Performance Tested Parent Stock may retain that classification for 1 year after qualification, provided the stock is maintained under the supervision of the qualifying breeder, and for 1 more year when, in addition, the stock has been continuously represented by an entry for which the test results have been included in the combined summary. When the entry on which qualification is based is the progeny of a combination of two stocks which are distributed commercially under different strain or trade names, each stock may be designated as Performance Tested Parent Stock, but this interrelationship shall be specified when the classification of either stock is referred to in advertising or certification.

(4) When products are sold or offered for sale as Performance Tested Parent Stock, the breeder shall be able to substantiate from his stock identification records of flock and hatchery inspections and records required to be filed with the Official State Agency that such products are qualified for this classification.

(c) *U.S. Certified for Eggs.* All males are ROP or all males and females are from Performance Tested Parent Stock for egg production.

(d) *U.S. Approved.* All males and females are selected by Authorized Agents or State Inspectors according to standards prescribed by the Official State Agency or the State College of Agriculture and such standards are approved by the ASR Division.

(e) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph. (See § 445.14 relating to the official blood test where applicable):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock meeting the following specifications as determined by the Official State Agency and the ASR Division:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) A sample comprised of at least 25 percent of the birds in the flock has been officially blood tested within the past 12 months with no reactors, or its progeny has been subjected to an approved 10-day chick mortality bacteriological examination monitoring program and bacteriological examination of a sample of down shed by chicks in the hatcher from selected hatches as prescribed by the Official State Agency: *Provided,* That when the blood testing procedure is used, the percentage of the flock included in the sample may be reduced by 5 percentage points following each year in which there is no evidence of infection on the premises until the required percentage is reduced to zero: *And provided further,* That the sample tested for the qualification of a flock under this subparagraph shall include at least 500 birds the first year, 400 the second year, 300 the third year, 200 the fourth year, and 100 the fifth year.

(3) It is a multiplier breeding flock composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the ASR Division that:

(i) All hatcheries, except turkey hatcheries, within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All hatchery supply flocks, except turkey flocks, within the State, are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(v) All reports of S. pullorum or S. gallinarum isolations from poultry are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 445.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry going to public exhibition come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition; and

(viii) Discontinuation of any of the conditions or procedures described in subdivisions (i), (ii), (iii), (iv), (v), (vi), and (vii) of this subparagraph, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks, other than turkey flocks, within or originating within the State shall be grounds for the ASR Division to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the ASR Division and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the ASR Division to be in compliance with the provisions of subparagraph (3) of this paragraph, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks, other than turkey flocks, within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of subparagraph (4) of this paragraph, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided*, That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the ASR Division may be used in lieu of blood testing.

(f) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 447.26 of this chapter and in which freedom from M. gallisepticum has been demonstrated under the criteria specified in subdivisions (i) or (ii) of this subparagraph.

(i) All birds have been tested for M. gallisepticum as provided in § 445.14 when more than 5 months of age: *Provided*, That to retain this classification, a random sample of at least 5 percent of the flock shall be tested at intervals of not more than 90 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and two tests of samples of the birds in the flock, the first to include at least 2 percent and the second to include at least 5 percent, were conducted between the ages of 8 weeks and 22 weeks, as provided in § 445.14(b) with an interval of at least 60 days between the two tests: *Provided*, That to retain this classification the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least 2 percent of the birds in the flock, with a minimum of 30 birds per pen, shall be tested; or

(*b*) At intervals of not more than 30 days, a sample of 25 cull chicks produced from the flock shall be subjected to laboratory procedures acceptable to the Official State Agency and approved by the ASR Division, for the detection and recovery of M. gallisepticum; or

(*c*) At intervals of not more than 60 days, serum samples obtained from at least 100-day-old chicks produced from the flock shall be examined for M. gallisepticum antibodies by an authorized laboratory.

(2) A participant handling U.S. M. Gallisepticum Clean products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under subdivision (i) of subparagraph (1) of this paragraph are set.

(3) U.S. M. Gallisepticum Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 447.24(a) of this chapter.

Subpart C—Special Provisions for Meat Type Chicken Breeding Flocks and Products

§ 445.31 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

(a) *Meat type chicken breeding flocks.* Flocks that are composed of stock that has been developed for meat production and are maintained for the principal purpose of producing chicks for the ultimate production of meat.

(b) *Baby chicks.* Chicks that have not been fed or watered.

(c) *Started chickens.* Young chickens (chicks, pullets, cockerels, capons) which have been fed and watered and are less than 6 months of age.

§ 445.32 Participation.

Participating flocks of meat type chickens, and the eggs and chicks produced from them, shall comply with the applicable general provisions of Subpart A of this part and the special provisions of this Subpart C.

(a) The minimum weight of hatching eggs sold shall be 1½ ounces each, except as otherwise specified by the purchaser of the eggs.

(b) Started chickens shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 445.5 (a).

§ 445.33 Terminology and classification.

Participating flocks, and the eggs and chicks produced from them, which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 445.10:

(a) *U.S. Performance Tested Parent Stock.* The Performance Tested Parent Stock classification may be attained by a stock represented by an entry in a random sample meat production test for which the records have been included in a combined summary published by the ASR Division. (See §§ 447.31, 447.33, and 447.34 of this chapter.) Application for the classification shall be made to the Official State Agency by the breeder of the parent stock. Such application, if acceptable to the Official State Agency, shall be submitted to the ASR Division.

(1) A stock may qualify as Performance Tested Parent Stock for meat production when the regressed mean of the stock for rate of growth (average live weight at completion of test) and for rate of egg production on a hen-housed basis, as published in the combined summary referred to in § 447.34 of this chapter, exceeds the overall mean for all entries in all tests or is not significantly different, at the 5-percent level of probability, from the stock with the highest regressed mean.

(2) Qualification for the U.S. Performance Tested Parent Stock classification shall be determined by the ASR Division from records published in the combined summary, and that Division shall notify each applicant and his Official State Agency of his qualification or failure to qualify.

(3) Stock classified as Performance Tested Parent Stock may retain that classification for 1 year after qualification, provided the stock is maintained under the supervision of the qualifying breeder and for 1 more year when, in addition, the stock has been continuously represented by an entry for which the test results have been included in the combined summary. When the entry on which qualification is based is the progeny of a combination of two stocks which are distributed commercially under different strain or trade names, each stock may be designated as Performance Tested Parent Stock, but this interrelationship shall be specified when the classification of either stock is referred to in advertising or certification.

(4) When products are sold or offered for sale as Performance Tested Parent Stock, the breeder shall be able to substantiate from his stock identification records and records of flock and hatchery inspections required to be filed with the Official State Agency that such products are qualified for this classification.

(b) *U.S. Certified for Meat.* All males and females are from Performance Tested Parent Stock for meat production.

(c) *U.S. Approved.* All males and females are selected by Authorized Agents or State Inspectors according to standards prescribed by the Official State Agency or the State College of Agriculture and such standards are approved by the ASR Division.

(d) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph (see § 445.14 relating to the official blood test where applicable):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock meeting the following specifications as determined by the Official State Agency and the ASR Division:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) A sample comprised of at least 25 percent of the birds in the flock has been officially blood tested within the past 12 months with no reactors, or its progeny has been subjected to an approved 10-day chick mortality bacteriological examination monitoring program and bacteriological examination of a sample of down shed by chicks in the hatcher from selected hatches as prescribed by the Official State Agency: *Provided*, That when the blood testing procedure is used, the percentage of the flock included in the sample may be reduced by 5 percentage points following each year in which there is no evidence of infection on the premises until the required percentage is reduced to zero: *And provided further*, That the sample tested for the qualification of a flock under this subparagraph shall include at least 500 birds the first year, 400 the second year, 300 the third year, 200 the fourth year, and 100 the fifth year.

(3) It is a multiplier breeding flock composed entirely of the birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision and is located in a State in which it has been determined by the ASR Division that:

(i) All hatcheries, except turkey hatcheries, within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All hatchery supply flocks, except turkey flocks, within the State, are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided*, That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(v) All reports of S. pullorum or S. gallinarum isolations from poultry are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested following the procedure for reacting flocks as contained in § 445.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry going to public exhibition come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

(viii) Discontinuation of any of the conditions or procedures described in subdivisions (i), (ii), (iii), (iv), (v), (vi), and (vii) of this subparagraph, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks, other than turkey flocks, within or originating within the State shall be grounds for the ASR Division to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the ASR Division and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the ASR Division to be in compliance with the provisions of subparagraph (3) of this paragraph and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks, other than turkey flocks, within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of subparagraph (4) of this paragraph, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided*, That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the ASR Division may be used in lieu of blood testing.

(e) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 447.26 of this chapter and in which freedom from M. gallisepticum has been demonstrated under the criteria specified in subdivision (i) or (ii) of this paragraph.

(i) All birds have been tested for M. gallisepticum as provided in § 445.14 when more than 5 months of age: *Provided*, That to retain this classification, a random sample of at least 5 percent of the flock shall be tested at intrevals of not more than 90 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and two tests of samples of the birds in the flock, the first to include at least 2 percent and the second to include at least 5 percent, were conducted between the ages of 8 weeks and 22 weeks, as provided in § 445.14(b) with an interval of at least 60 days between the two tests: *Provided*, That to retain this classification the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least 2 percent of the birds in the flock, with a minimum of 30 birds per pen, shall be tested; or

(*b*) At intervals of not more than 30 days, a sample of 25 cull chicks produced from the flock shall be subjected to laboratory procedures acceptable to the Official State Agency and approved by the ASR Division, for the detection and recovery of M. gallisepticum; or

(c) At intervals of not more than 60 days, serum samples obtained from at least 100-day-old chicks produced from the flock shall be examined for M. gallisepticum antibodies by an authorized laboratory.

(2) A participant handling U.S. M. Gallisepticum Clean products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under subdivision (i) of subparagraph (1) of this paragraph are set.

(3) U.S. M. Gallisepticum Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 447.24 (a) of this chapter.

Subpart D—Special Provisions for Turkey Breeding Flocks and Products

§ 445.41 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

(a) *Baby poults.* Poults that have not been fed or watered.

(b) *Broad-breasted.* A term used to describe a type of turkey which, at the time of selection and no later than 30 weeks of age, has a breast width at a point 1¾ inches above the keel of at least 3½ inches, for both toms and hens.

§ 445.42 Participation.

Participating turkey flocks, and the eggs and poults produced from them, shall comply with the applicable general provisions of Subpart A of this part and the special provisions of this Subpart D.

(a) All flocks shall consist of birds that have been selected for health, vigor, and freedom from physical deformities of economic importance by an Authorized Agent or State Inspector.

(b) The minimum weight of turkey hatching eggs shipped interstate shall be 2 ounces each for small varieties and 2½ ounces each for other varieties, unless otherwise specified by the purchaser of the eggs.

§ 445.43 Terminology and classification.

Participating flocks, and the eggs and poults produced from them, which have met the respective requirements specified in this section may be designated by the

following terms and the corresponding designs illustrated in § 445.10:

(a) *U.S. Approved.* All males and females are selected by Authorized Agents or State Inspectors according to standards prescribed by the Official State Agency or the State College of Agriculture and such standards are approved by the ASR Division.

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph (see § 445.14 relating to the official blood test where applicable):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock meeting the following specifications as determined by the Official State Agency and the ASR Division:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) A sample comprised of at least 25 percent of the birds in the flock has been officially blood tested within the past 12 months with no reactors, or its progeny has been subjected to an approved 10-day poult mortality bacteriological examination monitoring program and bacteriological examination of a sample of down shed by poults in the hatcher from selected hatches as prescribed by the Official State Agency: *Provided,* That when the blood testing procedure is used, the percentage of the flock included in the sample may be reduced by 5 percentage points following each year in which there is no evidence of infection on the premises until the required percentage is reduced to zero: *And provided further,* That the sample tested for the qualification of a flock under this subparagraph shall include at least 500 birds the first year, 400 the second year, 300 the third year, 200 the fourth year, and 100 the fifth year.

(3) It is a multiplier breeding flock composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the ASR Division that:

(i) All turkey hatcheries within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All turkey hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(v) All reports of S. pullorum or S. gallinarum isolations from poultry are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 445.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry going to public exhibition come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

(viii) Discontinuation of any of the conditions or procedures described in subdivisions (i), (ii), (iii), (iv), (v), (vi), and (vii) of this subparagraph, or the occurrence of repeated outbreaks of pullorum or typhoid in turkey breeding flocks within or originating within the State shall be grounds for the ASR Division to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the ASR Division and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the ASR Division to be in compliance with the provisions of subparagraph (3) of this paragraph and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in turkey hatchery supply flocks within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of subparagraph (4), of this paragraph and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided,* That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the ASR Division may be used in lieu of blood testing.

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in accordance with the conditions and procedures described in § 447.26 of this chapter, and in which no reactors are found when a random sample of at least 10 percent of the birds in the flock is tested when more than 4 months of age, in accordance with the procedures described in § 445.14(b).

(2) A flock qualified as U.S. M. Gallisepticum Clean may retain the classification for 1 year, provided it is maintained in isolation and no evidence of M. gallisepticum infection is revealed. Each flock and premises shall be inspected at least once during the laying period by an Authorized Agent of the Official State Agency or the State Animal Disease Control Official. If a flock proves to be infected with M. gallisepticum, it shall be eliminated as a breeding flock under the supervision of the Official State Agency or the State Animal Disease Control Official.

(3) In order to sell hatching eggs or poults of this classification, all hatching eggs and poults handled by the participant must be of this classification.

(d) *U.S. Typhimurium Controlled.* (1) A flock meeting the following requirements as determined by the Official State Agency and the ASR Division:

(i) (*a*) All birds have been officially blood tested within the past 12 months for S. typhimurium as provided in § 445.14(a)(2) and no reactors were found on the first test; or

(*b*) All birds are located on premises and originated from premises where U.S. Typhimurium Controlled flocks tested in accordance with (*a*) of this subdivision, were maintained for 2 consecutive years with no evidence of S. typhimurium infection and such premises have been occupied by a U.S. Typhimurium Controlled flock during each of the subsequent years, with no evidence of S. typhimurium infection. Flocks must be located within a State in which all isolations of S. typhimurium are reported promptly to both the Official State Agency and the State Animal Disease Control Official.

(ii) The flock is maintained in compliance with the provisions of § 447.21 of this chapter, and the hatching eggs are handled in compliance with the provisions of § 447.22 of this chapter in a manner satisfactory to the Official State Agency. All eggs used for hatching shall be visibly clean and fumigated as described in § 447.25(a) of this chapter as soon as possible after collection. Each flock and premises shall be inspected at least once during the egg production season by a State Inspector to ascertain that these provisions are being followed. The Official State Agency shall immediately terminate the U.S. Typhimurium Controlled classification of flocks found to be in noncompliance with the provisions of subdivision (i) of this subparagraph.

(2) In order to sell hatching eggs or poults of this classification, all hatching eggs and poults handled must meet the requirements for this classification.

(3) Hatcheries producing products of this classification shall be maintained in compliance with the provisions of §§ 447.23, 447.24, and 447.25 of this chapter in a manner satisfactory to the Official State Agency.

Subpart E—Special Provisions for Waterfowl, Exhibition Poultry, and Game Bird Breeding Flocks and Products

§ 445.51 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

(a) *Waterfowl.* Domesticated fowl that normally swim, such as ducks and geese.

(b) *Exhibition Poultry.* Domesticated fowl which are bred for the combined purposes of meat or egg production and competitive showing.

(c) *Game birds.* Domesticated fowl such as pheasants, partridge, quail, grouse, and guineas, but not doves and pigeons.

§ 445.52 Participation.

Participating flocks of waterfowl, exhibition poultry, and game birds, and the eggs and baby poultry produced from them shall comply with the applicable general provisions of Subpart A of this part and the special provisions of this Subpart E.

(a) Started poultry shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 445.5(a).

§ 445.53 Terminology and classification.

Participating flocks, and the eggs and baby poultry produced from them, which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 445.10.

(a) *U.S. Approved.* All males and females are selected by Authorized Agents or State Inspectors according to standards prescribed by the Official State Agency or the State College of Agriculture and such standards are approved by the ASR Division.

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph (See § 445.14 relating to the official blood test where applicable.):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock meeting the following specifications as determined by the Official State Agency and the ASR Division:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) A sample comprised of at least 25 percent of the birds in the flock has been officially blood tested within the past 12 months with no reactors, or its progeny has been subjected to an approved 10-day baby poultry mortality bacteriological examination monitoring program and bacteriological examination of a sample of down shed by baby poultry in the hatcher from selected hatches as prescribed by the Official State Agency: *Provided,* That when the blood testing procedure is used, the percentage of the flock included in the sample may be reduced by 5 percentage points following each year in which there is no evidence of infection on the premises until the required percentage is reduced to zero: *And provided further,* That the sample tested for the qualification of a flock under this subparagraph shall include at least 500 birds the first year, 400 the second year, 300 the third year, 200 the fourth year, and 100 the fifth year.

(3) It is a multiplier breeding flock composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the ASR Division that:

(i) All hatcheries, except turkey hatcheries, within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All hatchery supply flocks, except turkey flocks, within the State, are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which S. pullorum or S. gallinarum is isolated;

(v) All reports of S. pullorum or S. gallinarum isolations from poultry are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 445.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry going to public exhibition come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

(viii) Discontinuation of any of the conditions or procedures described in subdivisions (i), (ii), (iii), (iv), (v), (vi), and (vii) of this subparagraph, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks, other than turkey flocks, within or originating within the State shall be grounds for the ASR Division to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the ASR Division and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the ASR Division to be in compliance with the provisions of subparagraph (3) of this paragraph, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks, other than turkey flocks, within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of subparagraph (4) of this paragraph, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided,* That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the ASR Division may be used in lieu of blood testing.

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 447.26 of this chapter and in which freedom from M. gallisepticum has been demonstrated under the criteria specified in subdivisions (i) or (ii) of this subparagraph.

(i) All birds have been tested for M. gallisepticum as provided in § 445.14 when more than 5 months of age: *Provided,* That to retain this classification, a random sample of at least 5 percent of the flock shall be tested at intervals of not more than 90 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean baby poultry from primary breeding flocks and two tests of samples of the birds in the flock, the first to include at least 2 percent and the second to include at least 5 percent, were conducted between the ages of 8 weeks and 22 weeks, as provided in § 445.14(b) with an interval of at least 60 days between the two tests: *Provided,* That to retain this classification the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least 2 percent of the birds in the flock, with a minimum of 30 birds per pen, shall be tested; or

(*b*) At intervals of not more than 30 days, a sample of 25 cull baby poultry

produced from the flock shall be subjected to laboratory procedures acceptable to the Official State Agency and approved by the ASR Division for the detection and recovery of M. gallisepticum; or

(c) At intervals of not more than 60 days, serum samples obtained from at least 100-day-old baby poultry produced from the flock shall be examined for M. gallisepticum antibodies by an authorized laboratory.

(2) A participant handling U.S. M. Gallisepticum Clean products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean baby poultry from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under subdivision (i) of subparagraph (1) of this paragraph are set.

(3) U.S. M. Gallisepticum Clean baby poultry shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 447.24(a) of this chapter.

Subpart A—Blood Testing Procedures

Sec.
447.1 The standard tube agglutination test.
447.2 The rapid serum test.
447.3 The stained-antigen, rapid, whole-blood test.
447.4 The tube agglutination test for S. typhimurium.

Subpart B—Bacteriological Examination Procedure

447.11 Laboratory procedure recommended for the bacteriological examination of reactors.

Subpart C—Sanitation Procedures

447.21 Flock sanitation.
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447.23 Hatchery sanitation.
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447.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of Mycoplasma gallisepticum.
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Subpart D—Random Sample Performance Testing Procedures

447.31 Random sample tests; general.
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Subpart E—Procedure for Changing National Poultry Improvement Plan

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447.47 Conference consideration of proposed changes.
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AUTHORITY: The provisions of this Part 447 issued under sec. 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429).

Subpart A—Blood Testing Procedures

§ 447.1 The standard tube agglutination test.[1]

(a) The blood samples should be collected and delivered as follows:

(1) The blood samples should be taken by properly qualified and authorized persons only, and in containers provided by the laboratory. The containers should be stout-walled test tubes, preferably ⅜ by 3 inches, without lip, or small well-selected medicine vials, which have been thoroughly cleaned and dried in a hot-air drying oven. If stoppers are used, they should be thoroughly cleaned and dried.

(2) Sufficient blood should be procured by making a small incision in the large median wing vein with a small sharp lancet and allowing the blood to run into the tube, or by the use of a small syringe (with 20 or 21 gage needle) which is properly cleansed between bleedings with physiological saline solution. To facilitate the separation of the serum, the tubes should be placed in a slanted position until the blood has solidified. After the blood has completely clotted, they should be packed and shipped by mail (special delivery), rapid express, or by messenger, to the laboratory. All labeling must be clear and permanent, and may be done with a suitable pencil on etched portions of the tube, or by means of fast-gum labels.

(3) The blood samples must reach the laboratory in a fresh and unhemolyzed condition. Hemolyzed samples should be rejected. It is imperative, therefore, to cool the tubes immediately after slanting and clotting, and unless they reach the laboratory within a few hours, to pack them with ice in special containers, or use some other cooling system which will insure their preservation during transportation. In severe cold seasons, extreme precautions must be exercised to prevent freezing and consequent laking. The samples must be placed in cold (5° to 10° C.) storage, immediately upon arrival at the laboratory.

(b) The antigen shall consist of representative strains of S. pullorum which are of known antigenic composition, high agglutinability, but are not sensitive to negative and nonspecific sera. The stock cultures may be maintained satisfactorily by transferring to new sloped agar at least once a month and keeping at 18° to 25° C. (average room temperature) in a dark closet or chest, following incubation for from 24 to 36 hours at 37° C. The antigenic composition and purity of the stock cultures should be checked consistently.

(c) A medium which has been used satisfactorily has the following composition:

Water	1,000 cc.
Difco beef extract	4 gm. (0.4 percent)
Difco Bacto-peptone	10 gm. (1.0 percent)
Difco dry-granular agar	20 gm. (2.0 percent)

Reaction—pH 6.8 to 7.2.

(d) Large 1-inch test tubes, Kolle flasks, or Blake bottles should be streaked liberally over the entire agar surface with inoculum from 48-hour slant agar cultures prepared from the stock cultures of the selected strains. The antigen-growing tubes or bottles should be incubated 48 hours at 37° C., and the surface growth washed off with sufficient phenolized (0.5 percent) saline (0.85 percent) solution to make a heavy suspension. The suspension should be filtered free of clumps through a thin layer of absorbent cotton in a Buchner funnel with the aid of suction. The antigens of the separate strains should be combined in equal volume-density and stored in the refrigerator (5° to 10° C.) in tightly stoppered bottles.

(e) Thiosulfate-Glycerin (TG) medium may be used as an alternate medium for the preparation of tube agglutination antigen. The TG medium, formerly used for the preparation of stained, whole-blood antigen, is described in more detail in the article by A. D. MacDonald, Recent Developments in Pullorum Antigen for the Rapid, Whole-Blood Test, Report of the Conference of the National Poultry Improvement Plan, pages 122–127, 1941. This medium provides a tube antigen of excellent specificity and greatly increases the yield of antigen from a given amount of medium. The TG medium has the following composition:

Beef infusion	1,000 cc.
Difco Bacto-peptone	20 gm. (2.0 percent)
Sodium thiosulfate	5 gm. (0.5 percent)
Ammonium chloride	5 gm. (0.5 percent)
Glycerin, U.S.P. (95 percent)	20 cc. (2.0 percent)
Difco dry-granular agar	30 gm. (3.0 percent)

Reaction—pH 6.8 to 7.2.

Large 1-inch test tubes, Kolle flasks, Blake bottles, or Erlenmeyer flasks should be seeded over the entire agar surface with inoculum from 24-hour beef infusion broth cultures prepared from the stock cultures of the selected strains. The antigen-growing tubes or bottles should be incubated 96 hours at 37° C., and the surface growth washed off with sufficient phenolized (0.5 percent) saline (0.85 percent) solution to make a heavy suspension. The suspension should be filtered free of clumps through a thin layer of absorbent cotton in a Buchner funnel with the aid of suction. The antigen then should be centrifuged. The mass of bacteria should be removed from the centrifuge tubes or bowl and resuspended in saline (0.85 percent) solution containing 0.5 percent phenol. After the

[1] The procedure described is a modification of the method reported in the Proceedings of the U.S. Live Stock Sanitary Association, November 30 to December 2, 1932, pp. 487 to 491.

bacterial mass has been uniformly suspended in the diluent, it should be again passed through a cotton pad in a Buchner funnel without the aid of suction. The antigens of the separate strains should be combined in equal volume-density and stored in the refrigerator (5° to 10° C.) in tightly stoppered bottles.

(f) The diluted antigen to be used in the routine testing should be prepared from the stock antigen by dilution of the latter with physiological (0.85 percent) saline solution containing 0.25 percent of phenol to a turbidity corresponding to 0.75–1.00 on the McFarland nephelometer scale. The hydrogen-ion concentration of the diluted antigen should be corrected to pH 8.2 to 8.5 by the addition of dilute sodium hydroxide. New diluted antigen should be prepared each day and kept cold. The diluted antigen may be employed in 2 cc. quantities in 4 by ½-inch test tubes, or 1 cc. quantities in smaller tubes, in which the final serum-antigen mixtures are made and incubated. The distribution of the antigen in the tubes may be accomplished by the use of long burettes, or special filling devices made for the purpose.

(g) The maximum serum dilution employed must not exceed 1: 50 for chickens, nor 1: 25 for turkeys. The available data indicate that 1: 25 dilution is the most efficient. In all official reports on the blood test, the serum dilutions shall be indicated. The sera should be introduced into the agglutination tubes in the desired amounts with well-cleaned serological pipettes or special serum-delivery devices which do not permit the mixing of different sera. The antigen and serum should be well mixed before incubation. The serum and antigen mixture must be incubated for at least 20 hours at 37° C.

(h) The results shall be recorded as:

N, or — (negative) when the serum-antigen mixture remains uniformly turbid.

P, or + (positive) when there is a distinct clumping of the antigen, and the liquid between the agglutinated particles is clear.

S, or ? (suspicious) when the agglutination is only partial or incomplete.

M, or missing, when samples listed on the original record sheet are missing.

H, or hemolyzed, when blood samples are hemolyzed and cannot be tested.

B, or broken, when sample tubes are broken and no serum can be obtained.

(Some allowance must always be made for the difference in sensitiveness of different antigens and different set-ups, and therefore, a certain amount of independent, intelligent judgment must be exercised at all times. Also, the histories of the flocks require consideration. In flocks where individuals show a suspicious agglutination, it is desirable to examine representative birds bacteriologically to determine the presence or absence of S. pullorum.)

§ 447.2 The rapid serum test.[3]

(a) The procedure for the collection and delivery of blood samples in the rapid serum test is the same as that described in § 447.1(a).

(b) The selection and maintenance of suitable strains of S. pullorum and the composition of a satisfactory medium are described in § 447.1 (b) and (c).

(c) Large 1-inch test tubes, Kolle flasks, or Blake bottles are streaked liberally from 48-hour slant-agar cultures prepared from stock cultures of the selected strains.

(d) The antigen-growing tubes or bottles should be incubated 48 hours at 37° C., and the surface growth washed off with a very slight amount of 12 percent solution of sodium chloride containing 0.25 to 0.5 percent phenol, filtered through lightly packed sterile absorbent cotton placed in the apex of a sterile funnel.

(e) The washings should be adjusted (using 12 percent sodium chloride containing 0.25 to 0.5 percent phenol) so that the turbidity is 50 times greater than tube 0.75 of McFarland's nephelometer, or to a reading of 7 mm. by the Gates nephelometer.

(f) The individual strain antigens should be tested with negative sera for their insensitivity and with positive sera for high agglutinability in comparison with known satisfactory antigen. The antigens of the separate strains should be combined in equal volume-density and stored in the refrigerator (5° to 10° C.) in tightly stoppered bottles.

(g) The tests should be conducted on a suitable, smooth plate. The serum-antigen dilution should be made so that the dilution will not exceed 1:50 when compared to the standard tube agglutination test. When testing turkey blood samples, it is desirable to use a serum-antigen dilution equivalent to the 1:25 in the tube method. The serum should be added to the antigen and mixed thoroughly by use of the tip of the serum pipette. Most strong positive reactions will be plainly evident within 15 to 20 seconds. The final reading should be made at the end of 2 or 3 minutes. Heating the plate at approximately 37° C. will hasten agglutination. Before reading, the plate should be rotated several times.

(h) The results shall be recorded as described in § 447.1(h).

§ 447.3 The stained-antigen, rapid, whole-blood test.[4]

(a) The description of the preparation of antigen is not herein included because the antigen is a proprietary product produced only under license from the Secretary of Agriculture.

(b) A loop for measuring the correct quantity of blood can usually be obtained from the manufacturer of the antigen. A satisfactory loop may be made from a piece of No. 20 gage nichrome wire, 2½ inches long, at the end of which is fashioned a loop three-sixteenths of an inch in diameter. Such a loop, when filled with blood so that the blood appears to bulge, delivers 0.02 cc. A medicine dropper whose tip is adjusted to deliver 0.05 cc. is used to measure the antigen. A glass plate about 15 inches square, providing space for 48 tests, has proved satisfactory for this work. The use of such a plate enables the tester to have a number of successive test mixtures under observation without holding up the work to wait for results before proceeding to the next bird.

(c) A drop of antigen should be placed on the testing plate. A loopful of blood should be taken up from the wing vein. When submerged in the blood and then carefully withdrawn, the loop becomes properly filled. On looking down edgewise at the filled loop, one observes that the blood appears to bulge. The loopful of blood then should be stirred into the drop of antigen, and the mixture spread to a diameter of about 1 inch. The loop then should be rinsed in clean water and dried by touching it to a piece of clean blotting paper, if necessary. The test plate should be rocked from side to side a few times to mix the antigen and blood thoroughly, and to facilitate agglutination. The antigen should be used according to the directions of the producer.

(d) Various degrees of reaction are observed in this as in other agglutination tests. The greater the agglutinating ability of the blood, the more rapid the clumping and the larger the clumps. A positive reaction consists of a definite clumping of the antigen surrounded by clear spaces. Such reaction is easily distinguished against a white background. A somewhat weaker reaction consists of small but still clearly visible clumps of antigen surrounded by spaces only partially clear. Between this point and a negative or homogeneous smear, there sometimes occurs a very fine granulation barely visible to the naked eye; this should be disregarded in making a diagnosis. The very fine marginal clumping which may occur just before drying up is also regarded as negative. In a nonreactor, the smear remains homogeneous. (Allowance should be made for differences in the sensitiveness of different antigens and different set-ups, and therefore, a certain amount of independent, intelligent judgment must be exercised at all times. Also, the histories of the flocks require consideration. In flocks where individuals show a suspicious agglutination, it is desirable to examine representative birds bacteriologically to determine the presence or absence of S. pullorum.)

§ 447.4 The tube agglutination test for S. typhimurium.

(a) The procedure for the collection and delivery of blood samples in the tube agglutination test for S. typhimurium is the same as that described in § 447.1(a).

(b) The "O" antigen should be prepared as follows:

(1) The antigen shall consist of a representative nonmotile strain of S. typhimurium which is of known antigenic composition and high agglutinability but is not sensitive to negative and nonspecific sera. Strain P 10 meets these requirements.

(2) The stock culture is maintained on 1 percent nutrient agar deeps, which have been incubated for 18–24 hours

[3] The procedure described is a modification of the method reported by Runnels, Coon, Farley, and Thorpe, Amer. Vet. Med. Assoc. Jour. 70 (N.S. 23): 660–662 (1927).

[4] The procedure described is a modification of the method reported by Schaffer, MacDonald, Hall, and Bunyea, Jour. Amer. Vet. Med. Assoc. 79 (N. S. 32): 236–240 (1931).

at 37° C. They are stored at room temperature.

(3) A satisfactory medium used for growing the organism is veal infusion agar (Difco). It is dispensed in 50 ml. amounts into 500 ml. medicine bottles, with screw caps, and sterilized at 15 pounds pressure for 20 minutes. The bottles are then laid flat upon an even surface until the medium has solidified.

(4) The inoculum used for preparation of "O" antigen is a nonmotile strain of S. typhimurium. The organism is grown in veal infusion broth (Difco) for 18–24 hours at 37° C.; then plated, for single colony isolation, on veal infusion agar plates. These plates are incubated for 18–24 hours at 37° C. After incubation, single colonies are picked and transferred to veal infusion agar slants, which are incubated for 18–24 hours at 37° C. After this, the cultures are tested for smoothness by using a 1:500 dilution of acriflavine.

(5) Smooth cultures are inoculated into flasks containing veal or beef infusion broth which is incubated for 18–24 hours at 37° C. The incubated broth suspension of organisms is dispensed into the antigen bottles containing veal infusion agar. The suspension is distributed evenly over the agar surface by gently tilting the bottles from side to side. The inoculated bottles are then laid flat, agar side down, for 10–20 minutes. They are subsequently incubated, agar side upward, for 24–48 hours at 37° C. before harvesting.

(6) The harvesting of the organism consists of washing the growth from each antigen bottle with 0.5 percent phenolized physiological saline. The bacterial suspension from each bottle is filtered through sterile milk pad filters into a large sterile container or through a thin layer of absorbent cotton in a Buchner funnel with the aid of suction. To each 100 ml. of the bacterial suspension is added additional phenol to make the final concentration 0.5 percent. The concentrated antigen is tested for sterility at intervals after 24 hours. After sterility is proved, the stock antigen is standardized to determine the density according to the McFarland nephelometer scale.

(7) The diluted antigen to be used in routine testing is prepared from stock antigen, by diluting with 0.25 percent phenolized saline, and is standardized to a turbidity corresponding to 0.75–1.00 of the McFarland nephelometer scale.

(c) The maximum serum dilution employed for the "O" antigen tube test must not exceed 1:25. In all official reports on the blood test, the serum dilutions should be indicated. The sera should be introduced into the agglutination tubes in the desired amounts with well-cleaned serological pipettes or special serum delivery devices which do not permit the mixing of different sera. The antigen and serum should be well mixed before incubation. The serum and antigen mixture must be incubated for at least 20 hours at 37° C.

(d) The results shall be recorded as described in § 447.1(h).

Subpart B—Bacteriological Examination Procedure

§ 447.11 Laboratory procedure recommended for the bacteriological examination of reactors.

(a) The pericardial sac, peritoneum, oviduct, and any visibly pathological tissues should be cultured on beef extract agar or tryptose agar by means of sterile swabs. Sterile technique should be followed. (Primary culture of these organs in a suitable nutrient broth and transfer to a suitable nutrient agar is optional.)

(b) The following organs should be aseptically collected for culture:

(1) Heart (apex, pericardial sac, and contents if present.);

(2) Liver (portions exhibiting lesions or, in grossly normal organs, the drained gall gladder and adjacent liver tissues.);

(3) Ovary-Testes entire inactive ovary or testes, but if ovary is active, use own judgment and include any atypical ova.);

(4) Oviduct (if active, include any debris and dehydrated ova.);

(5) Pancreas; and

(6) Spleen.

(c) A composite sample of the organs listed in paragraph (b) of this section should be ground in a sterile mortar or suitable blender. Individual organs may be used if desired. Nutrient broth should be added as a diluent. Ten cc. of this suspension should be inoculated into 100 cc. of either Selenite F broth or Tetrathionate broth, and into 100 cc. of a suitable noninhibitory nutrient broth.

(d) After 24 hours incubation at 37° C., a loopful of the broth cultures from each flask should be streaked on a suitable noninhibitory solid medium, such as tryptose agar, and one of the following selective media: Salmonella-Shigella (SS), MacConkey, Brillant Green, Bismuth Sulfite, or Desoxycholate Citrate Lactose Sucrose (D.C.L.S.) agar. (All of these media may be obtained in dehydrated form.) If no suspicious colonies are observed after 24 hours incubation, the enrichment broths should be restreaked on solid media.

(e) A portion of the crop wall and intestine to include the cecal tonsils are put into either Selenite F or Tetrathionate broth and incubated for 24 hours at 37° C. Transfers should be made from the broth onto agar plates as indicated in paragraph (d) of this section.

(f) Suspicious single colonies should be subcultured on nutrient agar or triple sugar iron agar slants and incubated for 24 hours at 37° C.

(g) Cultures should be transferred to the following fermentable media for identification: Dextrose, lactose, sucrose (saccharose), mannite (mannitol), maltose, dulcite (dulcitol), and salacin broths. Suitable tests also should be conducted for the detection of indole, hydrogen sulfide, acetylmethylcarbinol, and urease production. Motility or nonmotility is demonstrated by inoculation of a suitable semisolid medium. For the Gram stain, a 24-hour nutrient agar slant culture should be used.

(h) All Salmonella cultures isolated should be serologically typed.

Subpart C—Sanitation Procedures

§ 447.21 Flock sanitation.

To aid in the maintenance of healthy flocks, the following procedures should be practiced:

(a) Baby poultry should be started in a clean brooder house and maintained in constant isolation from older birds and other animals. Personnel that are in contact with older birds and other animals should take precautions, including disinfection of footwear and change of outer clothing, to prevent the introduction of infection through droppings that may adhere to the shoes, clothing, or hands. (See §447.24(a).)

(b) Range used for growing young stock should not have been used for poultry the preceding year. Where broods of different ages must be kept on the same farm, there should be complete depopulation of brooder houses and other premises following infection of such premises by any contagious disease.

(c) Poultry houses should be screened and proofed against free-flying birds. An active rodent eradication campaign is an essential part of the general sanitation program. The area adjacent to the poultry house should be kept free from accumulated manure, rubbish, and unnecessary equipment. Dogs, cats, sheep, cattle, horses, and swine should never have access to poultry operations. Visitors should not be admitted to poultry areas, and authorized personnel should take the necessary precautions to prevent the introduction of disease.

(d) Poultry houses and equipment should be thoroughly cleaned and disinfected prior to use for a new lot of birds. (See § 447.24(a).) Feed and water containers should be situated where they cannot be contaminated by droppings and should be frequently cleaned and disinfected. Dropping boards or pits should be constructed so birds do not have access to the droppings.

(e) Poultry house floors, other than slats or wire, should be well covered with an absorbent type of litter. Frequent stirring of the litter may be necessary to reduce excess moisture and prevent surface accumulation of droppings. Slat or wire floors should be constructed so as to permit free passage of droppings and to prevent the birds from coming in contact with the droppings. Nesting areas should be kept clean and, where appropriate, filled with clean nesting material.

(f) When an outbreak of disease occurs in a flock, dead or sick birds should be taken, by private carrier, to a diagnostic laboratory for complete examination. All Salmonella and Arizona cultures isolated should be typed serologically, and complete records maintained by the laboratory as to types recovered from each flock within an area. Records on isolations and serological types should be made available to Official State Agencies or other animal disease control regulatory agencies in the respective States

for followup of foci of infection. Such information is necessary for the development of an effective Salmonella control program.

(g) Introduction of started or mature birds should be avoided to reduce the possible hazard of introducing infectious diseases. If birds are to be introduced, the health status of both the flock and introduced birds should be evaluated.

(h) In rearing broiler or replacement stock, a sound and adequate immunization program should be adopted. Since different geographic areas may require certain specific recommendations, the program recommended by the State experiment station or other State agencies should be followed.

§ 447.22 Hatching egg sanitation.

Hatching eggs should be collected from the nests at frequent intervals and, to aid in the prevention of contamination with disease causing organisms, the following practices should be observed:

(a) Cleaned and disinfected containers should be used in collecting the eggs, and precautions taken to prevent contamination from organisms that may be present on the hands or clothing of the person making the collection.

(b) Dirty eggs should not be used for hatching purposes and should be collected in a separate container from hatching eggs. Slightly soiled eggs may be dry cleaned by hand or motor driven buffer.

(c) The visibly clean eggs should be fumigated as described in § 447.25(a) as soon as possible after collection.

(d) The fumigated eggs should be stored in a cool place. Eggs should be stored no longer than necessary before setting. Racks used for storing eggs should be properly cleaned and disinfected.

(e) New or clean, fumigated cases should be used to transport eggs to the hatchery. Soiled egg case fillers should be destroyed.

§ 447.23 Hatchery sanitation.

An effective program for the prevention and control of Salmonella and other infections should include the following measures:

(a) The hatchery building should be arranged so that separate rooms, with separate ventilation, are provided for each of the four operations: Egg receiving, incubation and hatching, holding of baby poultry, and disposal of offal and cleaning of trays. These rooms should be placed under isolation so that admission is granted only to specifically authorized personnel who have taken proper precautions to prevent introduction of disease.

(b) The hatchery rooms, and tables, racks, and other equipment in them should be thoroughly cleaned and disinfected frequently. All hatchery wastes and offal should be burned or otherwise properly disposed of, and the containers used to remove such materials should be cleaned and sterilized after each use.

(c) The hatching compartments of incubators, including the hatching trays, should be thoroughly cleaned and fumigated after each hatch.

(d) Only clean eggs should be used for hatching purposes. All eggs set should be fumigated prior to setting or as soon as possible (preferably within 12 hours) after they are placed in the incubator. They should also be fumigated after transfer to a separate hatcher. (See § 447.25(d).)

(e) Only new or clean, fumigated egg cases should be used for transportation of hatching eggs. Soiled egg case fillers should be destroyed.

(f) Day-old chicks, poults, or other newly hatched poultry should be distributed in clean, new boxes. All crates and vehicles used for transporting started or adult birds should be cleaned and disinfected after each use.

§ 447.24 Cleaning and disinfecting.

The following procedures are recommended:

(a) In the poultry houses, hatchery rooms and delivery trucks:

(1) Settle dust by spraying lightly with the disinfectant to be used.

(2) Remove all litter and droppings to an isolated area where there is no opportunity for dissemination of any infectious disease organisms that may be present.

(3) Scrub the walls, floors, and equipment with a hot soapy water solution. Rinse to remove soap.

(4) Spray with a disinfectant which is registered by the Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, and tuberculocidal, in accordance with the specifications for use, as shown on the label of such disinfectant.

(b) In the hatchers:

(1) Remove trays and all controls and fans for separate cleaning. The ceiling, walls, and floors should be thoroughly wetted with a stream of water; then scrubbed with a hard bristle brush. Rinse until there is no longer any deposit on the walls, particularly near the fan opening.

(2) Replace the cleaned fans and controls. Replace the trays, preferably still wet from cleaning, and bring the incubator to normal operating temperature.

(3) The hatcher should be fumigated as described in § 447.25(e) prior to the transfer of the eggs.

(c) If the same machine is used for incubating and hatching, the entire machine should be cleaned after each hatch. A vacuum cleaner should be used to remove dust and down from the egg trays; then the entire machine should be vacuumed, mopped, and fumigated according to the procedures described in § 447.25(b) (3), (4), and (5).

§ 447.25 Fumigation.

Fumigation is recommended for sanitizing eggs and hatchery equipment as an essential part of a sanitation program.

(a) Fumigation of clean eggs after collection should be done as follows:

(1) Provide a room or cabinet proportionate to the number of eggs to be handled. The room should be relatively tight and must be equipped with a fan to circulate the gas during fumigation and to expel it after fumigation.

(2) The eggs should be placed on wire racks, in wire baskets, or on cup-type egg flats stacked outside of the egg cases (to permit air circulation) and exposed to circulating formaldehyde gas.

(3) Formaldehyde gas is provided by mixing 0.6 gram of potassium permanganate with 1.2 cc. of formalin (37.5 percent) for each cubic foot of space in the room. The ingredients should be mixed in an earthenware or enamelware container having a capacity at least 10 times the volume of the total ingredients.

(4) Circulate the gas within the room for 20 minutes; then expel.

(5) The temperature in the cabinet during fumigation should be at least 70° F., and the relative humidity above 70 percent.

(b) Eggs should be fumigated at the hatchery prior to setting or as soon as possible after setting (preferably within 12 hours). Single or repeated fumigation of eggs in the setter may be practiced, but the fumigation schedule should be such that no eggs are fumigated during the period from the 24th to the 84th hour of incubation. The following procedure should be used:

(1) Determine the size of the incubator by multiplying the length times the width times the height.

(2) After setting the eggs and allowing temperature and humidity to regain normal operating levels, release formaldehyde gas into the incubator.

(3) For each cubic foot of space in the incubator, use 0.4 grams of potassium permanganate and 0.8 cc. of formalin (37.5 percent). For mixing the fumigant, use an earthenware or enamelware container having the capacity of at least 10 times the volume of the total ingredients.

(4) Close vents and doors but keep circulating fan operating, and continue fumigation for 20 minutes with normal operating temperature and humidity.

(5) After 20 minutes of fumigation, the vents should be opened to the normal operating positions to release the gas.

(c) Eggs which have not been fumigated in the hatchery as described in paragraph (b) of this section should be fumigated after the 84th hour of incubation. The procedure described in paragraph (b) of this section should be followed.

(d) All eggs should be fumigated after transfer to a separate hatcher, preferably as soon as the temperature and humidity regain normal operating levels. The procedure described in paragraph (b) of this section should be followed.

(e) Empty hatchers should be fumigated between each hatch. After the interior of the hatcher has been thoroughly cleaned and the cleaned trays returned, the following procedure should be followed:

(1) After temperature and humidity are brought to normal operating levels, use 0.6 grams of potassium permanganate and 1.2 cc. of formalin (37.5 percent) per cubic foot of space in the hatcher.

(2) Close the doors and vents and leave closed at least 3 hours, preferably overnight.

(f) The cheesecloth method of fumigation described in this paragraph may be used in lieu of the chemical method described in paragraph (b) of this section, using 0.6 cc. of formalin (37.5 percent) per cubic foot of space in the incubator, or in lieu of the chemical method described in paragraph (e) of this section, using 0.9 cc. of formalin (37.5 percent) for each cubic foot of space in the empty hatcher.

(1) Enough cheesecloth should be used to absorb all of the formalin that is to be used for the fumigation.

(2) The formalin-saturated cheesecloth should be hung in the cabinet in such a manner as to permit the circulating air to evaporate all the formalin. This will require longer than 20 minutes.

(3) Care should be taken to prevent the cheesecloth from blocking the air movement created by the fans.

(4) The cheesecloth method is not suitable for still air machines.

§ 447.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of Mycoplasma gallisepticum.

(a) The following procedures are required for participation in the U.S. M. Callisepticum Clean classification:

(1) Allow no visitors except under controlled conditions which insure sanitation. Such conditions shall be approved by the Official State Agency and the ASR Division;

(2) Maintain breeder flocks on farms free from market birds, or follow proper isolation procedures as approved by the Official State Agency;

(3) Eliminate other domesticated fowl from breeder farm;

(4) Dispose of all dead birds by burning, deep burial, or by putting them into special disposal pits.

(b) Recommended procedures:

(1) Avoid the introduction of Mycoplasma gallisepticum infected poultry;

(2) Prevent indirect transmission from outside sources through contaminated equipment, footwear, clothing, vehicles, or other mechanical means;

(3) Provide adequate isolation of breeder flocks to avoid airborne transmission from infected flocks;

(4) Minimize contact of breeder flocks with free-flying birds;

(5) Keep the rodent population and other pests under control;

(6) Tailor vaccination programs to needs of farm and area;

(7) Clean and disinfect equipment after each use;

(8) Provide clean footwear and provide an adequate security program;

(9) Clean and disinfect houses before introducing a new flock;

(10) Use well-drained range;

(11) Use clean, dry litter free of mold;

(12) Keep accurate records of death losses;

(13) Seek services of veterinary diagnostician if unaccountable mortality or signs of disease occur;

(14) Adopt and maintain a clean-egg program.

§ 447.27 Procedures recommended to prevent the spread of disease by artificial insemination of turkeys.

(a) The vehicle transporting the insemination crew should be left as far as practical from the turkey pens.

(b) The personnel of the insemination crew should observe personal cleanliness, including the following sanitary procedures:

(1) Outer clothing should be changed between visits to different premises so that clean clothing is worn upon entering each premises. The used apparel should be kept separate until laundered. This also applies to gloves worn while handling turkeys;

(2) Boots or footwear should be cleaned and disinfected between visits to different premises;

(3) Disposable caps should be provided and discarded after use on each premises.

(c) The use of individual straw or similar technique is highly recommended. Insemination equipment which is to be reused should be cleaned and disinfected before reusing. Equipment used for the convenience of the workers should not be moved from premises to premises.

(d) No obviously diseased flock should be inseminated. If evidence of active disease is noted after insemination is begun, operations should be stopped and the hatchery notified.

(e) Care should be taken during the collection of semen to prevent fecal contamination. If fecal material is present, it should be removed before the semen is collected. Likewise, care should be taken not to introduce fecal material into the oviduct of the hen.

Subpart D—Random Sample Performance Testing Procedures

§ 447.31 Random sample tests; general.

(a) The tests shall obtain specified performance data on representative samples of the stocks of two or more breeders, maintained under equal treatment with respect to housing, feeding, and management, at each test location.

(b) The tests shall be conducted by an impartial public agency.

(c) Samples shall be taken by a person designated by the impartial public agency conducting the test, preferably under the supervision of the Official State Agency, in accordance with the following procedures:

(1) The number and location of all flocks within the State supplying eggs of the grade to be tested shall be determined from Official State Agency records. By a process of drawing at random names or assigned numbers, determination shall be made from which of these flocks the sample is to be taken. The flock or flocks from which the sample is taken must include at least 1,000 birds.

(2) The eggs shall be taken from the nests, the farm egg room, or cases of hatching eggs or setting trays in the hatchery, in proportion to the number of birds in each flock represented.

(3) The sample shall not include eggs which, in the opinion of the sample taker, are unsuitable for hatching.

(4) The sample shall be placed in a container approved by the impartial public agency conducting the test, and the container sealed with a destinctive seal or sealing tape by the sample taker.

(5) The sample taker shall furnish the Official State Agency and the test supervisor with a detailed report of the procedures followed in obtaining each sample.

(d) Entries shall be maintained in two or more replicates, and the performance of the replicates recorded separately.

(e) Pen assignments shall be made at random to reduce to a minimum any bias in results due to pen location.

§ 447.32 Random sample egg production test.

(a) A minimum of 50 pullet chicks, hatched from the egg sample, shall be started for each entry.

(b) Records shall be kept on the performance of each entry until the birds reach 500 days of age.

(c) At the end of the test, and no later than November 1, the Supervisor shall submit to the ASR Division, for analysis and publication, a summary for each entry covering the following items:

(1) Name and address of entrant and the source of the sample;

(2) Breed or cross of breeds entered (indicating if entry is a pure strain, line cross, strain cross, breed cross, incross, incross-bred, or synthetic);

(3) Strain or trade name;

(4) Percent mortality to 150 days of age or subsequent age at housing;

(5) Percent laying house mortality computed from 150 days of age, or subsequent age at housing, to 500 days of age;

(6) Days of age to 50 percent production, calculated from the first day of the first 2 consecutive days of 50-percent production for living birds in the entry at that time;

(7) Number of eggs per pullet housed to 500 days of age;

(8) Percent hen-day production from the time the birds reached 50-percent production to 500 days of age (total eggs laid divided by the cumulative total number of days that each hen in the entry was alive $\times 100$. Computations start on the first day of the first 2 consecutive days of 50-percent production for living hens in the entry at that time);

(9) Income over feed and chick cost per pullet housed, with chick cost in 1,000 lots at hatch date adjusted for mortality (accidental deaths, sexing errors, and missing chicks not included);

(10) Pounds of feed per pound of eggs produced (weight of eggs produced shall be computed from production and egg-weight records (bulk weighing) for each 2-week period throughout the test);

(11) Average annual egg weight, computed from bulk weighings at least every 2 weeks or 2 days a month at equal intervals;

(12) Percent Large and Extra Large eggs, computed from all eggs laid 1 day each week per entry;

(13) Body weight at 150 days of age or subsequent age at housing, and at the end of test;

(14) Albumen quality—Haugh Units measured on 1 day's eggs per quarter or every 3 months, at equal intervals, broken-out basis;

(15) Percentage of eggs with large blood spots, ⅛ inch or more, computed from at least 3 days' eggs per quarter, broken-out basis;

(16) Percentage of eggs with small blood spots, less than ⅛ inch, computed from at least 3 days' eggs per quarter, broken-out basis;

(17) Percentage of eggs with large colored meat spots, ⅛ inch or more, computed from at least 3 days' eggs per quarter, broken-out basis;

(18) Percentage of eggs with small colored meat spots, less than ⅛ inch, computed from at least 3 days' eggs per quarter, broken-out basis;

(19) Specific gravity score as determined from 1 day's eggs per quarter.

§ 447.33 Random sample meat production test.

(a) For the growing phase:

(1) An entry shall consist of at least 200 chicks hatched from a sample of eggs obtained as prescribed in § 447.31 or from an entry of the stock in the laying phase;

(2) Records shall be kept on the performance of each entry for a period determined by the test management;

(3) At the end of the test and no later than February 1, the Supervisor shall submit to the ASR Division, for analysis and publication, a summary for each entry covering the following items:

(i) Name and address of the entrant and the source of the sample;

(ii) Breed and strain or trade name of stock entered (including, for entries involving a cross of stocks, the identification of the stocks represented by the males and females in the parent flock);

(iii) Viability of chicks started to completion of test;

(iv) Average live weight of all pullets at completion of test;

(v) Average live weight of all cockerels at completion of test;

(vi) Percent eviscerated yield, by sexes, based on the live and eviscerated weights of all birds, or at least 50 birds of each sex selected at random, at the completion of the test;

(vii) Percent weight distribution in each U.S. Grade, by sexes, based on U.S. Classes, Standards and Grades for Poultry, as contained in 7 CFR Part 70, Subpart C (all factors considered except handling and dressing defects);

(viii) Feed conversion expressed as the pounds of feed required to produce a pound of live weight to the completion of test; and

(b) For the laying phase:

(1) An entry shall consist of a mating, including at least 50 pullets, representative of the stock entered. The birds in the entry shall be produced from a sample of eggs obtained as prescribed in § 447.31;

(2) Records shall be kept on the performance of each entry for a growing period of at least 150 days and an egg production period of 240 days;

(3) At the end of the test and no later than January 1, the Supervisor shall submit to the ASR Division, for analysis and publication, a summary for each entry covering the following items:

(i) Name and address of the entrant and the source of the sample;

(ii) Breed and strain or trade name of the stock entered and, for entries comprised of males of one and females of a different stock, the identification of each stock;

(iii) Percent mortality to 150 days of age or to subsequent age at housing;

(iv) Percent mortality from 150 days of age, or subsequent age at housing, to end of the 240-day period;

(v) Number of eggs per pullet housed to end of the 240-day period;

(vi) Percent hen-day production from the time the birds reached 50 percent production to end of the 240-day period (total eggs laid divided by the cumulative total number of days that each hen in the entry was alive $\times 100$. Computations start on the first day of the first 2 consecutive days of 50-percent production for living hens in the entry at that time);

(vii) Average egg weight as computed from bulk weighings of all eggs laid at least 1 day a month;

(viii) Percent hatchability of all eggs set;

(ix) Body weight of females at end of test;

(x) Pounds of feed consumed during the 240-day period per dozen of eggs produced.

§ 447.34 Random sample tests; combined summary.

(a) A combined summary published by the ASR Division shall include the performance data reported by all acceptable tests, combined by stocks, with adjustments by professionally acceptable statistical procedures to minimize the effects of environmental differences between entries. The results, as adjusted, are reported as the regressed means for the traits measured.

(b) The provisions specified in § 447.31 and either § 447.32 or § 447.33 shall be used by the ASR Division as a guide for determining acceptability of test results for inclusion in the combined summary.

Subpart E—Procedure for Changing National Poultry Improvement Plan

§ 447.41 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

(a) *Plan or NPIP.* The National Poultry Improvement Plan.

(b) *Plan Conference.* A meeting convened for the purpose of recommending changes in the provisions of the Plan.

(c) *Department.* The U.S. Department of Agriculture.

(d) *ASR Division.* The Animal Science Research Division of the Agricultural Research Service of the Department.

(e) *State.* Any State, the District of Columbia, or Puerto Rico.

(f) *Egg type chickens.* Chickens bred for the primary purpose of producing eggs for human consumption.

(g) *Meat type chickens.* Chickens bred for the primary purpose of producing meat.

(h) *Waterfowl.* Domesticated fowl that normally swim, such as ducks and geese.

(i) *Exhibition Poultry.* Domesticated fowl which are bred for the combined purposes of meat or egg production and competitive showing.

(j) *Game birds.* Domesticated fowl, such as pheasants, partridge, quail, grouse, and guineas, but not doves and pigeons.

§ 447.42 General.

Changes in this subchapter shall be made in accordance with the procedure described in this subpart: *Provided*, That the Department reserves the right to make changes in this subchapter without observance of such procedure when such action is deemed necessary in the public interest.

§ 447.43 General Conference Committee.

(a) The General Conference Committee shall consist of the Director of Science and Education of the Department, or his designee, and one member to be elected, as provided in paragraph (b) of this section, from each of the following regions:

(1) North Atlantic: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania.

(2) East North Central: Ohio, Indiana, Illinois, Michigan, and Wisconsin.

(3) West North Central: Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas.

(4) South Atlantic: Delaware, District of Columbia, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, and Puerto Rico.

(5) South Central: Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas.

(6) Western: Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, Alaska, and Hawaii.

(b) The committee members will be elected by the official delegates of the respective regions. One alternate member shall also be elected from each region. There shall be at least two nominees for each position, and the voting shall be by secret ballot.

(c) Three members shall be elected at each NPIP Conference. Each member shall serve for a period of 4 years, subject to the continuation of the committee by the Secretary of Agriculture, and may not succeed himself.

(d) The duties of the General Conference Committee are as follows:

(1) Recommend whether new proposals (i.e., proposals that have not been submitted as provided in § 447.44) should be considered.

(2) During the interim between conferences, the committee shall represent the cooperating States in:

(i) Reviewing and giving recommendations regarding the Department's report of changes and editing of this subchapter to include the changes.

(ii) Serving in an advisory capacity with respect to administrative procedures and interpretations of the provisions of this subchapter.

(iii) Recommending to the Secretary of Agriculture such administrative changes in the requirements of the Plan as may be necessitated by unforeseen conditions when postponement until the next conference would seriously impair the operation of the program. Such changes shall remain in effect only until confirmed or rejected by the next NPIP Conference, or until sooner rescinded by the committee;

(iv) Assisting the ASR Division in formulating plans for the next conference.

§ 447.44 Submitting, compiling, and distributing proposed changes.

(a) Changes in this subchapter may be proposed by any participant, Official State Agency, the Department, or other interested person or industry organization.

(b) Except as provided in § 447.43(d)(1), proposed changes shall be submitted in writing so as to reach the ASR Division not later than 150 days prior to the opening date of the Plan Conference, and participants in the Plan shall submit their proposed changes through their Official State Agency.

(c) The name of the proponent shall be indicated on each proposed change when submitted. Each proposal should be accompanied by a brief supporting statement.

(d) The ASR Division will notify all persons on the NPIP mailing lists concerning the dates and general procedure of the conference. Hatchery and dealer participants will be reminded of their privilege to submit proposed changes and to request copies of all the published proposed changes.

(e) The proposed changes, together with the names of the proponents and supporting statements, will be compiled by the ASR Division and issued in processed form. When two or more similar changes are submitted, the ASR Division will endeavor to unify them into one proposal acceptable to each proponent. Copies will be distributed to officials of the Official State Agencies cooperating in the NPIP. Additional copies will be made available for meeting individual requests.

§ 447.45 Official delegates.

Each cooperating State shall be entitled to one official delegate for each of the programs prescribed in Subparts B, C, D, and E of Part 445 of this chapter in which it has one or more participants at the time of the Conference. The official delegates shall be elected by a representative group of participating industry members and be certified by the Official State Agency. It is recommended but not required that the official delegates be Plan participants. Each official delegate shall endeavor to obtain, prior to the conference, the recommendations of industry members of his State with respect to each proposed change.

§ 447.46 Committee consideration of proposed changes.

(a) The following five committees shall be established to give preliminary consideration to the proposed changes falling in their respective fields:

(1) Egg type chickens.

(2) Meat type chickens.

(3) Turkeys.

(4) Waterfowl, exhibition poultry, and game birds.

(5) General and auxiliary provisions.

(b) Each official delegate shall be appointed a voting member in one of the committees specified in paragraph (a) of this section.

(c) Since several of the proposals may be interrelated, the committees shall consider them as they may relate to others, and feel free to discuss related proposals with other committees.

(d) The committees shall make recommendations to the conference as a whole concerning each proposal. The committee report shall show any proposed change in wording and the record of the vote on each proposal, and suggest an effective date for each proposal recommended for adoption. The individual committee reports shall be submitted to the chairman of the conference, who will combine them into one report showing, in numerical sequence, the committee recommendations on each proposal.

(e) The committee meetings shall be open to any interested person. Advocates for or against any proposal should feel free to appear before the appropriate committee and present their views.

§ 447.47 Conference consideration of proposed changes.

(a) The chairman of the conference shall be a representative of the Department.

(b) At the time designated for voting on proposed changes by the official delegates, the chairman of the General Conference Committee and the five committee chairmen shall sit at the speaker's table and assist the chairman of the conference.

(c) Each committee chairman shall present the proposals which his committee approves or recommends for adoption as follows: "Mr. Chairman. The committee on General and Auxiliary Provisions recommends the adoption of Proposal No. _____, for the following reasons (stating the reasons): I move the adoption of Proposal No. _____." A second will then be called for. If the recommendation is seconded, discussion and a formal vote will follow.

(d) Each committee chairman shall present the proposals which his committee does not approve as follows: "Mr. Chairman. The committee on General and Auxiliary Provisions does not approve Proposal No. _____." The chairman will then ask if any official delegate wishes to move for the adoption of the proposal. If moved and seconded, the proposal is subject to discussion and vote. If there is no motion for approval, or if moved but not seconded, there can be no discussion or vote.

(e) Discussion on any motion must be withheld until the motion has been properly seconded, except that the delegate making the motion is privileged, if he desires, to give reasons for his motion at the time of making it. To gain the floor for a motion or for discussion on a motion, the official delegate in the case of a motion, or anyone in case of discussion on a motion, shall rise, address the chair, give his name and State, and be recognized by the chair before proceeding further. While it is proper to accept motions only from official delegates and to limit voting only to such delegates, it is, however, equally proper to accept discussion from anyone interested. To conserve time, discussion should be pointed and limited to the pertinent features of the motion.

(f) Proposals that have not been submitted in accordance with § 447.44 will be considered by the conference only with the unanimous consent of the General Conference Committee. Any such proposals must be referred to the appropriate committee for consideration before being presented for action by the conference.

(g) Voting will be by States, and each official delegate, as determined by § 447.45, will be allowed one vote on each proposal pertaining to the program prescribed by the subpart which he represents.

(h) A roll call of States for a recorded vote will be used when requested by a delegate or at the discretion of the chairman.

(i) All motions on proposed changes shall be for adoption.

(j) Proposed changes shall be adopted by a majority vote of the official delegates present and voting.

(k) The conference shall be open to any interested person.

§ 447.48 Approval of conference recommendations by the Department.

Proposals adopted by the official delegates will be recommended to the Department for incorporation into the provisions of the NPIP. The Department reserves the right to approve or disapprove the recommendations of the conference as an integral part of its sponsorship of the National Poultry Improvement Plan.

The foregoing provisions are based on recommendations of the 1970 National Poultry and Turkey Improvement Plans Conference of representatives of affected poultrymen from all of the States cooperating in the administration of the Plans, and do not deviate in substance from such recommendations except to the extent necessary to extend to turkey flock owners the same provision for reduction in pullorum-typhoid testing as

is available to the owners of other poultry flocks. Notice of rule-making with respect to the provisions was published in the FEDERAL REGISTER on May 19, 1971 (36 F.R. 9104), and all comments and suggestions received have been carefully considered. The only substantive changes from the provisions in the notice constitute relieving of restrictions or relate to matters of internal management in the Department. All affected poultrymen were represented at the Conference, and they are aware of the changes in their operations that will be required by the foregoing provisions. The General Conference Committee, which functions as the representative of such poultrymen throughout the year, has urged that the provisions recommended by the Conference be made effective as soon as possible. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure are impracticable, unnecessary, and contrary to the public interest and good cause is found for making the foregoing provisions effective less than 30 days after their publication in the FEDERAL REGISTER.

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

The foregoing provisions shall become effective December 3, 1971.

Done at Washington, D.C., this 19th day of November 1971.

T. W. EDMINSTER,
Administrator,
Agricultural Research Service.

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