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MONDAY, JUNE 28, 1976

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

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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

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Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 70—VOLUNTARY GRADING OF POULTRY AND RABBITS

Voluntary Grading; Correction

In FR Doc. 76-16646 appearing at page 23693 in the issue of Friday, June 11, 1976, the following change should be made: the second word in the second sentence of § 70.222(c) reading "verbal" should read "vertebral."

Dated: June 22, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.76-18616 Filed 6-25-76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Domestic Crude Oil Entitlements Program

EMERGENCY AMENDMENT EXTENDING PERIOD IN WHICH SPECIAL CORRECTION PROCEDURES WOULD BE REFLECTED

On March 29, 1976 (41 FR 13896, April 1, 1976) the Federal Energy Administration ("FEA") adopted a number of amendments to the domestic crude oil entitlements program, including a new § 211.67(j)(2) providing for a one-time special correction mechanism for the first 10 months for which the program was in effect. A provision distinct from the normal correction procedures was found to be necessary because of the substantial number of reporting errors occurring during this initial period and the subsequent difficulty of correcting such errors in an equitable fashion, since during that period the national old oil supply ratio fluctuated widely. The anomalous effects of the small refiner purchase exemption in effect for entitlement obligations for November 1974 through February 1975 also complicated the corrections of such errors.

Pursuant to § 211.67(j)(2), FEA has recalculated each national old oil supply ratio for the months November 1974 through August 1975 and has computed the aggregate net plus or minus dollar amounts for each firm applicable to these months. These recalculations are based on the inclusion in the proper month of all amounts reported by each firm by May 14, 1976 as errors for this period. Retroactive invoice adjustments for this period, however, continue to be reflected in the month in which the revised invoice was received. Section 211.67(j)(2), as adopted on March 29, provided that once each refiner's net plus or minus dollar position under the program for this period is arrived at, these amounts will be reflected in the entitlement issuances for the months April through July 1976, substantially equal adjustments to be made in each such month.

After arriving at each refiner's net dollar adjustment for these months, FEA has determined that certain of these adjustments are so significant that their application over a four month period would cause substantial variations from these firms' normal entitlement positions and could produce noticeable changes in product prices.

FEA has therefore concluded that such impacts should be reduced to an acceptable level by spreading these corrective adjustments over an eight month, instead of a four month period. In addition, FEA has decided to commence these adjustments in the September 1976 entitlement notice for July 1976 entitlements issuances so as to correspond to the expected schedule of adjustments for exception relief awarded in 1975 under the entitlements program, which should also commence in the September entitlements notice. Accordingly, FEA is hereby amending § 211.67(j)(2) to modify the period over which these corrections would be reflected. Thus, entitlement purchase and sale obligations for the months July 1976 through February 1977 will reflect these corrections, and not the period April through July 1976, as originally provided.

This amendment is effective immediately so as to permit FEA to implement the corrections on the more gradual basis described above, rather than have them commencing in the June 1976 entitlements notice for the monthly entitlement issuances for April 1976.

Section 7(i)(1)(B) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275 (the "FEAA")) provides for waiver of the requirements of that section as to time of notice and opportunity to comment prior to promulgation of regulations where strict compliance with such requirements is found to cause serious harm or injury to the public health, safety, or welfare. The FEA has determined for the reasons outlined above that strict compliance with the requirements of section 7(i)(1)(B) of the FEAA would cause serious harm and injury to the public welfare. Accordingly, these requirements must be waived and the amendment adopted hereby is made effective immediately, prior to opportunity to comment thereon.

As required by section 7(c)(2) of the FEAA, a copy of this emergency amendment was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of the proposal on the quality of the environment. The Administrator had no comments.

Because the amendment adopted hereby is being issued on an emergency basis, an opportunity for oral presentation of views will not be possible prior to its promulgation. A public hearing on the amendment, however, will be held beginning at 9:30 a.m. on July 13, 1976, in Room 2105, 2000 M Street NW., Washington, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., July 7, 1976. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through July 12, 1976. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., July 9, 1976, and must submit 100 copies of his or her statement to the Office of Regulations Management, 2000 M Street, Washington, D.C., before 4:30 p.m., e.s.t., on July 12, 1976.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in

the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., July 8, 1976. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the FEA Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to the amendment to Box HP, Executive Communications, Room 3309, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Special Correction Period". Fifteen copies should be submitted. All comments received by July 8, 1976, and all other relevant information will be considered by FEA in the evaluation of the amendments adopted hereby.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

This amendment has been reviewed in accordance with Executive Order 11821, issued November 27, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 F.R. 23185.)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., June 23, 1976.

MICHAEL F. BUTLER,
General Counsel.

1. Section 211.67 is amended by revising the last sentence in paragraph (j) (2) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(j) *Reporting errors.* * * *

(2) * * * FEA shall then aggregate for each refiner and eligible firm its net purchase or sale amount (in dollars) for these months (giving effect to the published purchase and sale obligations for these months) and apply these amounts in substantially equal portions (translated into current entitlement values) to that refiner's or eligible firm's entitlement purchase or sale obligations for the months of July 1976 through February 1977.

* * * * *

[FR Doc.76-18628 Filed 6-23-76;12:39 pm]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 314—PROPERTY MANAGEMENT STANDARDS

Amendment of Definitions and Recording of Covenants

Pursuant to the authority vested in it by section 701 of the Public Works and Economic Development Act of 1965, as amended, the Economic Development Administration hereby amends 13 CFR Part 314 Subpart A.

The purpose of the first amendment is to amend the definition of the term "grantee/owner" in paragraph (a) (2) of § 314.2 to include certain optionees and lessees.

A second amendment relates to the recordation of covenants required by § 314.6. The appropriate time for recording the covenant referred to in paragraph (a) (3) is when real property, purchased or developed in whole or in part with Federal funds, is transferred. In addition, requiring recordation of the covenant referred to in paragraph (a) (4) prior to the disbursement of Federal funds has proved to be unduly burdensome. Therefore, these two paragraphs are being deleted; and as amended, § 314.6 will require, before the initial disbursement of Federal funds, the recordation of covenants which restrict only the use and sale of real property, acquired or improved with Federal funds.

The third amendment would further limit the application of the recordation requirement to only those cases where EDA grant funds are used for the construction or rehabilitation of buildings or recreational facilities.

In that the material contained herein is a matter relating to the EDA grant and loan program, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of the proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding these amendments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230, on or before July 28, 1976. All suggestions will be considered in revising or amending these regulations. Until such time as further changes are made, however, the amended regulations shall remain in effect, thus permitting the public business to proceed more expeditiously.

Consideration has been given to whether this amendment of the regulations constitutes a major proposal with an inflationary impact within the meaning of OMB Circular No. A-107 and the interpretative guidelines as issued by the Department of Commerce. It has been determined that this amendment does not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, Part 314 is hereby amended.

1. Section 314.2 is hereby revised as follows:

§ 314.2 Definitions.

(a) *"Grantee/owner"* includes:

(1) Any grantee under Titles I, IV, IX, or X of the Act or Title II, Chapter IV of the Trade Act of 1974.

(2) The owner (lessor, lessee, or optionee, where appropriate) of:

(i) Real property on which a project facility is or will be located, or

(ii) Real property developed by the project in order to sell, lease or otherwise convey it for a specific purpose.

(b) *"Real property"* means any land, improved land, structures, appurtenances thereto, or other improvements, excluding movable machinery and equipment. Improved land also includes land which is improved by the construction of such facilities as roads, sewers, and water and gas lines which are not situated directly on the land but which improve such land.

(c) *"Sell"* and its derivatives shall include any conveyance or transfer of any interest in the real property including, but not limited to, renting or leasing such real property.

2. Section 314.6 is amended by deleting paragraphs (a) (3) and (4) in their entirety and revising paragraph (b) as follows:

§ 314.6 Recording of covenants.

(a) * * *

(3) and (4) [Reserved].

(b) The provisions of paragraphs (a) (1) and (2) of this section shall apply only where EDA grant funds are used for the construction or rehabilitation of buildings or recreational facilities and shall not apply if:

(1) The project facilities are not susceptible of being used for other than their intended purposes, or

(2) The EDA grant is only a very small investment in a large project.

* * * * *

(Sec 701. Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3121); Department of Commerce Organization Order 10-4, 40 FR 56702.)

Effective date: This amendment becomes effective on June 28, 1976.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A-107.

Dated: June 21, 1976.

JOHN W. EDEN,
Acting Assistant Secretary for Economic Development.

[FR Doc.76-18671 Filed 6-25-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-18-AD; Amdt. 39-2617]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 88, 90, 100 and 200 Series Airplanes; Correction

In FR Doc. 76-14991, appearing on Pages 21180 and 21181, in the FEDERAL REGISTER of Monday, May 24, 1976, in Paragraph C in the column entitled "Beech Part Number (P/N) of FAA-Approved Airplane Flight Manual Supplement Revision dated November 14, 1975, or Subsequent", under Number (2) thereof, correct the Part Number (P/N) set forth therein so that it now reads as follows:

"(2) P/N 90-590010-53A6".

Issued in Kansas City, Missouri, on June 18, 1976.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.76-18591 Filed 6-25-76;8:45 am]

[Docket No. 76-GL-12; Amdt. 39-2651]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom F-28A Helicopters

Amendment 39-2384 (40 FR 48500), AD 75-22-01, requires inspection of the main rotor spindle for improper machining. It also imposes a retirement time on these spindles of 1000 hours total time in service. After issuing Amendment 39-2384, the agency determined that the retirement time of these spindles can be increased to 4500 hours total time in service. Therefore, the AD is being amended to increase the retirement time of these spindles.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2384 (40 FR 48500), AD 75-22-01, is amended by striking out the words "1000 hours" from paragraph (c) and inserting the words "4500 hours" in place thereof.

This amendment becomes effective July 1, 1976.

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

Issued in Des Plaines, Illinois on June 17, 1976.

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

[FR Doc.76-18592 Filed 6-25-76;8:45 am]

[Airspace Docket No. 76-GL-15]

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

Designation of Transition Area

On Page 18316 of the FEDERAL REGISTER dated May 3, 1976, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Greencastle, Indiana.

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

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

This amendment shall be effective 0901 G.m.t., September 9, 1976.

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

Issued in Des Plaines, Illinois on June 4, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

GREENCASTLE, INDIANA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (latitude 39°38'00" N., longitude 86°48'45" W.).

[FR Doc.76-18589 Filed 6-25-76;8:45 am]

[Airspace Docket No. 76-GL-16]

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

Alteration of Control Zone and Transition Area

On Page 18316 of the FEDERAL REGISTER dated May 3, 1976, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Brainerd, Minnesota.

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

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

This amendment shall be effective 0901 G.m.t., September 9, 1976.

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

Issued in Des Plaines, Illinois on June 4, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

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

BRAINERD, MINNESOTA

Within a 5-mile radius of Brainerd-Crow Wing County Airport (latitude 46°23'52" N., longitude 94°08'12" W.); within 2½ miles each side of the 040° bearing from the Brainerd-Crow Wing County Airport extending from the 5-mile radius zone to 7 miles northeast of the airport; within 1½ miles each side of the 120° bearing from the airport extending from the 5-mile radius zone to 6 miles southeast of the airport; within 2½ miles each side of the 198° bearing from the airport extending from the 5-mile radius zone to 6 miles south of the airport; within 2½ miles each side of the 247° bearing from the airport extending from the 5-mile radius zone to 7 miles southwest of the airport; and within 1½ miles each side of the 302° bearing from the airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (41 FR 355), the following transition area is amended to read:

BRAINERD, MINNESOTA

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Brainerd-Crow Wing County Airport (latitude 46°23'52" N., longitude 94°08'12" W.); within 2¾ miles each side of the 120° radial of the Brainerd, VORTAC extending from the 9-mile radius area to 7½ miles southeast of the VORTAC; and within 2¾ miles each side of the Brainerd VORTAC 302° radial extending from the 9-mile radius area to 21 miles northwest of the VORTAC.

[FR Doc.76-18590 Filed 6-25-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 121—FOOD ADDITIVES

Cross-Reference Amendment

The Food and Drug Administration (FDA) is amending the food additive regulations on piperonyl butoxide and pyrethrins as components of bags to update cross-references to regulations of the Environmental Protection Agency (EPA).

Elsewhere in this issue of the FEDERAL REGISTER, the EPA is issuing a document that redesignates the tolerance of pesticides in food regulations under Part 123 as Part 193. That redesignation affects the references in only one section of the regulations issued by FDA.

§ 121.2573 [Amended]

Accordingly, Chapter I of Title 21 of the Code of Federal Regulations is amended in § 121.2573 *Piperonyl butoxide and pyrethrins as components of bags* of Part 121 by changing the reference "§§ 123.60 and 123.390" to read "§§ 193.60 and 193.390."

This amendment is intended only to update the cross-reference. For this reason notice and public procedure and delayed effective date are not prerequisites for its promulgation.

Effective date: This amendment shall become effective June 28, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371 (a)).)

Dated: June 22, 1976.

WILLIAM F. RANDOLPH,
Deputy Associate Administrator for Compliance.

[FR Doc 76-18606 Filed 6-25-76;8:45 am]

PART 123—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Redesignation

The Environmental Protection Agency (EPA) is redesignating Part 123, which designates the tolerances for pesticides in food issued under Chapter I of Title 21 of the Code of Federal Regulations and under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), as Part 193. This amendment is effective June 28, 1976.

The Commissioner of Food and Drugs, for the purposes of establishing an orderly development of informative regulations for the Food and Drug Administration, furnishing ample room for expansion of such regulations in years ahead, and providing the public and affected industries with regulations that are easy to find, read, and understand, has initiated a recodification program for Chapter I of Title 21 of the Code of Federal Regulations.

In the FEDERAL REGISTER of March 28, 1975 (40 FR 14126), these regulations were recodified to place all material issued by EPA in a separate part under an appropriate subject heading to eliminate dual agency issuances within the same part. In the very near future, Subchapter B of Chapter I of Title 21 of the Code of Federal Regulations, which contains all human food regulations, is to be completely reorganized and redesignated from the existing Parts 10 through 128 designation to Parts 100 through 199.

Proper structuring of the subchapter requires transferring Part 123 to Part 193 to provide for uniformity.

Accordingly, Chapter I of Title 21 of the Code of Federal Regulations is amended by redesignating Part 123 as Part 193 as set forth above.

Effective date: This amendment shall be effective June 28, 1976.

Dated: June 16, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, Office of Pesticide Programs.

[FR Doc.76-18607 Filed 6-25-76;8:45 am]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Apomorphine; Removal From Schedule II

A notice was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14885) proposing the removal of apomorphine and its salts from Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812 (c) Schedule II (a)(1)); § 1308.12(b)(1), Title 21 of the Code of Federal Regulations (CFR).

All interested persons were given until May 13, 1976 to submit their objections, comments, or requests for hearing regarding the proposal. One comment was received. It was submitted by the Wisconsin Controlled Substances Board and it supported the proposal.

No other comments, and no objections nor requests for a hearing in the matter were received, and in view thereof, and based upon the investigation of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201(b) of the Act (21 U.S.C. 811(b)), the Administrator of the Drug Enforcement Administration finds that apomorphine does not have sufficient potential for abuse or abuse liability to justify its continued control in any schedule under the Act.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Act (21 USC 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part O), the Administrator hereby orders that 21 CFR 1308.12(b)(1) be amended as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium and opiate, excluding naloxone, naltrexone, and apomorphine, and their respective salts, but including the following:

(1) Raw Opium	9600
(2) Opium extracts	9610
(3) Opium fluid extracts	9620
(4) Powdered opium	9639
(5) Granulated opium	9640
(6) Tincture of opium	9630
(7) Codeine	9050
(8) Ethylmorphine	9190
(9) Etorphine hydrochloride	9059
(10) Hydrocodone	9193
(11) Hydromorphone	9150
(12) Metopon	9260
(13) Morphine	9300
(14) Oxycodone	9143
(15) Oxymorphone	9652
(16) Thebaine	9333

* * * * *

This order is effective on June 28, 1976.

Dated: June 22, 1976.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.76-18644 Filed 6-25-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7422]

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

Certain Corporate Reorganizations

To officers and employees of the Internal Revenue Service and others concerned.

On April 11, 1972, a notice of proposed rule making to amend the Income Tax Regulations (26 CFR Part 1) under sections 358, 362, and 368 of the Internal Revenue Code of 1954, relating to certain corporate reorganizations, was published in the FEDERAL REGISTER (37 FR 7162). The proposed amendment of the regulations, subject to the change indicated below, is adopted by this document.

The purpose of the amendment is to provide rules to reflect the amendment of sections 358, 362, and 368 of the Internal Revenue Code of 1954, by section 218 of the Revenue Act of 1964 and by Pub. L. 90-621 and to clarify the application of the rules regarding basis in certain reorganizations where the plan of reorganization was adopted before October 23, 1968.

Under the new rules, transactions that may qualify as a reorganization under section 368(a)(1)(B) of the Code include cases where a corporation acquires stock of another corporation in exchange for stock of a corporation in control of the acquiring corporation. In addition, the rules in § 1.358-4(a) and § 1.362-1(b)(1) provide that in the case of a plan reorganization adopted after October 22, 1968, in which a corporation acquires stock or securities of a corporation a party to such reorganization in exchange for stock or securities of the transferee corporation, the carryover basis rules of section 362 of the Code apply rather than the substituted basis rules of section 358 of the Code.

The rules in § 1.358-4(b) and § 1.362-1(b)(2) clarify prior regulations to state that these same rules also apply in the case of a plan of reorganization adopted before October 23, 1968.

The new rules in § 1.368-2(b)(2) provide that a transaction in which substantially all of the properties of a corporation are acquired by merger into the acquiring corporation can qualify as a reorganization under section 368(a)(1)

(A) even though stock of a corporation in control of the acquiring corporation is used in the transaction if the transaction would have qualified under section 368(a)(1)(A) if the merger had been into the controlling corporation and no stock of the acquiring corporation is used in the transaction.

The major comments that were received stated that the rules regarding the application of the carryover basis rules of section 362 of the Code instead of the substituted basis rules of section 358 of the Code in a "stock for stock" reorganization should not be applied retroactively. This suggestion was rejected, and the rules adopted do apply retroactively. In addition, comments suggested that in a reorganization qualifying under section 368(a)(1)(A) of the Code by reason of section 368(a)(2)(D), the rules should provide that the controlling corporation is a party to the exchange for purposes of section 357(a) of the Code. This suggestion was adopted, and the rules are accordingly revised.

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the proposed amendment of the regulations described in the first paragraph of this document is adopted, subject to the change set forth below.

The sixth sentence of § 1.368-2(b)(2), as set forth in paragraph 6 of the notice of proposed rule making, is changed to read as follows:

§ 1.368-2 *Definition of terms.*

* * * * *

(b) * * *

(2) * * * In addition, the controlling corporation may assume liabilities of the acquired corporation without disqualifying the transaction under section 368(a)(2)(D), and for purposes of section 357(a) the controlling corporation is considered a party to the exchange. * * *

* * * * *

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: May 25, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.358 is amended by revising subsection (e) of section 358 and the historical note to read as follows:

§ 1.358 Statutory provisions; basis to distributees.

Sec. 358. *Basis to distributees.* * * *

(e) *Exception.* This section shall not apply to property acquired by a corporation by the exchange of its stock or securities (or the stock or securities of a corporation which is in control of the acquiring corporation) as consideration in whole or in part for the transfer of the property to it.

[Sec. 358 as amended by sec. 21, Technical Amendments Act 1958 (72 Stat. 1620); sec. 2(a), Act of Oct. 22, 1968 (Pub. L. 90-621, 82 Stat. 1311)]

PAR. 2. Section 1.358-4 is amended to read as follows:

§ 1.358-4 Exceptions.

(a) *Plan of reorganization adopted after October 22, 1968.* In the case of a plan of reorganization adopted after October 22, 1968, section 358 does not apply in determining the basis of property acquired by a corporation in connection with such reorganization by the exchange of its stock or securities (or by the exchange of stock or securities of a corporation which is in control of the acquiring corporation) as the consideration in whole or in part for the transfer of the property to it. See section 362 and the regulations pertaining to that section for rules relating to basis to corporations of property acquired in such cases.

(b) *Plan of reorganization adopted before October 23, 1968.* In the case of a plan of reorganization adopted before October 23, 1968, section 358 does not apply in determining the basis of property acquired by a corporation in connection with such reorganization by the issuance of stock or securities of such corporation (or by the issuance of stock or securities of another corporation which is in control of such corporation) as the consideration in whole or in part for the transfer of the property to it. The term "issuance of stock or securities" includes any transfer of stock or securities, including stock or securities which were purchased or were acquired as a contribution to capital. See section 362 and the regulations pertaining to that section for rules relating to basis to corporations of property acquired in such cases.

PAR. 3. Section 1.362 is amended by revising subsection (b) of section 362 and by adding a historical note to read as follows:

§ 1.362 Statutory provisions; basis to corporations.

Sec. 362. *Basis to corporations.* * * *

(b) *Transfers to corporations.* If property was acquired by a corporation in connection with a reorganization to which this part applies, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer. This subsection shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the exchange of stock or securities of the transferee (or of a corporation which is in control of the transferee. as the consideration in whole or in part for the transfer.

* * * * *

[Sec. 362 as amended by sec. 2. (b), Act of Oct. 22, 1968 (Pub. L. 90-621, 82 Stat. 1311)]

PAR. 4. Section 1.362-1 is amended to read as follows:

§ 1.362-1 Basis to corporations.

(a) *In general.* Section 362 provides, as a general rule, that if property was acquired on or after June 22, 1954, by a corporation (1) in connection with a transaction to which section 351 (relating to transfer of property to corporation controlled by transferor) applies, (2) as paid-in surplus or as a contribution to capital, or (3) in connection with a reorganization to which Part III, subchapter C, Chapter 1 of the Code applies, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer. (See also § 1.362-2.)

(b) *Exceptions.* (1) In the case of a plan of reorganization adopted after October 22, 1968, section 362 does not apply if the property acquired in connection with such reorganization consists of stock or securities in a corporation a party to the reorganization, unless acquired by the exchange of stock or securities of the transferee (or of a corporation which is in control of the transferee) as the consideration in whole or in part for the transfer.

(2) In the case of a plan of reorganization adopted before October 23, 1968, section 362 does not apply if the property acquired in connection with such reorganization consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee (or, in the case of transactions occurring after December 31, 1963, of a corporation which is in control of the transferee) as the consideration in whole or in part for the transfer. The term "issuance of stock or securities" includes any transfer of stock or securities, including stock or securities which were purchased or were acquired as a contribution to capital.

PAR. 5. Section 1.368 is amended by revising section 368(a)(1)(B) and (2)(C), by adding a new section 368(a)(2)(D), by revising section 368(b), and by adding a historical note. The revised and added provisions read as follows:

§ 1.368 Statutory provisions; definitions relating to corporate reorganizations.

Sec. 368. *Definitions relating to corporate reorganizations*—(a) *Reorganization*—(1) *In general.* * * *

(B) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

* * * * *

(2) *Special rules relating to paragraph (1).* * * *

(C) *Transfers of assets or stock to subsidiaries in certain paragraph (1)(A), (1)(B), and (1)(C) cases.* A transaction otherwise qualifying under paragraph (1)(A), (1)(B), or (1)(C) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock.

(D) *Statutory merger using stock of controlling corporation.* The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subparagraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction

is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1)(A) if (i) such transaction would have qualified under paragraph (1)(A) if the merger had been into the controlling corporation, and (ii) no stock of the acquiring corporation is used in the transaction.

(b) *Party to a reorganization.* For purposes of this part, the term "a party to a reorganization" includes—

(1) A corporation resulting from a reorganization, and

(2) Both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

In the case of a reorganization qualifying under paragraph (1)(B) or (1)(C) of subsection (a), if the stock exchanged for stock or properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a reorganization" includes the corporation so controlling the acquiring corporation. In the case of a reorganization qualifying under paragraph (1)(A), (1)(B), or (1)(C) of subsection (a) by reason of paragraph (2)(C) of subsection (a), the term "a party to a reorganization" includes the corporation controlling the corporation to which the acquired assets or stock are transferred. In the case of a reorganization qualifying under paragraph (1)(A) of subsection (a) by reason of paragraph (2)(D) of that subsection, the term "a party to a reorganization" includes the controlling corporation referred to in such paragraph (2)(D).

* * * * *

[Sec. 368 as amended by sec. 218, Rev. Act 1964 (78 Stat. 57); sec. 1, Act of Oct. 22, 1968 (Pub. L. 90-621, 82 Stat. 1310)]

PAR. 6. Paragraphs (b) and (c) of § 1.368-2 are revised to read as follows:

§ 1.368-2 Definition of terms.

* * * * *

(b) (1) In order to qualify as a reorganization under section 368(a)(1)(A) the transaction must be a merger or consolidation effected pursuant to the corporation laws of the United States or a State or territory, or the District of Columbia.

(2) In order for the transaction to qualify under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(D), one corporation (the acquiring corporation) must acquire substantially all of the properties of another corporation (the acquired corporation) partly or entirely in exchange for stock of a corporation which is in control of the acquiring corporation (the controlling corporation), provided that (i) the transaction would have qualified under section 368(a)(1)(A) if the merger had been into the controlling corporation, and (ii) no stock of the acquiring corporation is used in the transaction. The foregoing test of whether the transaction would have qualified under section 368(a)(1)(A) if the merger had been into the controlling corporation means that the general requirements of a reorganization under section 368(a)(1)(A) (such as a business purpose, continuity of business enterprise, and continuity of interest) must be met in addition to the special requirements of section 368(a)(2)(D). Under this test, it is not relevant whether the merger into the controlling corporation could have been effected pursuant to State or Federal corportation law. The term "substantially all" has the same meaning as it has in section 368(a)(1)(C). Although no stock of the acquiring corporation can be used in the transaction, there is no prohibition (other than the continuity of interest requirement) against using other property, such as cash or securities, of either the acquiring corporation or the parent or both. In addition, the controlling corporation may assume liabilities of the acquired corporation without disqualifying the transaction under section 368(a)(2)(D), and for purposes of section 357(a) the controlling corporation is considered a party to the exchange. For example, if the controlling corporation agrees to substitute its stock for stock of the acquired corporation under an outstanding employee stock option agreement, this assumption of liability will not prevent the transaction from qualifying as a reorganization under section 368(a)(2)(D) and the assumption of liability is not treated as money or other property for purposes of section 361(b). Section 368(a)(2)(D) applies whether or not the controlling corporation (or the acquiring corporation) is formed immediately before the merger, in anticipation of the merger, or after preliminary steps have been taken to merge directly into the controlling corporation. Section 368(a)(2)(D) applies only to statutory mergers occurring after October 22, 1968.

(c) In order to qualify as a "reorganization" under section 368(a)(1)(B), the acquisition by the acquiring corporation of stock of another corporation must be in exchange solely for all or a part of the voting stock of the acquiring corporation (or, in the case of transactions occurring after December 31, 1963, solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), and the acquiring corporation must be in control of the other corporation immediately after the transaction. If, for example, corporation X in one transaction exchanges nonvoting preferred stock or bonds in addition to all or a part of its voting stock in the acquisition of stock of corporation Y, the transaction is not a reorganization under section 368(a)(1)(B). Nor is a transaction a reorganization described in section 368(a)(1)(B) if stock is acquired in exchange for voting stock both of the acquiring corporation and of a corporation which is in control of the acquiring corporation. The acquisition of stock of another corporation by the acquiring corporation solely for its voting stock (or solely for voting stock of a corporation which is in control of the acquiring corporation) is permitted tax-free even though the acquiring corporation already owns some of the stock of the other corporation. Such an acquisition is permitted tax-free in a single transaction or in a series of transactions taking place over a relatively short period of time such as 12 months. For example, corporation A purchased 30 percent of the common stock of corporation W (the only class of stock outstanding) for cash in 1939. On March 1, 1955, corporation A offers to exchange its own voting stock for all the stock of corporation W tendered within 6 months from the date of the offer. Within the 6-months' period corporation A acquires an additional 60 percent of stock of corporation W solely for its own voting stock, so that it owns 90 percent of the stock of corporation W. No gain or loss is recognized with respect to the exchanges of stock of corporation A for stock of corporation W. For this purpose, it is immaterial whether such exchanges occurred before corporation A acquired control (80 percent) of corporation W or after such control was acquired. If corporation A had acquired 80 percent of the stock of corporation W for cash in 1939, it could likewise acquire some or all of the remainder of such stock solely in exchange for its own voting stock without recognition of gain or loss.

* * * * *

[FR Doc.76-17908 Filed 6-25-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD1-76-3]

PART 127—SECURITY ZONES

Establishment of Security Zones, Boston Inner Harbor, Boston, Massachusetts

JUNE 12, 1976.

This amendment to the Coast Guard's Security Zone Regulations, establishes the waters of Boston Inner Harbor surrounding Pier 3B, Coast Guard Support Center, Boston, Massachusetts, and Pier 1 West, Boston National Historical Park, Charlestown, Massachusetts as security zones. These security zones are established to prevent interference with the movement of HMY *Britannia* during Queen Elizabeth's visit to the city of Boston on 11 July 1976.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication because these security zones involve a foreign affairs function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.102 and § 127.103, to read as follows:

§ 127.102 Coast Guard Support Center, Boston, Massachusetts.

The waters within the following boundary is a security zone: Shoreward of a line beginning at the eastern end of Pier 3 at 42°22'07" N Latitude, 71°03'01" W Longitude; thence in a southerly direction to the northern edge of Pier 4 at 42°22'04" N Latitude, 71°03'01" W Longitude.

§ 127.103 Boston National Historical Park, Charlestown, Massachusetts.

The waters within the following boundary is a security zone: Shoreward of a line beginning at the end of Pier 1 east at 42°22'18" N Latitude, 71°03'17" W

Longitude; thence southeasterly fifty yards to a Coast Guard marker buoy at position 42°22'17" N Latitude, 71°03'15.5" W Longitude; thence in a westerly direction to the eastern end of the Hoosac Pier at 42°22'16.5" N Latitude, 71°03'23" W Longitude.

(40 Stat. 220, as amended, (1.63 Stat. 503) 6(b), 80 Stat. 937; 50 U.S.C. 191 (14 U.S.C. 91) 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date: This amendment is effective from 0930Q, 11 July 1976 to 2400Q, 11 July 1976.

Dated: June 12, 1976.

JAMES L. BREWER,
Captain, U.S. Coast Guard,
Captain of the Port, Boston, Mass.

[FR Doc.76-18674 Filed 6-25-76;8:45 am]

[CGD 3-76-6-R]

PART 127—SECURITY ZONES

Establishment of Security Zone, Upper Bay, New York

This amendment to the Coast Guard's Security Zone Regulations, establishes certain waters of New York Harbor as a Security Zone. This security zone is established because of the presence of the USS *Forrestal* (CVA 59) in New York Harbor as Host Vessel during the International Naval Review.

This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication, because this security zone involves military and foreign affairs functions of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.340 to read as follows:

§ 127.340 New York Harbor.

That area of the waters of New York Harbor, within 200 yards of the USS *Forrestal* (CVA 59) is a security zone.

(40 Stat. 220, as amended, 1, 63 Stat. 503, 6(b), 80 Stat. 937; 50 U.S.C. 191, 14 U.S.C. 91, 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date: This amendment becomes effective at 6 a.m., July 3, 1976, to 6 a.m., July 5, 1976.

Dated: June 18, 1976.

J. L. FLEISHELL,
Captain, U.S. Coast Guard,
Captain of the Port of New York.

[FR Doc.76-18673 Filed 6-25-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

General Policies; Deposit of Publications

On page 12688-9 of the FEDERAL REGISTER of March 26, 1976, there was published a proposal to amend Part 14-1 of 41 CFR Chapter 14. Part 14-1 was to be amended by adding a new § 14-1.353 respecting administrative procedures for deposit of certain publications produced under Department contracts in the Department's Natural Resources Library. Interested persons were given until May 3, 1976, to submit comments.

No substantial comments were received and the proposed regulations are hereby adopted without change, as set forth below.

Effective date: These regulations are effective August 1, 1976.

Dated: June 18, 1976.

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

1. The Table of Contents of Subpart 14-1.3 is amended by adding a new § 14-1.353 to read as follows:

Subpart 14-1.3—General Policies

Sec.

* * * * *

14-1.353 Deposit of publications.

2. Subpart 14-1.3 is amended by adding a new § 14-1.353 as follows:

§ 14-1.353 Deposit of publications.

(a) *General.* The Natural Resources Library, Office of Library and Information Services, is responsible for the systematic collection, preservation and exchange of publications that are developed within the Department as provided in Part 481 of the Departmental Manual. This section prescribes procedures which will assist the Natural Resources Library to accomplish its responsibilities. As used in this section, the term "publications" includes material and any works based thereon which are publishable or published.

(b) *Requirement.* Each contracting officer shall:

(1) Assure in cooperation with technical and programs personnel, that the number of copies of publications produced under any contract is sufficient to accommodate the distribution requirements of this section.

(2) Furnish to the Natural Resources Library two copies of each publication produced under any contract where the Department, including its bureaus and offices, is involved regardless of the source of financing or the authorship of the publication. This requirement includes publications that are produced as a result of research or any other work funded in whole or in part by the Department or a bureau or office.

(c) *Exclusions.* Specifically excluded from the requirements of this section are the following types of publications:

(1) Internal documents required for administrative or operational purposes which have no public interest, or educational, scientific, or research value.

(2) Classified publications and material otherwise marked against unauthorized disclosure.

(3) Tentative drafts such as preliminary planning reports that will appear later in revised or final form.

(4) All disclosure materials containing any description, specification, data, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed unless an opinion by the Solicitor of the Department, or his duly authorized designee, has been rendered which finds that the interests of the Government will not be prejudiced by the action called for by this section with regard to such disclosure materials.

(d) *Procedures.* Two copies of each applicable publication shall be sent to the Natural Resources Library with a transmittal that identifies the sender and the publication, and states that the publication is intended for deposit in the Natural Resources Library. If the document is a translation, the information required by 481 DM 1.3B shall be furnished. Publications shall be sent to the Natural Resources Library at the following address:

U.S. Department of the Interior, Office of Library and Information Services, Gifts and Exchanges Section, 18th and C Streets NW., Washington, D.C. 20240.

[FR Doc.76-18625 Filed 6-25-76;8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-26—PURCHASE OF ITEMS FROM FEDERAL SUPPLY SCHEDULE CONTRACTORS

PART 114-38—MOTOR EQUIPMENT MANAGEMENT

U.S. Government National Credit Card

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 493(c), Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

This amendment relates only to matters of internal Department practice. It is, therefore, determined that the public rulemaking procedure is unnecessary and this amendment shall become effective on October 1, 1976.

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

JUNE 18, 1976.

1. The Table of Sections is amended by deleting the following:

114-26.406-2 Billing code.
114-26.406-4 Administrative control of credit cards.

2. Sections 114-26.406 and 114-26.406-1 are revised to read as follows:

§ 114-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

§ 114-26.406-1 General.

(a) The use of Standard Form 149 is encouraged, but commercial credit cards issued by Federal Supply Schedule contractors are also authorized for use.

(b) The head of each bureau and office shall determine the extent to which Standard Form 149 shall be used.

(c) Bureau and office billing code numbers are listed in § 114-38.12.

§§ 114-26.406-2, 114-26.406-4 [Removed]

3. Sections 114-26.406-2 and 114-26.406-4 are deleted.

4. Part 114-38 is amended by the addition of new Subpart 114-38.12 as follows:

SUBPART 114-38.12—PREPARATION AND CONTROL OF STANDARD FORM 149, U.S. GOVERNMENT NATIONAL CREDIT CARD

§ 114-38.1201 Billing code.

(a) The first three digits of the national credit card billing code shall always be 000 for any Department of the Interior activity.

(b) The fourth digit's use is at the option of the head of the bureau or office.

(c) The fifth and sixth digits shall be "14", the Department's agency code.

(d) The following blocks of numbers are assigned to bureaus and offices for use as the seventh, eighth, and ninth digits:

Southwestern Power Administration: 000 thru 009.
Bonneville Power Administration: 010 thru 019.
Geological Survey: 020 thru 029; 675 thru 699; 925 thru 964.
Southeastern Power Administration: 030 thru 039.
Fish & Wildlife Service: 040 thru 059; 100 thru 199.
Bureau of Mines: 060 thru 099.
Bureau of Reclamation: 200 thru 459.
Reserved: 460 thru 499.
Alaska Power Administration: 700 thru 704.
Bureau of Indian Affairs: 500 thru 549; 705 to 784; 865 thru 914.
National Park Service: 550 thru 569; 610 thru 674; 965 thru 999.
Bureau of Land Management: 570 thru 599; 800 thru 864.
Office of the Secretary: 600 thru 609.
Office of Aircraft Services: 785 thru 799.
Mining Enforcement and Safety Administration: 915 thru 924.

(e) The tenth digit cannot be used for any purpose other than validation.

§ 114-38.1202 Administrative control of credit cards.

The head of each bureau and office shall establish administrative control procedures in compliance with FPMR 101-38.1202. When a credit card is lost or stolen, the following additional actions shall be taken to minimize the opportunity for unauthorized use:

(a) Notify the paying office to be on the alert for bills charged to the lost or stolen card; and

(b) Notify local service stations that the lost or stolen card is not to be honored.

[FR Doc.76-18626 Filed 6-25-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5569; CO-22622]

COLORADO

Withdrawal of Lands for Protection of Cultural Resources and Public Recreation Values: Revocation of Reclamation Project Withdrawal

By virtue of the authority vested in the President and the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. 416 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, and the mineral leasing laws, and from the contruction of roads under Revised Statute 2477, 43 U.S.C. 932:

NEW MEXICO PRINCIPAL MERIDIAN

T. 37 N., R. 15 W.,
Sec. 7, a tract of land in NW¼SE¼, commencing at the northwest corner of NW¼SE¼ of said section 7, the point of beginning:
thence N. 89°31'00" E., 653.400 ft.;
thence S. 26°37'30" E., 752.070 ft.;
thence S. 0°52'45" E., 675.180 ft.;
thence S. 89°34'00" W., 977.130 ft.;
thence N. 1°01'00" W., 1350.360 ft. to the point of beginning.

The area contains 27.80 acres in Montezuma County.

2. The Secretarial order of January 4, 1943, withdrawing lands for the McPhee Reservoir, Dolores Project, Colorado, is hereby revoked so far as it affects the lands described in paragraph 1 of this order.

JOHN KYL,
Assistant Secretary of the Interior.

JUNE 22, 1976.

[FR Doc.76-18622 Filed 6-25-76;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 46—PROTECTION OF HUMAN SUBJECTS

Secretary's Interpretation of "Subject at Risk"

Notice is hereby given of the Secretary's interpretation of his regulations at 45 CFR 46.103(b), defining "subject at risk." The definition is incorporated in 45 CFR Part 46, pertaining to the Protection of Human Subjects involved in grants and contracts of the Department of Health, Education, and Welfare supporting research, development, and related activities.

Section 46.103(b) defines "subject at risk" at "any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service."

The types of risk situations against which the regulations were designed to protect are suggested by the areas of concern which were addressed in the legislative hearings held in conjunction with the enactment of section 474 of the Public Health Service Act, 42 U.S.C. 289*l*-3 (added by Pub. L. No. 93-348), which forms part of the basis for the Departmental regulations at 45 CFR Part 46, and in the preambles to the proposed and final regulations at 45 CFR Part 46. The subjects addressed included the use of FDA-approved drugs for any unapproved purpose; psycho-surgery and other techniques for behavior control currently being developed in research centers across the nation; use of experimental intrauterine devices; biomedical research in prison systems and the effect of that research on the prison social structure; the Tuskegee Syphilis Study; the development of special procedures for the use of incompetents or prisoners in biomedical research; and experimentation with fetuses, pregnant women, and human *in vitro* fertilization. The regulations were intended, and have been uniformly applied by the Department, to protect human subjects against the types of risks inherent in these types of activities.

The regulations were not, and have never been, intended to protect individuals against the effects of research and development activities directed at social or economic changes, even though those changes might have an impact upon the individual. More particularly, they were not designed to protect against possible financial injury, which may result from alteration in the price, availability, or conditions of eligibility for benefits or services offered under a governmental program. Thus, a requirement for research and development purposes that some welfare recipients report more frequently than others their income for purposes of determining their eligibility for, or the amount of, their welfare benefit, or a requirement that some but not all able-bodied welfare recipients work as a condition of eligibility for welfare, or a diminution in the level of welfare benefits (within prescribed boundaries) payable to some but not all similarly situated welfare beneficiaries, or a requirement that some but not all welfare recip-

ients make a co-payment toward the cost of governmentally-financed medical care would not constitute burdens or effects of the nature that the regulations are intended to encompass and, therefore, would not place the individuals subject to those burdens or effects "at risk" within the meaning of the regulation. In the context of the regulations, there would be no departure from the range of "established and accepted methods necessary to meet [the] needs [of the individual]" in these types of circumstances.

The standard for measuring any departure from "established and accepted methods" with respect to activities designed to test the effect of social and economic change has traditionally been intended by the Department to include the range of experience of the average American in his daily life. Thus, with respect to work requirements for ablebodied welfare recipients, the standard for determining such a departure would be the experience of the average ablebodied American who must work to obtain his sustenance rather than the experience of most welfare recipients who do not work. Similarly, subjecting a group of people to a requirement that they report income for purposes of obtaining governmental benefits, or causing a lowering of their income, or requiring them to make some payment toward the cost of their medical care would not depart from the normal experiences which other Americans can expect to encounter in their daily lives, and would thus not constitute the type of departure from "ordinary and accepted methods" to which the regulations were intended to apply.

Moreover, the regulations are not intended to protect individuals from the "ordinary risks of daily life." There are certain risks which may reasonably be expected to be encountered by anyone, for example, the risks inherent in having to make a decision as to how to allocate funds, or in deciding whether to meet certain conditions, such as performing work, which are required in order to obtain funds. The exposure to the risks which emanate from these choices does not constitute the type of situation against which the Department's regulations are designed to guard.

This interpretation of the regulation is consistent with the preambles to the proposed and final regulations that now appear in Part 46 and with Departmental practice in implementing those regulations.

Dated: June 24, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-18850 Filed 6-25-76;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 75-41—General Order 13; Amdt. 6]

PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

Mail Rates; Exemption

By Order served June 22, 1976, in Docket 75-41 we denied a Petition, filed by numerous carriers operating in the foreign commerce of the United States, requesting the Commission to declare that the Shipping Act, 1916 does not require the filing with the Commission of rates and charges for the transportation of mail by water to and from the United States and foreign countries. We did, however, determine that it would not be unjustly discriminatory, detrimental to commerce or substantially impair the effective regulation of the Commission to grant the Petitioners' alternative request to exempt mail rates from the filing requirements of section 18(b)(1), Shipping Act, 1916.

Therefore, *It is ordered*, Pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 533; section 18(b), 35 and 43 of the Shipping Act, 1916, 46 U.S.C. 817(b), 833(a), and 841(a); That § 536.15 of Part 536,[1] Title 46 CFR is amended effective June 28, 1976, by the addition of a new paragraph (d) reading as follows:

§ 536.15 Exemptions.

* * * * *

(d) Carriers and conferences of carriers are granted an exemption from the tariff filing requirements of section 18(b) of the Shipping Act, 1916, as to the carriage of mail to and from the United States and foreign countries.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-18716 Filed 6-25-76;8:45 am]

[1] The Commission on October 10, 1975, (40 FR 47770) published a revision of Part 536 which has not yet become effective. Under that revision the section pertaining to exemptions is designated § 536.14. The amendment contained herein would add a new paragraph (d) to that section.

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 6741]

PART 73—RADIO BROADCAST SERVICES

Clear Channel Broadcasting; Standard Broadcast Band

1. On April 21, 1976, the Commission adopted a report and order on the above-entitled matter (41 FR 18419) and, among other things, directed Hubbard Broadcasting, Inc. (Hubbard) to tender for filing, on or before June 30, 1976, an application to modify its outstanding construction permit (BMP-1738) to specify a nighttime directional pattern and theoretical parameters appropriate to the operation of Station KOB as a Class II-A station.

2. On June 10, 1976, counsel for Hubbard requested that the time for tendering its application for filing in the above-mentioned matter be extended to and including August 30, 1976. Counsel states that the additional time is necessary to afford Hubbard's consulting engineers adequate time to prepare the engineering for the application following completion and filing of other applications subject to the Commission's closed season on new and major change AM and FM applications which commences July 1, 1976. Counsel further states that the heavy workload occasioned by these other applications would make it extremely difficult, if not impossible, to complete the required engineering prior to June 30, 1976. Counsel adds that the grant of this extension will not unduly delay final resolution of the KOB-WABC controversy, since Hubbard has requested appellate review of the report and order, and it will be some time before these appellate proceedings will have progressed to the point that new KOB construction, if any, will be required.

3. We are of the opinion that the requested additional time is warranted. Accordingly, *it is ordered*, That the above petition for extension of time filed by Hubbard Broadcasting, Inc., for tendering an application to modify its outstanding construction permit (BMP-1738) to specify a nighttime directional pattern and theoretical parameters appropriate to the operation of Station KOB as a Class II-A station is granted and the date is extended to and including August 30, 1976.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303(r) of the Communications Act of

1934, as amended, and § 0.281 of the Commission's rules and regulations.

Adopted: June 18, 1976.

Released: June 22, 1976.

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

[FR Doc.76-18632 Filed 6-25-76;8:45 am]

[Docket No. 20507; RM-2427, RM-2439, RM-2042]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations

1. The Commission now has before it the comments and reply comments to the Notice of proposed rule making[1] which concerned assignments at the above-named communities. The Notice consolidated conflicting petitions for the communities by proposing four alternative plans based upon the petitions.[2]

2. Plan I would assign Channel 298 to Tucson, Arizona (pop. 262,933),[3] as that community's seventh FM assignment, requiring the substitution of Channel 260 for that channel (298) at Naco, Sonora, Mexico, subject to final approval by the Government of Mexico. Plan II would substitute Channel 261A for Channel 221A at Bisbee, Arizona (pop. 8,328), and assign it to Sierra Vista, Arizona (pop. 6,689), as a second FM assignment. Plan III would move Channel 221A from Tucson to Green Valley, Arizona (pop. not stated), as its first FM assignment. Plan IV combines Plans I and III, i.e., substituting Channel 298 for Channel 221A at Tucson (and Channel 260 for Channel 298 at Naco, Sonora) and adding Channel 221A to Green Valley.

3. The Sierra Vista-Bisbee proposal (to reassign Channel 221A from Bisbee to Sierra Vista and substitute Channel 261A at Bisbee) conflicted with the other proposals. Channel 261A at Bisbee would be 55 miles short-spaced to proposed Channel 260 at Naco, in Plans I and IV, and proposed Channel 221A at Sierra Vista would be 5 miles short-spaced to the existing co-channel assignment at Tucson and 20 miles short-spaced to Channel 221A at Green Valley if the Green Valley proposal were adopted in Plan III.

PLAN II

4. At the outset Plan II can be removed from consideration because no one has expressed an interest in operating a station on Channel 221A if assigned to Sierra Vista. The Commission does not usually make assignments in the absence of a statement by an interested party of intention to operate a station on the channel if authorized.[4] (See paragraph 2 of the Appendix to the Notice.)

5. Two counterproposals were filed, one by Ralph L. Borkman, as an interested party, and one by John Teal of Tucson FM Engineering, potential applicant for proposed Channel 298 at Tucson. Both counterproposed plans which would eliminate the conflicts caused by the Sierra Vista proposal. These and other comments filed are moot to the extent that they support the additional assignment to Sierra Vista as proposed in Plan II, which will be dismissed.[5]

6. The dismissal of Plan II from consideration in this proceeding removes all of the original conflicts in the proposals. We now have only two proposals before us—Golden State's Plan I to add Channel 298 to Tucson and substitute 260 for 298 at Naco; and Communication's Plan III to move Channel 221A from Tucson to Green Valley. (Plan IV represents the possible adoption of both proposals, which are not mutually exclusive.)

PLAN I

7. In the Notice we asked petitioner, Golden State, to discuss the proposed assignment of Channel 298 to Tucson in terms of population and technical aspects and the Commission's recent Atlanta decision, 49 F.C.C. 2d 1270 (1974), and to provide a preclusion study indicating whether other channels were available to communities in the precluded areas.

8. In its comments, Golden State responded that the Commission's population criteria allows 6 to 10 commercial channels for communities of 250,000 to 1,000,000 in population,[6] while Tucson had a 1970 population of 262,933, a 24 percent increase since 1960. The Tucson 1970 SMSA was 251,667. Recent estimates, we are told, place the population of Tucson at 307,551 in 1973 and 450,000 in 1974 (a 71 percent increase since 1970).

9. Golden State states that its proposal would not, as in the Atlanta case, necessitate or require any change in the allocations of any city in the United States. It would only require an equal substitution at Naco, Sonora. Golden State's preclusion study shows that, of the 13 communities with enough population to warrant a channel assignment, each has at least one assignment already, eight of which are still unoccupied. The proposal is also supported by John Teal. No oppositions were filed. Preliminary approval of the required substitution at Naco and the assignment of Channel 298 at Tucson has been obtained from Mexico.

10. We find that the assignment of Channel 298 to Tucson is consistent with our population criteria, would result in no significant preclusion to future assignments in the surrounding area, and can be made without adverse consequence to existing assignments (as distinguished from Atlanta). Golden State has made a convincing showing that the assignment would be in the public interest.

PLAN III

11. In the Notice, we asked petitioner Communications to submit a Roanoke Rapids[7] showing for its proposal to move Channel 221A from Tucson to Green Valley, Arizona.[8] Communications' study shows that its proposal could provide a first FM service to 889 persons in an area of 81 square miles, and a second FM service to 486 persons in an area of 59 square miles. While Green Valley is only 25 miles south of Tucson, Communications states that it does not receive any nighttime aural broadcast service from Tucson stations because they do not operate at maximum facilities.

12. In addition, Communications asserts that the current population of Green Valley is about 5,970 and that its present growth rate is estimated at 750 people per year, with a predicted expansion in the growth rate. We are informed that Green Valley's population has increased from 3,500 at the time the petition was filed in August of 1974, to the present estimated population. Wrye Associates filed reply comments supporting the proposal to provide a first local broadcast service to Green Valley. This proposal would also eliminate intermixture of classes of channels at Tucson.

13. There are presently three mutually exclusive applicants for Channel 221A at Tucson.[9] Two of the parties commented in opposition to the Green Valley proposal.

14. Grabet, Inc. Radio Enterprises ("Grabet") is an applicant for Channel 221A at Tucson and the licensee of an

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[1] 40 FR 24748; adopted June 2, 1975; released June 6, 1975.

[2] Plan I was proposed by Golden State Broadcasting Corporation ("Golden State"), licensee of a daytime-only AM station at Tucson; Plan II by Bisbee Broadcasters, Inc. ("BBI"), licensee of an AM station at Bisbee; Plan III by Green Valley Communications ("Communications"); and Plan IV by the Commission.

[3] All population data is taken from the 1970 U.S. Census, unless otherwise stated.

[4] Bisbee Broadcasters, Inc. proposed Plan II to resolve a hearing to between itself and Wrye Associates for Channel 221A at Bisbee, hoping that Wrye would want the Sierra Vista assignment. Wrye has become the successful applicant at Bisbee (48 F.C.C. 2d 291 (1974)) and has commented in support of the assignment of Channel 221A to Green Valley. BBI did not file comments. Wrye, Borkman, and Golden State filed reply comments seeking dismissal of Plan II.

[5] In addition to Sierra Vista, the Borkman proposal would also substitute Channel 296A for Channel 221A at Tucson, and assign Channel 221A to Green Valley. It would also assign Channel 270 to Tucson. The Borkman proposal would require substitution of Channel 223 for Channel 270 at Sasabe, Sonora, Mexico, and Channel 288A for Channel 269A at San Manuel, Arizona. However, we consider this proposal to be technically defective because the Sasbe substitute channel would be short-spaced to Channel 225 assigned at Tucson, by 0.8 mile. See Portland, Tennessee, 35 F.C.C. 2d 601 (1972).

[6] Further Notice of Proposed Rule Making, Docket 14185; FCC 62-867 (1962); Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758 (1963).

[7] 9 F.C.C. 2d 672 (1967).

[8] Channel 221A cannot be assigned to both Tucson and Green Valley consistent with our minimum mileage separation requirements (§ 73.207(a)).

[9] Applications have been filed by Grabet, Inc. Radio Enterprises, licensee of an AM station at Tucson (BPH-9214); Rex Broadcasting Corporation, licensee of another AM station at Tucson (BPH-9188); and Graham Broadcasting Co. (BPH-9196).

AM station there. Grabet says its application shows that a Class A station in Tucson can cover 98 percent of the population and 91.5 percent of the land area within the city limits. It states that Green Valley receives service from Tucson Class C stations and should not be entitled to its own FM assignment in view of its small size. Grabet says it would support the assignment of Channel 298 to Tucson in the event that Channel 221A is assigned to Green Valley.

15. Rex Broadcasting Corporation ("Rex") is an applicant for Channel 221A at Tucson and licensee of a fulltime AM station there. It disputes Green Valley's population and growth predictions and claims that, theoretically, all the FM stations in Tucson can place a city grade signal over Green Valley. Rex also states that the entire city of Tucson can be served by a station operating on Channel 221A and Rex has amended this application to so demonstrate.

16. After considering the facts presented, we have decided that the public interest will best be served by assigning Channel 221A to Green Valley and deleting it from Tucson. We find that this would provide a first local broadcast service to the community of Green Valley, and a first and second FM-service to parts of the surrounding area. It would also eliminate intermixture in the classes of stations at Tucson. These objectives are expressed assignment policies of the Commission.[10] The Mexican Government has stated that it has no technical objection to the proposed assignment at Green Valley.

17. The present applicants for Channel 221A at Tucson may amend their applications to specify the Class C channel we are assigning in this Report and Order. Our action today should eliminate questions of waiver of the city-grade coverage requirement by the applicants for Channel 221A at Tucson. This action also reopens the application proceeding for any new applicants, since we consider this to be the assignment of a new channel to Tucson rather than a mere substitution. Even in cases where protected hearing status has been given to applicants when the same class channel is substituted, it is the Commission's policy to do so only in the absence of interest by other parties after notice. Flora, Illinois, 18 F.C.C. 2d 663 (1969); Warner Robins, Georgia, 12 F.C.C. 2d 885 (1968). Here petitioner and others have expressed interest in the new channel at Tucson and will be given the opportunity to apply for it.[11]

18. Accordingly, *it is ordered*, That effective August 2, 1976, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, insofar as the communities listed below are concerned, to read as follows:

City	*Channel No.*
Tucson, Ariz	225, 229, 235, 241, 258, 298
Green Valley, Ariz	221A

19. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303, 307(b), and 316 of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations.

20. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307.)

Adopted: June 18, 1976.

Released: June 25, 1976.

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

[FR Doc.76-18630 Filed 6-25-76;8:45 am]

[Docket No. 20577; RM-2532]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations

1. The Commission here considers a notice of proposed rule making, adopted August 7, 1975 (40 FR 36388), inviting comments on a proposal to assign Channel 260 to Saratoga, Wyoming, as a first FM assignment. Petitioner, Pioneer Development, is the only commenting party.

2. Saratoga, Wyoming (pop. 1,181)[1], is located in Carbon County (pop. 13,354) approximately 110 miles northwest of Cheyenne, Wyoming. It has no local aural service. The only radio station in Carbon County is daytime-only AM Station KRAL, Rawlins.[2]

3. The notice proposed to assign a wide-coverage Class C channel to Saratoga, rather than a Class A channel, in order to provide a first FM service to 7,489 persons in an 8,488 square mile area and a second FM service to 8,440 persons in an area of 792 square miles. This service, we are told, could be obtained utilizing 17.7 kW power and antenna height of 3,310 feet AAT from petitioner's proposed transmitter site. Petitioner proposes a station operating at a site 19 miles northeast of Saratoga which is described by petitioner as the nearest high point in the area. Petitioner also states that this site, while providing city grade coverage, would also serve the maximum possible coverage area. The community, although small and not normally entitled to a Class C channel, is located such that a large rural trade area would be served by FM radio for the first time, according to petitioner. Petitioner also asserts that a great potential exists for travel and tourism in the county since it has accommodations for more than 5,000 visitors each night.

4. We believe the public interest would be served by the assignment of an FM channel to Saratoga. The assignment would represent a first local rural service to Saratoga. Since Channel 224A at Rawlins is unoccupied, this assignment could provide a first operating station to Carbon County. Our policy with regard to the assignment of Class C channels to small communities is premised upon provision of service to rural areas where population density is low and distribution is scattered.[3] Further, priority is given to assignments which offer a significant first and second FM service, as this assignment would.[4]

5. Preclusion will occur on Channels 257A, 259, 260, 261A and 262 as indicated in the notice. Although a large land area is involved the impact is small since the affected communities either have one or more channels already assigned or available for assignment or have small populations (under 1,000 persons).

6. Accordingly, *it is ordered*, That effective August 2, 1976, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows for the following community:

City	*Channel No.*
Saratoga, Wyo	[1] 260

[1] Any application must specify maximum power and antenna height or equivalent.

(Secs. 4, 303, 307, 310, 48 Stat., as amended, 1066, 1082, 1083, 1086; 47 U.S.C. 154, 303, 307, 310.)

It is further ordered, That this proceeding is terminated.

Adopted: June 18, 1976.

Released: June 22, 1976.

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

[FR Doc.76-18631 Filed 6-25-76;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1109—PROCEDURAL REGULATIONS FOR ORAL PRESENTATIONS CONCERNING PROPOSED CONSUMER PRODUCT SAFETY RULES

Correction

In FR Doc. 75-27503, published in the FEDERAL REGISTER October 14, 1975 (40 FR 48122), change "section 9(c)" to read "section 9(a)(2)," and change "2058(c))" to read "2058(a)(2)" in 16 CFR 1109.3(d).

Dated: June 22, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-18703 Filed 6-25-76;8:45 am]

[10] Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520, 524-25 (1974).

[11] See also Los Angeles, California, 31 F.C.C. 2d 666, 668 at n.3 (1971), for our policy and cases regarding TV assignments. Cf. WBUF-TV, Inc., 12 R.R. 218a (1955); Delta Television, Inc., 11 R.R. 1559 (1954); Elmira, N.Y., 13 R.R. 1536 (1956); Albany-Schenectady-Troy, N.Y., 23 F.C.C. 358 (1957) (analogous Commission policy on modification of existing licenses).

[1] Population data is taken from the 1970 U.S. Census.

[2] Channel 224A is assigned to Rawlins and presently unoccupied.

[3] See Winner, S.D., 5 F.C.C. 2d 188 (1966); Poteau, Okla., 43 F.C.C. 2d 1130, 1134 (1973).

[4] Further notice of proposed rule making in Docket 14185 incorporated by reference in paragraph 29 of the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747 (1963).

proposed rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 922]

HANDLING OF APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Approval of Expenses and Fixing of Rate of Assessment for the 1976–77 Fiscal Period and Carryover of Unexpended Funds From the 1975–76 Fiscal Period

This notice invites written comments relative to the proposed expenses of $2,506 and rate of assessment of $1.00 per ton of apricots to support the activities of the Washington Apricot Marketing Committee for the 1976–77 fiscal period under amended marketing Order No. 922. It also proposes that unexpended assessment income from the 1975–76 fiscal period be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, 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:

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

(a) That the expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during the period April 1, 1976, through March 31, 1977, will amount to $2,506;

(b) That there be fixed, at $1.00 per ton of apricots, the rate of assessment payable by each handler in accordance with § 922.41 of the aforesaid amended marketing agreement and order; and

(5) That unexpended assessment funds in excess of expenses incurred during the 1975–76 fiscal period be carried over as a reserve.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than July 23, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

Dated: June 23, 1976.

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

[FR Doc.76-18706 Filed 6-25-76;8:45 am]

[7 CFR Part 921]

HANDLING OF FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Approval of Expenses and Fixing of Rate of Assessment for the 1976–77 Fiscal Period and Carryover of Unexpended Funds From the 1975–76 Fiscal Period

This notice invites written comments relative to the proposed expenses of $9,657 and rate of assessment of $0.80 per ton of peaches to support the activities of the Washington Fresh Peach Marketing Committee for the 1976–77 fiscal period under marketing Order No. 921. It also proposes that unexpended assessment income from the 1975–76 fiscal period be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Washington Fresh Peach Marketing Committee, established under the marketing agreement, and Order No. 921, (7 CFR Part 921), regulating the handling of fresh peaches grown in designated counties of Washington, 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:

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

(a) That expenses that are reasonable and likely to be incurred by the Washington Fresh Peach Marketing Committee, during the period April 1, 1976, through March 31, 1977, will amount to $9,657;

(b) The rate of assessment for such period, payable by each handler in accordance with § 921.41 be fixed at $0.80 per ton of fresh peaches; and

(c) That unexpended assessment funds in excess of expenses incurred during the 1975–76 fiscal period be carried over as a reserve. Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250 not later than July 25, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 23, 1976.

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

[FR Doc.76-18707 Filed 6-25-76;8:45 am]

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Rulemaking

This notice invites written comment relative to a proposed amendment that would continue Peach Regulation 8 (§ 917.442; 41 FR 23185) indefinitely. Said regulation will expire on August 1, 1976, unless extended. The regulation specifies certain container labeling and pack requirements for shipments of fresh California peaches and is effective under the marketing agreement and Order No. 917.

The proposed amendment was submitted by the Peach Commodity Committee, established pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528), which regulate the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who submit written data, views, or arguments for consideration in connection with Peach Regulation 8, as published in the FEDERAL REGISTER June 9, 1976 (41 FR 23185), or the proposed amendment published herein, shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than July 16, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of § 917.442(b) preceding paragraph (1) thereof (41 FR 23185) would be amended to read:

§ 917.442 Peach Regulation 8.

* * * * *

(b) On and after August 2, 1976, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions: * * *

* * * * *

Dated: June 23, 1976.

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

[FR Doc.76-18709 Filed 6-25-76;8:45 am]

[7 CFR Part 917]

HANDLING OF FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Rulemaking

This notice invites written comments relative to a proposal to continue, through May 31, 1977, the currently effective grade and size requirements on the handling of fresh California plums. The requirements are specified by Plum Regulation 12 (§ 917.441; 41 FR 21173) issued pursuant to Marketing Order No. 917. Said regulation currently prescribes that all California plums handled be of U.S. No. 1 grade except that additional tolerances for defects not considered serious, including healed cracks and gum spots, are permitted for specified varieties. It also specifies minimum sizes for certain named varieties in terms of the number of plums contained in an eight-pound sample. The proposal reflects the Plum Commodity Committee's objective which is to assure consumer satisfaction and orderly marketing of the 1976 California plum crop through a regulation which would cover the entire shipping and harvesting season for such plums.

Consideration is being given to the following proposal submitted by the Plum Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is to amend § 917.441 (Plum Regulation 12; 41 FR 21173) to continue the effective period of said regulation through May 31, 1977. The present regulation is effective through July 20, 1976.

All persons who submit written data, views, or arguments for consideration in connection with Plum Regulation 12 as published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21173), or the proposed amendment published herein shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than July 9, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of § 917.441 in paragraph (a), paragraph (b), preceding subparagraph (1) thereof, and paragraph (c) preceding Table I would be amended to read as follows:

§ 917.441 Plum Regulation 12.

Order. (a) During the period June 1, 1976, through May 31, 1977, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period June 1, 1976, through May 31, 1977, no handler shall ship: * * *

(c) During the period June 1, 1976, through May 31, 1977, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

* * * * *

Dated: June 23, 1976.

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

[FR Doc.76-18710 Filed 6-25-76;8:45 am]

[7 CFR Part 924]

HANDLING OF FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Approval of Expenses, Fixing of Rate of Assessment for the 1976–77 Fiscal Period and Carryover of Unexpended Assessment Funds From the 1975–76 Fiscal Period

This notice invites written comments regarding proposed expenses of $19,077 and rate of assessment of $0.60 per ton of prunes to support the activities of the Washington-Oregon Fresh Prune Marketing Committee for the 1976–77 season under Marketing Order No. 924, as amended. It also proposes that unspent assessment income from the 1975–76 season be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Washington-Oregon Fresh Prune Marketing Committee, established under the amended marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, effective under the applicable provisons 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:

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

(a) Expenses that are reasonable and likely to be incurred by said committee, during the period April 1, 1976, through March 31, 1977, will amount to $19,077;

(b) That there be fixed, at $0.60 per ton of fresh prunes, the rate of assessment payable by each handler in accordance with § 924.41 of the aforesaid amended marketing agreement and order; and

(c) Unspent assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1976, be carried over as a reserve in accordance with § 924.42 of said marketing agreement and order. Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

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, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than July 20, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 23, 1976.

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

[FR Doc.76-18708 Filed 6-25-76;8:45 am]

[7 CFR Part 1033]

MILK IN THE OHIO VALLEY MARKETING AREA

Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Ohio Valley marketing area is being considered for the month July 1976.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C., 20250, not later than July 6, 1976. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the

Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1033.56 that part of paragraph (a) which reads: "unless the following conditions are met:

(1) The plant is qualified as a pool plant pursuant to § 1033.12 during the current month and the preceding month; and

(2) A greater volume of fluid milk products, except filled milk, is disposed of from such plant as route disposition in the Ohio Valley marketing area and to pool plants qualified on the basis of route disposition in the Ohio Valley marketing area than is disposed of from such plant as route disposition in the marketing area regulated pursuant to the other order and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area."

STATEMENT OF CONSIDERATION

The proopsal would suspend for July 1976 the provisions that would pool under this order a plant that qualified for pooling under this order and another order in the same month. The action was requested by a major handler under the Indiana order. Without such action that handler's plant, which has been continuously pooled under the Indiana order and whose sales in July in the Ohio Valley marketing area will apparently be slightly more than in the Indiana marketing area, would be pooled for that month under the Ohio Valley order.

Both the Ohio Valley and Indiana orders contain "Louisville plan" provisions with July being the last month for withholding producer money from the pool. Absent the suspension, the money withheld from producers regularly supplying the plant in Indiana would be included in the set aside under the Ohio Valley order. This would result in unduly enhancing the Louisville plan pay out under the Ohio Valley order and unduly depressing the pay out under the Indiana order in the fall months if the plant was thereafter pooled under the Indiana order.

A proposal at a hearing on May 4, 1976, would change the basis for pooling a plant that qualified as a pool plant under both the Ohio Valley and another order in the same month. The change proposed would allow such a plant to remain pooled under the other order until the third consecutive month in which it had more sales in the Ohio Valley marketing area. A decision on that hearing proposal has not yet been issued.

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

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-18617 Filed 6-25-76;8:45 am]

Forest Service

[36 CFR Parts 213, 231 and 261]

NATIONAL FORESTS AND NATIONAL GRASSLANDS

Grazing; Extension of Comment Period

In FR Doc. 76-15511 filed May 26, 1976; 8:45 a.m., appearing at page 21644 in the FEDERAL REGISTER of May 27, 1976, the date for written submissions pertaining to the proposed amendments is changed from June 28, 1976, to July 28, 1976.

ROBERT W. LONG,
Assistant Secretary,
U.S. Department of Agriculture.

JUNE 23, 1976.

[FR Doc.76-18712 Filed 6-25-76;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Parts 1, 3 and 4]

CERTIFICATE OF MAILING OF CORRESPONDENCE

Delays in Mail Delivery

Correction

In FR Doc. 76-17968, appearing on page 24895, in the issue of Monday, June 21, 1976, make the following changes:

1. On page 24896, in the first column, after the word "Dated:" the date should head "June 3, 1976".

2. On page 24896, in the middle column, after the word "Approved:" the date should read "June 10, 1976".

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-077, 76-025, 76-051]

[33 CFR Part 164]

NAVIGATION SAFETY, TUG ASSISTANCE IN CONFINED WATERS, AND MINIMUM NET BOTTOM CLEARANCE

Extension of Comment Periods

This notice extends the periods for comments to the notice of proposed rulemaking and advanced notices of proposed rulemaking published May 6, 1976 (41 FR 18766, 18770, and 18771), proposing rules for navigation safety, tug assistance in confined waters, and minimum net bottom clearance for vessels.

Industry representatives and other individuals requested an extension of the comment periods. The reasons for the extension stated by the requesters were:

1. More time is needed for evaluation by foreign maritime interests because of the slowness of dissemination of the information to them.

2. Operating personnel who were at sea at the time of publication have not had enough time to comment properly.

3. More than the usual time for comment is necessary because the proposed rules are a novel approach to maritime safety regulation.

In consideration of these requests, the comment periods on Coast Guard notices CGD 74-077, CGD 76-025, and 76-051 of May 6, 1976 are extended to August 6, 1976.

(Sec. 311(j)(1), 86 Stat. 826 (33 U.S.C. 1321 (j)(1); sec. 201(3), 86 Stat. 428, as amended (46 U.S.C. 391a(3)); sec. 104, 86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46 (m) and (n)(4).)

Dated: June 24, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.76-18774 Filed 6-25-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15854]

HAWKER SIDDELEY AVIATION, LTD. MODEL DH/BH-125 AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Hawker Siddeley Aviation, Ltd., Model DH/BH-125 airplanes. As a result of a failure of a brake control valve of a design similar to that used on the Model DH/BH-125 airplanes, Hawker Siddeley Aviation, Ltd. has conducted fatigue tests on the Model DH/BH-125 brake control valve. Based on these tests, the FAA has determined that the Model DH/BH-125 brake control valve is susceptible to a failure of a knife edge. A failure of this type could result in complete loss of braking on one side of the airplane with no advance warning to the flight crew. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require the installation of new knife edges in the brake control valve or of valves incorporating such edges and the repetitive replacement of knife edges or valves on Model DH/BH-125 airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before July 28, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the clos-

ing date for comments, in the rules docket for examination by interested persons.

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

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

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH/BH-125 airplanes, all series, certificated in all categories.

Compliance is required as indicated.

To prevent the failure of the knife edges of the brake control valve, P/N AC. 61520, and the possible complete loss of braking on one side of the airplane with no advance warning to the flight crew, accomplish the following:

(a) Comply with paragraph (b) or (c) of this AD as follows, and, thereafter, continue to comply with paragraph (b) or (c) of this AD at intervals not to exceed 4500 landings since last compliance:

(1) For airplanes having brake control valve knife edges that have accumulated less than 4300 landings on the effective date of this AD, compliance is required prior to the accumulation of 4500 landings.

(2) For airplanes having brake control valve knife edges that have accumulated 4300 or more landings, but less than 5900 landings, on the effective date of this AD, compliance is required prior to the accumulation of an additional 200 landings.

(3) For airplanes having brake control valve knife edges that have accumulated 5900 or more landings on the effective date of this AD, compliance is required prior to the accumulation of 6100 landings or an additional 100 landings whichever occurs later.

(4) For airplanes for which no records exist that indicate the number of landings the brake control valve knife edges have accumulated, compliance is required prior to the accumulation of 100 landings after the effective date of this AD.

(b) Replace the knife edges with new parts, P/Ns ACO. 34629, ACO. 34630, and ACO. 36133, in accordance with Paragraph A, of Section 2, titled "Accomplishment Instructions," of Hawker Siddeley Aviation, Ltd. Service Bulletin 32-166, dated January 27, 1976, or an FAA-approved equivalent.

(c) Replace the brake control valve, P/N AC.61520, with a valve of the same part number that incorporates knife edges having part numbers specified in paragraph (b) of this AD in accordance with Paragraph B, of Section 2, titled "Accomplishment Instructions," of Hawker Siddeley Aviation, Ltd. Service Bulletin 32-166, dated January 27, 1976, or an FAA-approved equivalent.

Issued in Washington, D.C. on June 22, 1976.

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

[FR Doc.76-18593 Filed 6-25-76;8:45 am]

[14 CFR Parts 1 and 191]

[Docket No. 15855; Notice No. 76-14]

RELEASE OF SECURITY INFORMATION

Proposed Rule Making

The Federal Aviation Administration is considering adding a new Part 191 to the Federal Aviation Regulations to implement section 316(d)(2) of the Federal Aviation Act of 1958, which was added to the Act by the Air Transportation Security Act of 1974.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before July 28, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 202 of the Transportation Security Act of 1974 added section 316(d) to the Federal Aviation Act of 1958. Section 316(d)(1) provides that the Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. (A definition of "intrastate air transportation" was added to section 101 of the Federal Aviation Act of 1958, and it is proposed to add that definition to § 1.1 of the Federal Aviation Regulations.)

Section 316(d)(2) provides that, notwithstanding section 552 of Title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under section 316(d) if, in the opinion of the Administrator, the disclosure of such information—

(A) Would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(B) Would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

(C) Would be detrimental to the safety of persons traveling in air transportation.

Proposed new Part 191 is intended to implement section 316(d)(2) and would govern the release of any record, and any information contained therein, in the possession of the FAA which has been obtained or developed in the conduct of research and development activities to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. A record, for the purposes of this new part, would include any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved.

The new part would state that these records are not made available for public inspection or copying nor is information contained therein released to the public when disclosure thereof is prohibited by the Director, FAA Civil Aviation Security Service, or his designee. It would list records that may be subject to such a prohibition, and describe when the disclosure of those records is prohibited.

This amendment is proposed under sections 313(a), 316(d)(2), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1357(d)(2), and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend the Federal Aviation Regulations as follows:

1. By adding a new definition to § 1.1 between the definition of "Interstate air transportation" and the definition "Kite" to read as follows:

§ 1.1 General definitions.

* * * * *

"Interstate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

* * * * *

2. By adding a new part 191 to Subchapter K to read as follows:

PART 191—WITHHOLDING SECURITY INFORMATION FROM DISCLOSURE UNDER THE AIR TRANSPORTATION SECURITY ACT OF 1974

Sec.
191.1 Applicability.
191.3 Records and information withheld.
191.5 When disclosure of information is prohibited.

AUTHORITY: Sec. 313(a), 316(d)(2), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1357(d)(2), and 1421), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

§ 191.1 Applicability.

(a) This part implements section 316(d)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(d)(2)) and governs the release of any record, and any information contained therein, in the possession of the FAA which has been obtained or developed in the conduct of research and development activities to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

(b) For the purposes of this part, "record" includes any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved.

§ 191.3 Records and information withheld.

(a) Notwithstanding 5 U.S.C. 552, the records described in § 191.1(a) of this Part are not made available for public inspection or copying nor is any information contained in those records released to the public when disclosure thereof is prohibited by the Director, FAA Civil Aviation Security Service or his designee.

(b) Records subject to paragraph (a) of this section include, but are not limited to, those containing information which pertains to:

(1) Any hijacker profile.

(2) Any profile used in baggage screening.

(3) The security program of any airport.

(4) The security program of any air carrier.

(5) Any device for the detection of any explosive or incendiary device or weapon.

(6) Any device for protection against, or detection of, cargo theft.

(7) Any contingency security plan.

(8) Any security communications equipment and procedures.

(9) Any threat of sabotage, terrorism or air piracy.

§ 191.5 When disclosure of information is prohibited.

The Director, FAA Civil Aviation Security Service or his designee prohibits disclosure of a record and information contained therein under § 191.3 if in his opinion it would:

(a) Constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(b) Reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

(c) Be detrimental to the safety of persons traveling in air transportation.

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

V. L. KROHN,
Acting Director,
Civil Aviation Security Service.

[FR Doc.76-18594 Filed 6-25-76;8:45 am]

Federal Railroad Administration

[Docket No. RSGC-1, Notice 1]

[49 CFR Ch. II]

STANDARDS FOR THE MAINTENANCE, INSPECTION AND TESTING OF HIGHWAY GRADE CROSSING WARNING DEVICES

Advance Notice of Proposed Rulemaking

The Federal Railroad Administration (FRA) is studying the need for Federal regulations to address certain aspects of the safety problems presented by the existence of railroad-highway grade crossings. This notice is being published in an effort to inform interested persons of FRA's study and to solicit additional views and comments from the public in relation to both specific proposals presently before the FRA and general information as to the necessity, cost, and possible benefit to be derived from Federal regulation in this area.

BACKGROUND OF RAILROAD-HIGHWAY GRADE CROSSING PROTECTION PROBLEM

Since the early days of railroading, the hazards presented by grade crossings for both railroad and highway users have posed a major public safety issue. The Department of Transportation has been involved in the continuing efforts of the Federal government to address this public safety issue. A 1971 report to Congress entitled "Railroad-Highway Safety Part I: A Comprehensive Statement of the Problem," prepared jointly by the Federal Railroad Administration (FRA) and the Federal Highway Administration (FHWA), recognized that the problem of providing adequate protection for both railroad and highway users was a complex one, the solutions to which would cut across the jurisdictions of both agencies and require the continued involvement of each.

A subsequent report to Congress in 1972 entitled "Railroad-Highway Safety Part II: Recommendations for Resolving the Problem" highlighted the need for more detailed information on the number and type of railroad-highway grade crossings. As a result of the combined efforts of FRA, FHWA and the Association of American Railroads (AAR), phase I of the effort to produce a more effective information system produced an inventory which developed and implemented a uniform national numbering system for all railroad-highway grade crossings in the United States. The completed inventory data was delivered to the FRA in January, 1976. It was intended that, in the future, this system would be utilized by State governments as a means of programming State decisions as to which crossings will be given priority for grade crossing protection projects. From this inventory, the following information is now available:

Location of railroad highway grade crossings

Highway system	Number	Percent of total
Federal aid, primary	10,710	5
Federal aid, secondary:		
State	13,207	6
Local city street	17,167	8
Urban (private)	6,167	3
State highway (non-Federal aid)	7,341	4
Local rural roads (non-Federal aid)	83,294	41
Local city street (non-Federal aid)	69,110	33

Vehicular traffic density and type of protection

[In percent]

Average automobile daily traffic vehicular system	Total crossings	Signs	Signals
Under 500	19	95	5
501 to 1,000	39	69	31
1,001 to 5,000	28	57	43
5,001 to 10,000	9	46	54
10,001 to 20,000	3.6	39	61
Over 20,000	0.6	35	65

While the inventory was being developed both FRA and FHWA continued to pursue additional approaches to solutions for the grade crossing safety problem. FRA efforts have concentrated upon research into the improvement of present hardware technology directed both at the warning devices and at the train itself.

FHWA efforts have revolved chiefly around FHWA's ability to provide Federal funding assistance to State governments for highway projects. The Federal Highway Act of 1973 authorized the use of Highway Trust Fund money for the elimination of hazards at railroad-highway grade crossings, the provision of signs for all crossings, and for the installation of protective devices at crossings. These funds are available on a 90 percent/10 percent Federal/State cost sharing basis and can be utilized for projects both on and off the Federal-aid system.

In conjunction with its funding authority, FHWA, through the Task Force Advisory Committee of the National Advisory Committee on Uniform Traffic Control Devices, is attempting to develop a national standard to assure a greater degree of uniformity in the type and use of railroad-highway protection devices. These standards will be incorporated into the Manual on Uniform Traffic Control Devices (MUTCD). Although this addition to the MUTCD has not been finalized by the Task Force Advisory Committee at this time, it appears that the chief concern of these standards will address the questions of design, installation and operation of traffic control or warning devices installed at grade crossings. It appears that the questions of maintenance and testing, functions which have historically been a railroad rather than a public agency responsibility, will be addressed only very minimally in the MUTCD amendment.

On the initiative of a joint railroad labor-management committee composed of representatives of the Brotherhood of Railroad Signalmen (BRS) and the Communication and Signal Section of the Association of American Railroads (C&S Section), the FRA has been studying the need for, and appropriateness of, the promulgation of Federal regulations governing the maintenance and testing aspects of an overall grade crossing safety program. Inasmuch as the proposal submitted by this joint committee was closely related to the existing provisions of the signal system rules, standards and instructions of FRA regulations (49 CFR 236), the FRA has decided that the consideration of this subject matter provided a proper vehicle for the implementation of procedures for regulatory reform recently promulgated by the Secretary of Transportation (41 FR 16200-201).

Pursuant to these procedures, the FRA will be required to evaluate all proposed and final regulations to ensure that they are sound and do not impose unnecessary burdens on the private sector, or on Federal, State, or local governments. In addition, existing regulations will be re-

viewed in a systematic way allowing those affected by the regulations to provide comments with a view toward assessing whether they are effective, necessary, or in need or revision to accommodate changed circumstances and requirements. Through this notice, the FRA is seeking public input, not only on the expected impact of any regulation in this area, but also on the advisability of developing specific regulations which are based directly upon existing rules, standards and instructions for signal systems which were originally enacted in 1939.

BRS–C&S SECTION PROPOSAL

On June 24, 1975, a committee composed of representatives of the BRS and of the C&S Section met with the Acting Federal Railroad Administrator to discuss the railroad grade crossing safety problem. At that time, the joint BRS–C&S Section Committee delivered to the Acting Administrator a draft proposal for the establishment of standards governing installation, maintenance, operation and inspection of highway grade crossing warning devices which had been developed by the Committee. This committee requested that the Federal Railroad Administration (FRA) initiate a rulemaking proceeding based upon its proposal. The Acting Administrator indicated that he would review the proposal and consider whether rulemaking should be initiated. A complete copy of the BRS–C&S Section proposal for standards governing installation, maintenance, operation, and inspection of highway grade crossing warning devices is included as Appendix A to this notice.

The proposed standards submitted by the BRS—C&S Section Committee provided that the provisions of American National Standard D8. 1–1974, "Recommended Practices for Railroad Highway Grade Crossing Warning System," as approved by the American National Standards Institute (ANSI) and published as Bulletin No. 7 of the C&S Section, Association of American Railroads should govern the installation and operation of highway grade crossing devices. Shortly after the proposal had been presented to the FRA, the AAR informed the Acting Administrator that, although the proposed standards had the concurrence of the C&S Section, they had not been reviewed or approved by the AAR Operating-Transportation Division General Committee (OT Committee). After this review, the OT Committee suggested a revision which would delete all reference to Bulletin No. 7 in the appendix to the proposal of the BRS—C&S Section Committee. The revision suggested by the OT Committee is included as Appendix B to this notice.

In response to the OT Committee's suggested revision, the BRS stated that, at the time of submission of these regulations to the FRA, the BRS had approved the proposal as presented in the joint BRS—C&S Section draft, including the incorporation of Bulletin No. 7. The BRS expressed the belief that the standards should be adopted without the revision suggested by the AAR OT Committee.

REQUEST FOR PUBLIC COMMENT

There is no doubt that the railroad-highway grade crossing issue presents a continuing public safety issue of major concern to the FRA. Preliminary analysis of figures reported to FRA indicates that there were 12,130 grade crossing accidents during 1975. Of this total, 6,863 occurred at grade crossings where warning devices were installed. Preliminary statistics also indicate that there were 910 fatalities and 3,978 injuries. The following is a breakdown of the accidents in terms of the type of protection provided and the incidence of nonoperation of the warning devices.

Type	Number of accidents	Not operating when accident occurred
Gates with flashing light signal	978	41
Cantilever with flashing light signals	428	11
Standard flashing light signals	3,771	99
Wig-wag signals	318	11
Audible devices	1,368	30
Total	6,863	192

The FRA believes that there is a need for additional information as to the necessity for, the cost of, and the benefits to be derived from Federal grade crossing warning device maintenance and testing standards in order for it to assess properly the impact of the BRS—C&S Section proposal or similar written comments in relation to the following specific questions, as well as any additional views and opinions with respect to the broader grade crossing protection issue which should be considered by FRA.

1. Is there presently a safety problem posed by the current level of maintenance and testing provided to insure proper functioning of existing grade crossing warning devices? If such a safety problem does exist, can it be effectively addressed by Federal regulations? If Federal regulation would be effective, what specific concerns should such regulations address?

2. Should "undue delay" be defined? (See G of proposed standards.)

3. Should "properly aligned and burning with normal brilliancy" be defined more clearly? (See (2) of Inspection and Tests of proposed standards.)

4. Battery voltage—should low voltage be defined? (See (4), Battery Voltage, of proposed standards.)

5. Records—should this rule read "Records of inspection, tests and corrective action taken shall be made and kept at the location"? (See (6), Records, of proposed standards.)

6. Records of tests—should the last sentence be changed to read, "Each form shall be filed in the office of the division signal supervisory officer. Records of tests shall be correct and legible and available for use by the Federal Railroad Administration's (FRA's) representatives." (See (F), Records of Tests, of proposed regulations.)

7. Should the proposed regulations become effective as proposed in the regulation?

8. Do the technical aspects of the regulations cover all inspections and tests necessary for a safe and reliable operation?

9. If these proposed regulations become effective what additional maintenance force will be required in man hours?

10. What will be the additional maintenance costs?

11. What economic impact will the regulations have with carriers?

12. Will any additional capital investment be necessary?

13. What will the benefits be in terms of numbers of accidents and casualties prevented under these regulations?

Communications should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before August 31, 1976 will be considered by FRA in the further development of this docket. Comments received after that date will be considered so far as practicable. All comments will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

(45 U.S.C. 431, and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n))

Issued in Washington, D.C. on June 22, 1976.

ASAPH H. HALL,
Administrator.

APPENDIX A—BROTHERHOOD OF RAILROAD SIGNALMEN—COMMUNICATION AND SIGNAL SECTION PROPOSAL

PROPOSED CROSSING WARNING SYSTEM STANDARDS

Installation and operation. The Provisions of ANSI D8.1—1974 Railroad-Highway Grade Crossing Warning Systems—Recommended Practices—Bulletin No. 7 shall govern the installation and operation of highway grade crossing warning devices. Bulletin No. 7 shall be reproduced as an appendix to these rules.

A. Plans, where kept. Track layout plan and circuit plan shall be kept at each highway grade crossing warning device location; circuit plan for each highway grade crossing warning device system shall be available at the headquarters of the employee directly responsible for the maintenance of such system; copies of the foregoing plans for the sections of railroad under the jurisdiction of the divisional signal supervisory officer shall be kept at his headquarters; copies of plans of highway grade crossing warning device systems under the jurisdiction of general, regional or system signal officers shall be kept at their offices. All plans

shall be correct and legible and available to authorized government representatives.

When circuit changes are made, all plans shall be completely corrected within one year after the work has been completed.

B. Grounds. Each circuit, other than alternating current power distribution circuits or track circuits, shall be kept free of any ground or combination of grounds which will permit a flow of current equal to or in excess of 75 percent of the release valve of any relay or other electromagnetic device in the circuit which would affect the intended functioning of the system.

C. Housings. Outdoor instrument cases and highway gate mechanisms shall be locked.

D. Interference with normal functioning of device. The normal functioning of any device shall not be interfered with in any manner, testing or otherwise, without first providing for the safety of train operation and vehicular—pedestrian traffic.

E. Design. (1) Where commercial alternating current power is used, an indication light visible from outside of the case shall be provided to indicate that such power is on.

(2) In signal territory railroad signal control circuits shall check the normal position of the directional logic equipment.

(3) Where alternating current power is used, a battery standby source of power shall be provided.

(4) Battery, both primary and storage, shall be of sufficient ampere hour capacity to operate the device as designed and specified on plan.

F. Operating Characteristics. Operating characteristics of electromagnetic and electronic apparatus shall be maintained in accordance with the limits within which it is designed to operate.

G. Adjustment, repair or replacement of component. When any component, the functioning of which is essential to the proper operation of the highway grade crossing warning device, does not perform its intended function, it shall be adjusted, repaired or replaced without undue delay.

H. Track circuit requirements. Track relay or any similar device that functions as a track relay shall be deenergized when a train or car occupies any part of the track circuit.

It shall not be a violation of this requirement where overlay track circuits do not shunt from fouling circuits or the presence of sand, rust, dirt, grease or other foreign matter prevents effective shunting, except that where such conditions are known to exist, adequate measures to provide safety for vehicular and pedestrain traffic must be taken.

I. Shunting sensitivity. Track circuit shall be so maintained that track relay or any other device that functions as a track relay will be in the deenergized position when, if track circuit is dry, a shunt of 0.06 ohm resistance is connected across the track rails of the circuit.

J. Insulated rail joints. Insulated rail joints shall be maintained in condition to prevent sufficient track circuit current from flowing between the rails separated by the insulation to cause a failure of any track circuit involved.

K. Wires on pole lines. (1) Wires carried on pole lines shall be securely tied in on insulators and insulators securely fastened in place.

(2) The battery or power supply for each relay circuit, where an open-wire single-break circuit, or a common-return circuit is used, shall be located at the end of the circuit farthest from the relay.

L. Protection of insulated wire; splice in underground wire. Insulated wire shall be protected from mechanical injury. The insulation shall not be punctured for test purposes. Splice in underground wire shall have insulation resistance at least equal to insulation of wire spliced.

M. Insulated wires and cables; supports. Insulated wires and cables used aerially shall be supported on insulators or by messengers.

N. Tagging wires. Each wire shall be tagged or otherwise marked so it can be identified at each terminal. Nomenclature shall correspond to that of the circuit plan. Tags or other marks of identification in instrument cases and apparatus housings shall be made of insulating material and shall not interfere with moving parts or apparatus.

O. Lightning arrester. Lightning arrester shall be properly connected and ground maintained with resistance to ground preferably not more than 25 ohms.

INSPECTIONS AND TESTS

A. Monthly: (1) *Warning device operation.* Warning device operations shall be checked by shunting at least one track circuit in each approach circuit to the crossing.

(2) *Flashing lights.* Flashing lights shall be observed operating on direct current and, if provided, alternating current, and observations made to determine that lamps are properly aligned and burning with normal brilliancy.

(3) *Battery or power supply.* Battery or power supply used for control circuits that operate highway grade crossing warning devices shall be tested for current flow to ground.

(4) *Battery voltage.* Battery voltage shall be checked at the battery with alternating current power off. If low voltage is found, the voltage of each cell shall be read separately.

(5) *Gate operation.* Gates shall be checked to determine that gate arm starts to lower not less than three seconds after flashing-light signals begin to operate and reaches the horizontal position within 15 seconds after starting down.

(6) *Records.* Records of inspections and tests shall be made and kept at the location.

B. *Quarterly:* (1) *Track circuits.* Each overlay track circuit shall be shunted with a 0.06 ohm shunt and observation made to determine that the associated relay is deenergized.

(2) *Records.* Records of inspections and tests shall be made and kept at the location.

C. *Annual:* (1) *Cut-out circuits.* Where cut-out circuits are provided through switch-circuit controllers, tests shall be made to determine that these circuits are functioning properly.

(2) *Timing relays or devices.* Timing relays or devices used in speed selection or cut-out circuits shall be tested and adjusted if necessary so that the timing is not less than 90 percent of the predetermined time interval.

(3) *Lightning arrestors.* Lightning arresters of the gas or vacuum type connected between line and ground shall be tested with testing instrument designed for that purpose.

(4) *Transmitter and receiver equipment.* Transmitters and receivers shall be tested to determine that they are operating within their assigned frequencies and levels.

D. Biennial: (1) *Relay tests.* Relays in service shall be tested at least once every two years.

(2) *Hold clear devices.* Hold clear devices on gates shall be checked to determine that they are operating with specified limits.

E. Eight years: Insulation resistance tests. Insulation resistance tests shall be made when wires, cables, and insulation are dry. Wires and cables described herein, except wires connected directly to track rails, shall be tested at least once every eight years. Conductors shall be promptly repaired or renewed when insulation resistance is below 1 megohm.

Description. Low voltage (660 volts or less) wires and cables with insulation and protective outer covering not specifically designed for underground use, any part of which is underground or in trunking.

Low voltage (660 volts or less) wires and cables with insulation protective outer covering not specifically designed for underground use, no part of which is underground or in trunking.

Low voltage (660 volts or less) wires and cables with insulation and protective outer covering designed specifically for underground use or in underground conduit, or as submarine cables.

Local signal wiring.

Lead covered signal power cable.

Underground signal power lines not lead sheathed.

F. Records of tests. Records of results of tests; forms for keeping records; where filed.

Results of tests made in compliance with Sections on Inspections and Tests, Sections C, D and E shall be recorded on forms provided by the railroad.

Such forms shall show name of railroad, place and date, equipment tested, repairs, replacements, adjustments made, and condition in which apparatus was left, and signature of employee making the test. Each form shall be filed in the office of a divisional officer of the division on which the tests were made.

The following is the recommendation of the Joint BRS–AAR Committee as to the application of the *Proposed Crossing Warning Systems* (4–23–75 Draft), (Revised 6–24–75)

Section	Subsection	Effectiveness
	Installation and operation	
A		2 yr after adoption as Federal standard.
B		Upon adoption as Federal standard.
C		Do.
D		Do.
E	(1), (2), (3), (4)	Applicable only to new installations and/or improvement of existing installations (example: wig-wag to flashers or flashers to gates) made after adoption as Federal standards.
F		Upon adoption as Federal standards.
G		Do.
H		Do.
I		Do.
J		Do.
K	(1)	Do.
K	(2)	Applicable only to new installations and/or improvement of existing installations (example: wig-wag to flashers or flashers to gates) made after adoption as Federal standards.
L		Upon adoption as Federal standard.
M		Do.
N		Do.
O		Do.
	Inspections and tests	
A	(1), (2), (3), (4), (5), (6)	Upon adoption as Federal standard.
B	(1), (2)	Do.
C	(1), (2), (3), (4)	Do.
D	(1), (2)	Do.
E		Do.
F		Do.

APPENDIX B

REVISION FOR APPENDIX IN LIEU OF BULLETIN NO. 7

Crossing Warning Systems Maintenance and Inspection Standards. Purpose. The purpose of these rules is to provide uniform procedures of maintenance and inspection of highway grade crossing warning devices. It is not the intent of these rules to suggest that existing installations need to be modified solely for the purpose of conforming with the practices set forth herein.

[FR Doc.76-18555 Filed 6-25-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RM75-14]

[18 CFR Parts 2, 154, 157]

NATIONAL RATES FOR JURISDICTIONAL SALES OF NATURAL GAS DEDICATED TO INTERSTATE COMMERCE ON OR AFTER JANUARY 1, 1973, FOR THE PERIOD, JANUARY 1, 1975 TO DECEMBER 31, 1976

Staff Report on the Updated 31 Lease Investigation

JUNE 21, 1976.

On June 13, 1975 (40 FR 26309, June 23, 1975), the Commission issued an order in Docket No. RM 75-14 instituting an investigation to update a prior staff study which indicated a disparity of approximately 1.7 Tcf between gross additions to nonassociated gas reserves reported by the American Gas Association (AGA) for the entire South Louisiana Area and nonassociated gas reserves for 31 Offshore Louisiana leases purchased in December 1970 where reserve estimates were made by the FPC staff in the course of investigations of pipeline companies' certificate applications.

The information obtained in the course of this investigation has been analyzed and evaluated by the Commission staff. The results of this study have now been compiled in aggregate form as "Staff Report on the Updated 31 Lease Investigation."

By an order issued June 17, 1976, the Commission directed the release of the aforementioned staff report two business days after the issuance of said order. Notice is hereby given of the Staff Report On the Updated 31 Lease Investigation, prepared by the Bureau of Natural Gas and attached hereto, which the Commission believes the parties should be given an opportunity to comment on.

Comments on this report may be filed with the Secretary of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 30, 1976. No further comments will be permitted.

All comments shall state the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this rulemaking proceeding should be addressed and shall be single spaced on letter size paper (8" by 10½" by 11"). An original and fourteen conformed copies of each submittal shall be filed with the Commission, and copies will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information at 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. Additionally, copies must be served on all participants in this proceeding who appear on the current Secretary's Service List, and each submittal must contain the following statement signed by the person filing or authorizing the filing: "I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of § 1.17 of the rules of practice and procedure. Dated at _____ this __ day of _____, 19__. Signature." All comments shall be under oath and acknowledged by a notary public or comparable official, as follows: "(Name) being duly sworn, deposes and says [that he is _____ (title and organization, if filing in a representative capacity)]; that he is authorized to verify and file this document; that he has examined the statements contained therein; and that all such statements are true and correct to the best of his knowledge, information, and belief."

The Secretary of the Commission shall publish this Notice in the FEDERAL REGISTER and shall serve it upon all participants in this proceeding, all State Commissions, all other Federal agencies and departments, and upon all parties of record in Docket No. R-389-B.

By Direction of the Commission.

KENNETH F. PLUMB,
Secretary.

FEDERAL POWER COMMISSION

BUREAU OF NATURAL GAS

STAFF REPORT ON THE UPDATED
31 LEASE INVESTIGATION

Docket No. RM75-14

WASHINGTON, D. C.
June, 1976

STAFF REPORT ON THE UPDATED 31 LEASE INVESTIGATION

The two basic aspect of the current investigation are (1) whether the nonassociated gas reserves discovered in a given year are accurately reflected in the AGA annual publication and therefore are suitable to utilize with yearly drilled footage figures to determine gas well productivity and (2) whether the reserves estimates made by or reported to the AGA are reasonable. Ancillary to the preceednig aspects is a staff update of the original report made public on March 21, 1974, in Docket No. R-389-B entitled "Report On Indicated Disparity In Reporting Of Offshore Louisiana Non-Associated Natural Gas Reserves".

SUMMARY AND CONCLUSIONS

Based on the current study involving Gulf of Mexico 1971-1972 discoveries and ultimate reserves at year end 1974, staff concludes that the total nonassociated gas discovered in those two years is not accurately reflected in the AGA publication. The primary reason for the inaccuracy is the fact of the discovery date. Of the twenty-nine fields that staff determined from producer data to be 1971-1972 discoveries, five were reported by the AGA to have been discovered in other years, one as far back as 1967: five of the fields had not been reported as being discovered at the end of 1974; and staff could determine that four of the fields reported by AGA as 1971-1972 discoveries were actually discovered in previous years, one as far back as 1965. The implications are that there is a reportional lag between an actual field discovery and the inclusion of the field reserves in the AGA annual report. There is a total of approximately 1.3 trillion cubic feet of nonassociated gas reserves involved in the fields where discovery date controversies exist.

As to the second aspect of the reasonableness of the reserves estimates made by or reported to the AGA, we would conclude that the estimates in total are reasonable. In 19 fields where staff, the producer, and the AGA all had reserves estimates for 1971-1972 discoveries, there is only a minor difference in the totals of the producer reserves and the AGA reserves. There are several cases in individual fields where there are large differences between the producers estimates and the AGA's estimates. By number of fields there are seven where the AGA's estimate is larger and 12 where the producer's estimate is large. Staff's reserves are about 25 percent lower in total, but only because staff adhered strictly to the AGA definition of proved reserves. Staff estimates that its reserves would have been 40-50 percent higher for its twenty-nine 1971-1972 field discoveries had it utilized the more liberal FPC Form 15 definition of proved reserves.

Many instances can be demonstrated in the current study where producers who do not own interest in all of the blocks in a field or who own no interest in any block in the field have reported the field reserves to the AGA. Since the producer who has access to all the necessary geological and engineering data is not always the one who reports the block or field reserves to the AGA, one should not expect an exact correlation between the producer's own reserve estimate for a block or field and the reserves for the same block or field that are reported to the AGA. In the current study approximately 80-90 percent of the reserves reported to the AGA are by producers who own no interest in the field or do not own interest in all of the blocks in the field.

RECOMMENDATION

Because of the above factors, discretion should be used when utilizing the AGA published data to calculate gas well productivity. Some form of trending or averaging of the reserves discovery over several years is preferable to relying on year-to-year productivity calculations. The Commission in earlier area rate opinions and in the national rate established in Opinion No. 699, has followed the practice of averaging the reserve additions over a number of years in determining average productivity to be used in calculating new gas costs. Such a practice was utilized to lessen the effect of anomalous years of high or low productivity in the cost calculations. An additional benefit that was probably obtained by the averaging was to lessen the reportional lag effect that has been demonstrated in the current investigation. Further, it would appear that the AGA reserves data is not as restrictive as the AGA definition implies inasmuch as the contributors often follow a more liberal definition.

One fact should be noted. The current study involves reserves discovered during a two year period of time in the Gulf of Mexico. The above situations and conclusions may not be valid in the onshore areas or for all other years in the offshore area.

THE INVESTIGATION

On June 13, 1975, the Commission issued an order in Docket No. RM75–14 instituting an investigation to update a prior staff study [1] which indicated a disparity of approximately 1.7 Tcf between gross additions to non-associated gas reserves reported by the American Gas Association (AGA) for the entire South Louisiana Area (including offshore) for the years 1971 and 1972 and non-associated gas reserves for 31 Offshore Louisiana leases purchased in December 1970 where reserve estimates were made by the FPC staff in the course of investigations of pipeline companies' certificate applications. For the 31 leases where the reserves were estimated by staff, the results indicated proved non-associated gas reserves of 4,854 Bcf. The AGA in 1972, estimated the ultimate recovery of non-associated gas reserves from all South Louisiana fields, including offshore, discovered in 1971 and 1972 to total 3,150 Bcf.

In the June 13, 1975, order the Commission stated:

The March 21, 1974, Notice and Staff report was based on a comparison between Staff estimates and the AGA data for 1971 and 1972. Since that time further information has become available, including the AGA Reports for 1973 and 1974. It is vital to the Commission's ratemaking responsibilities that the disparity indicated by the Staff Report be explored further so that the biennial review of the nationwide rate can proceed based on the best possible information currently available to us. It may be, as was noted in the Staff Report, that the 1.7 Tcf difference was due entirely to reportorial lag, a fact which could itself be important in influencing our choices in computing productivity. There could also be other explanations for the disparity. The purpose of this investigation is to seek a resolution of this matter in relation to the utilization of AGA non-associated reserve additions in our ratemaking methodology.

The first step in such an analysis is the development of a base case from which to proceed. In this instance, the base case is the reserves held on those new fields discovered in the Gulf of Mexico in 1971–1972, including the 31 leases that were subject to the March, 1974 Staff Report. This data will provide a test area for the review of the productivity component in the biennial review.

Accordingly, all companies that hold, or held, proved reserves in these 1971–1972 discoveries will be required by July 25, 1975, to provide the Commission, under oath, with estimates of the proven reserves that exist on the subject properties as of December 31, 1974, plus all background information, such as well logs and production histories, necessary for the Staff to make an independent reserve estimate. The information to be submitted, as listed in Appendix A, should include all new field Gulf of Mexico gas discoveries made in 1971–1972, even if such discovery is not included in Table I to Appendix A. In addition, all producer respondents must submit all information made available to AGA for the years 1971–1974 relative to the reserve estimates made by AGA for the 1971–1972 new discoveries, including the company's estimate of total proved reserves for each subject property in each year and any estimate filed by the company or its representative(s) serving on the Committee on Natural Gas Reserves or its subcommittees.

By an order dated July 11, 1975, the Commission extended to July 31, 1975, the date for filing the required information in paragraph (B) of the June 13 order. Responses to the order were to be a matter of public record.

On July 20, 1975, upon application of Pennzoil Company, et al. and Tenneco Oil Company,[2] the Fifth Circuit Court of Appeals issued an order granting a request for a stay of the Commission's Order only to the extent that the data submitted pursuant to the Commission orders would be "held in the strictest confidence" pending further action by the Court. Pursuant to this direction, the Secretary has kept the information submitted in a locked room with access only by authorized persons. The issue of the public release of the filed information is currently pending before the court.

The initial step in the staff investigation was to examine all of the information filed to determine compliance with the order and to list any additional materials that would be needed from the individual producers. The initial problem that developed was an apparent failure on the part of several producers to comply with the Commission order. As each producers' submitted data was examined, a list was made of the fields and the offshore blocks in each field for which data was made available. The field and block list was then compared to a list acquired from the United States Geological Survey (USGS) designating the blocks comprising each official field designation. There were many cases where producers had not filed information on blocks in a field where another producer had filed information indicating that the field was a 1971–1972 discovery.

A list of these apparent failures by producers was compiled and supplied to the staff attorney who, in turn, contacted the producer and requested that the information be filed. The common responses from the producers were:

1. The producer either did not know that the field was a 1971–1972 discovery or believed that the reserves on his block were discovered at a later date.
2. The producer had no reserves on the block because the wells drilled were dry or the reserves were noncommercial.
3. The reserves on the block were discovered prior to 1971–1972.

As to the first two responses, the producers agreed to file the required information and for the last case, the fields were eliminated from staff's list of 1971–1972 discoveries.

The Commision order of June 13, 1975, stated:

The purpose of this investigation is to seek a resolution of this matter in relation to the utilization of AGA non-associated reserves additions in our ratemaking methodology.

In attempting to conduct a study that would achieve the purpose stated by the Commission, certain ground rules had to be established. The only actual data of the AGA then available to staff were their annual publications.[3] The only ready comparison that could be made between an analysis of the data available to staff and the AGA published data would be a comparison of the total non-associated gas reserves for the fields discovered in the offshore area during 1971–1972, based on the information available through December 31, 1974, as determined by staff, and the AGA's report of non-associated gas reserves by year of discovery in the Gulf of Mexico.

To make the above comparison, the staff determined that it should be adhered to the following rules:

A. Staff would follow explicitly the AGA's definition of proved reserves as set forth in their annual publication. (See attached as Appendix "A".

B. No information contained in the data available to staff, such as well logs and tests that were not in existence until after December 31, 1974, would be utilized in staff's analysis.

C. Only reservoirs containing proved non-associated gas reserves would be evaluated. Reservoirs that contained associated (gas cap) or dissolved (casinghead) gas were not to be included.

RESULTS OF STUDY

Following the above stated guidelines, the staff proceeded to make their own reserves analyses, based on the data filed by each company, for each block that contained proved non-associated gas reserves. It became apparent early in the study that the producers reports of proved reserves did not adhere to the AGA's definition of proved reserves. It also became apparent that, in many cases, the reserves reported to the AGA by the producer did not adhere to the definition.[4] Another factor that became apparent was, in many cases, that the producer who actually owned the reserves did not make a report of reserves to the AGA and that a producer who owned no interest or, an interest in some other block in the field, had reported the reserves for that block or for the total field. In other cases, none of the respondent producers indicated any report of proved reserves to the AGA. Assuming that the AGA included reserves for these blocks, then the AGA must have received these estimates from a producer with no inter-

[1] Appendix B–1 in Notice of Issuance of Revised Staff Nationwide Cost Study and Staff Study of American Gas Association Reserve Additions; Docket No. R–389–B; issued March 21, 1974.

[2] Pennzoil Company et al. v. F.P.C. No. 75–2961 (5th Cir. 1975).

[3] "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas in the United States and Canada and United States Productive Capacity."

[4] The failure of the producer and/or producer-reporter to use the AGA definition is a conclusion of the Staff based on its analysis of the filed data as compared with the operator's estimate or the producer-reporter's estimate. No where in writing did any respondent admit that it did not use the AGA definition when reporting the reserves to the AGA subcommitte, but this fact was acknowledged orally to staff personnel by one producer representative who is a AGA subcommittee member.

est in the field or blocks, or the reserves committee must have made its own reserves estimates.

Due to the inability of making direct correlations for all of the 1971–1972 Affshore Gulf discoveries, because of the problems discussed above, the following tabulation has been made to demonstrate the various cases and the correlations that can be made:

Comparison of reserves estimates discovered in the Gulf of Mexico during 1971–72, based on information available at Dec. 31, 1974

Category	Reserves estimates staff (million cubic feet)	By operator	Submitted to American Gas Association	American Gas Association reserves not differentiated by block [1]	Number of blocks [2]	Number of fields
1	2,498,892	3,069,090	2,798,408		21	10
2	967,849	1,516,006			21	15
3	184,603				6	4
4	9,130		17,800		1	1
5		135,600	176,200		1	1
6		752,621			14	13
7			37,000		5	2
8				1,137,754	NA	4
Total	3,660,564	5,473,317	3,029,408	1,137,754		
			4,167,162			

[1] American Gas Association reserves given for total field. Different staff, operator estimates for the blocks are included in the appropriate category (w/American Gas Association column blank).
[2] Blocks with more than 1 lease (W.C. 28, E.C. 33) counted as 1 block.

Only in Category 1 is there an apparent direct comparison of Staff, operator and AGA reserves estimates. However, this is only apparent. In many of the fields and blocks a producer who did not own interest in all of the blocks in the field or a producer who owned no interest in the field has reported the reserves estimate to the AGA.

Category 2 is a direct comparison of the reserves estimates of staff and the operator in the cases where no estimate was provided to the AGA. As stated previously, the staff adhered strictly to the AGA proved reserves definition and in most cases the producer did not. This comparison therefore is of questionable value because of the difference in the definitions used.

Category 3 is the sum of the fields and blocks where the staff estimated proved reserves but the respondent producers did not report reserves for the blocks and there is no indication that reserves were reported by some other producer to the AGA. In some of these cases the producer, when contacted, stated that the reserves were noncommercial. In some cases the reserves were primarily associated and dissolved gas and the nonassociated reserves were composited with those reserves by the producer.

Category 4 is a single block where staff had proved reserves, the producer shows no reserves for the field and the producer, or an employee of the producer, reported reserves to the AGA.

Category 5 is one field containing one block where the producer reported proved reserves and the producer, or an employee of the producer, had reported reserves to the AGA. The staff, however, could find no evidence in the data supplied by the producer that there had been any actual production or conclusive formation test in any of the reservoirs in the field, which are necessary components of the AGA definition of proved reserves.

Category 6 are fields where the producer reported reserves but the staff found no proved reserves because of the lack of information showing actual production or a conclusive formation test in any of the reservoirs. None of the producers in these fields reported reserves to the AGA, however, this does not mean that a producer(s) who does not own any interest in any of the blocks did not report these reserves to the AGA.

Category 7 are two fields where reserves were reported to the AGA but no proved reserves were determined by the producer or staff. In one case the producer, or an employee of the producer, reported reserves to the AGA but the producer apparently felt that the reserves were noncommercial. In the other field a producer, other than the producer who owned the leased interest in the blocks in the field, reported reserves to the AGA.

Category 8 are reserves that were reported on a total field basis to the AGA but were not broken down for the individual blocks in the field. The reserves are reported by the staff or the operator in the appropriate category but there is no way of determining whether the AGA reserves are reported for the same blocks in the field as the staff or the producers' reserves estimates.

The totals of each of the columns are not correlative because each does not contain all of the same fields and/or blocks. The only category that is reasonably correlative is Category 1, but there is a problem with the reserves reported to the AGA. The producer who owned the reserves was not, in every case, the one who reported the reserves to the AGA.

The following table shows the reported reserves by the AGA in their annual publication for the 1971–1972 discoveries as the ultimate reserves have increased with additional development to the end of 1974.

Gulf of Mexico—Nonassociated gas reserves by year of discovery

[In billion cubic feet]

Discovery year	Year of estimate			
	1971	1972	1973	1974
1971	535	2,418	2,594	3,443
1972		373	1,045	1,379
Total	535	2,791	3,639	4,822

The nearest totals in the current study that might be comparable to the AGA ultimate reserves figure would be the total of staff's reserves and the total of the producer's reserves. The total of the AGA's reserves is probably incomplete due to the possibility that some producer, other than the producer respondents to the Commission order, may have reported the reserves to the AGA or that the AGA reserves subcommittee may have made its own estimate. However, there is a basic fallacy inherent in attempting to make any comparison. *At this time there was no way of knowing if the reserves estimates of staff and the producers in the current study were for exactly the same correlative fields and blocks as those reported in the AGA annual publication.*

To make the required comparison, the Commission determined that AGA data would need to be acquired that would show their list of fields that were considered to be 1971–1972 discoveries and their estimate of ultimate reserves of nonassociated gas for these fields as of the end of 1974.

To achieve this objective the Commission on February 25, 1976, directed the Secretary to issue *subpoenas duces tecum* to the President of the AGA and to four members of the AGA Committee on Natural Gas Reserves to provide certain specified information that would enable the staff to complete the investigation.

On March 11, 1976, all five persons subpoenaed complied with the subpoenas and provided responses to the specifications.

ANALYSIS OF THE SUBPOENA DATA

The AGA subpoenaed data showed that there were 30 fields included in the 1974 publication that were discovered in 1971–1972 with total ultimate proved nonassociated gas reserves of 4,705,410 thousand Mcf. This compares to 29 fields as determined from the producer filed data that, by staff determination, contained 3,660,564 thousand Mcf of ultimate proved nonassociated gas reserves. However, they are not exactly the same fields.

Aside from the definitional differences discussed previously, other reasons for the indicated disparity are as follows:

1. There are four fields containing 328,793 thousand Mcf of ultimate nonassociated gas reserves in the AGA total as 1971–1972 discoveries where staff can determine a prior year of discovery.

2. There are five fields containing 164,932 thousand Mcf of ultimate nonassociated gas

reserves that the AGA shows were discovered in years other than 1971–1972. The producer data indicates that these fields were discovered in 1971–1972 and staff's comparable reserves estimate is 160,400 thousand Mcf.

3. There are five fields containing 358,609 thousand Mcf of ultimate nonassociated gas reserves estimated by staff, based on producer filed data as being 1971–1872 discoveries, where the AGA shows no reserves at the end of 1974.

4. There are two fields containing 57,411 thousand Mcf of ultimate nonassociated gas reserves, according to AGA, where the producer did not file reserves data. Staff information indicates that these are actually 1971–1972 discoveries.[5]

5. There are nine fields containing 433,112 thousand Mcf of ultimate nonassociated gas reserves that the AGA includes as 1971–1972 discoveries where staff analysis of the producer data showed no proved reserves by the AGA definition. In these fields the producer data contained no information to indicate any conclusive formation tests or actual production. In only four of these fields did the producer operator show proved reserves.

[5] The producer operators for these two fields have been contacted and the necessary reserves information is forthcoming. Should an analysis of this data significantly alter staff's conclusions, a supplemental report will be issued.

There are only 19 fields that staff, the producer and the AGA all show as being 1971–1972 discoveries and all show proved reserves. The total reserves by each are as follows: (Thousand Mcf at 14.73 psia and 69° F)

Staff	3,141,555
Producer	4,005,728
American Gas Association	4,214,947

The primary reason for the lower staff figure is that staff adhered strictly to the AGA's definition of proved reserves and in many cases the AGA and producer did not. The primary reason for the difference between the AGA and the producer occurs because in many cases a producer who did not own interest in all of the blocks in a field or who owned no interest in the field reported the reserves to the AGA. There is one large field where the producer and staff show the reserves to be primarily associated gas but the AGA shows the reserves to be primarily nonassociated gas.

There is also a discrepancy in the AGA data for which staff does not have an explanation. The total ultimate nonassociated reserves in the AGA worksheets does not agree with the 1974 ultimate reserves in the annual publication. The following is a comparison of the AGA worksheets and the published figures:

Discovery year	AGA worksheets	AGA publication	Difference
1971	3,474,148	3,442,670	31,478
1972	1,231,262	1,379,187	(147,925)
Total	4,705,410	4,821,857	(116,447)

It may be that portions of onshore fields that extend into the offshore area have been allocated as offshore reserves. However, there is no information in the subpoenaed data to indicate that such allocations have been made. Also, the subpoenaed data are from the reserves subcommittee and an adjustment may have been made prior to inclusion in the final publication.

DISCUSSION

There have been several revelations in the current study which demonstrate the difficulty of making the comparison of reserves that was contemplated in the Commission's June 13 Order. Some of these revelations are as follows:

(1) There is no standard procedure for determining the exact date of a field discovery. Several of the producers contacted in this study were unaware that the field was discovered in 1971–1972. The producers apparently maintain their records of discovery only as it pertains to reserves on their individual leased interest. The USGS apparently has its own method of designating a field discovery which may or may not correlate to the year that proved reserves were actually demonstrated in a well on a block that ultimately was included in the field. A good example of this is that three fields included in the current staff study, based on information filed by the producer as being discovered during the 1971–1972 era, are also included in the USGS's recently completed estimates of reserves discovered in the 1973–1974 era. There is no information available that describes how the AGA determines the date of discovery of a particular field. The AGA apparently has the option of utilizing information contained in industry publications; reports by individual producers; well completion reports filed with the USGS; or field designation discovery dates as determined by the USGS.

(2) Although the AGA's annual publications contains a definition of Proved Reserves (see Appendix A), it is obvious that neither the AGA, the producer, nor the producer reporting reserves to the AGA follow the explicit definition. In many cases the producer reported reserves to the AGA as he carried these reserves in his own accounts even though the estimates did not conform to the definition. In other cases a producer, other than the producer who owned an interest in the lease block or field, reported a "nominal" proved reserve figure to the AGA. In another case the AGA subcommittee added an arbitrary 100 percent increase to the ultimate recoverable reserves attributed to one field because the current cumulative production was about to exceed the total proved reserves attributed to the field. Unless all parties making reserves estimates adhere to the same rules, interpretation of geological and engineering information notwithstanding, then meaningful correlations cannot be made.

(3) The last situation involves the problem of the criteria which should be utilized to designate a new field discovery. A field, in general, should be a single geologic feature whose common characteristics have contributed to the accumulation of oil and/or gas in one or more separate reservoirs. In the offshore Gulf of Mexico the USGS, based on their own criteria, make field designations and determine which of the offshore blocks should be included in the designated field. These field and block designations are apparently felt necessary by the USGS for the reporting of development and production information from the field. However, there is no way of knowing if the producer or the AGA considers these same blocks, as designated by the USGS as comprising the same field. There are instances in the current study where blocks, other than blocks designated by the USGC, were reported as containing reserves attributed to certain fields. There are probably instances where the producer did not report reserves for a separate block because he felt that the reserves were attributable to another separate and distinct geological feature.

All reserves estimates are based on individual interpretation of geological and engineering data and are subject to the judgement of the individual estimator. It is not unusual to have differences between individual estimators, within a reasonable tolerance, even when they have access to the same data. It is obvious in the current study that reserves were reported to the AGA by producers who did not have complete access to all of the data in a given field. It is obvious that in many cases where the producer does have access to all of the field data, the reserves he reports are by his own definition of proved reserves and not by the definition of the AGA.

Another factor that should be recognized in comparisons of reserves estimates is that the differences are most likely to be largest during the development stages of a field and tend to decrease after full development and after performance data has become available. Many of the Gulf of Mexico fields discovered in the 1971–1972 era are still developing and most have little or no production or pressure performance data.

COMPARISON WITH THE ORIGINAL INVESTIGATION

The original "31 Lease Investigation" actually only involved reserves estimates on 21 leases contained in 20 offshore blocks; one block was composed of two separate leases. The original staff estimates were made in conjunction with pipeline certificate applications to attach dedicated gas reserves in the offshore area and the estimates were made on an application-by-application basis over a two year period of time. The sum of what was called proved reserves in the staff memos was 4,938,589 thousand Mcf. The total of the reserves estimates for the same 20 blocks for the current study is 2,590,976 thousand Mcf. A comparative total cannot be made from the AGA data because the AGA reserves are by

field and not by individual blocks in the field.

A review and comparison of the original and current estimates reveals that this large difference can be attributed primarily to estimates made on 6 blocks, all of which contain large reserves. On two of the blocks the difference is attributable to a change in classification of the reserves from non-associated to associated and dissolved gas. When the initial estimates were made the wells that had been drilled were high on the structure and were in the gas cap of most of the reservoirs. Subsequent downdip drilling has revealed that most of these reservoirs have oil columns downdip and that the updip gas is properly associated rather than non-associated. In the other 4 blocks the difference is primarily due to misclassification by staff of some of the reservoirs as proven when they were indeed not proven by AGA definition.

A misconception that has carried throughout the controversy involving the "31 Lease Investigation" is that the staff adheres to the AGA definition of proved reserves when it evaluates reserves in pipeline certificate applications. The staff in past years has generally followed the FPC Form 15 definition of proved reserves which is also included on Attachment "A". The primary difference in the two definitions is that the Form 15 does not require actual production or a conclusive formation test and that the lowest known structural occurrence of hydrocarbons does not control the proved limits of the reservoir.

As stated previously, the staff adhered exactly to the AGA definition in the current investigation. This caused the elimination of several reservoirs because of the lack of actual production or conclusive test and reduced the area in other reservoirs by the limitation of the proven area of the reservoir down to the lowest known structural occurrence of hydrocarbons.

APPENDIX A

AGA Definition of Proved Reserves

The Committee's definition of proved reserves defines the current estimated quantity of natural gas and natural gas liquids which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basic of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir.

Form 15 Definition of Proved Reserves Recoverable—Proved Reserves

The proved reserves of natural gas as of December 31st of any given year are the estimated quantities of Certificated natural gas which geological and engineering data demonstrates with reasonable certainty to be recoverable in the future from known natural oil and gas reservoirs under existing economic and operating conditions.

[FR Doc.76-18559 Filed 6-25-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 201, 240]

[Release Nos. 33-5719, 34-12562, 35-19586, 39-438, IC-9326, IA-522]

INCORPORATION BY REFERENCE

Proposed Amendment of Rules of Practice and Revocation of Related Rule Classifying Basic Documents; Extension of Comment Period

In Securities Act Release No. 33-5711 (May 21, 1976) [41 FR 21796], the Commission invited public comments on amendments to its rules allowing incorporation by reference in current documents of documents previously filed. The proposed rule would limit incorporation by reference to not more than three years after it was filed unless it is a basic document. As newly defined in the proposed rule, a person may designate as a basic document a document he has filed with the Commission no more than 10 years prior to the date of designation and which he reasonably expects to incorporate by reference in a filing. A copy of such documents would be sent to the Commission with an application that it be regarded as a basic document.

The Commission has received requests that the comment period be extended so that interested persons may have additional time in which to present their views and supporting data on these matters.

The Commission has considered these requests and has determined to extend the comment period until July 19, 1976.

Interested parties are invited to submit their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before July 19, 1976. Reference should be made to File No. S7-633. All comments received will be subject to public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 21, 1976.

[FR Doc.76-18577 Filed 6-25-76;8:45 am]

notices

DEPARTMENT OF STATE

[CM-6/64]

ADVISORY COMMITTEE FOR U.S. PARTICIPATION IN THE UN CONFERENCE ON HUMAN SETTLEMENTS (HABITAT)

Meeting

The Advisory Committee for U.S. Participation in the UN Conference on Human Settlements (Habitat) will hold its final meeting on Tuesday, July 13, 1976. This open session, which will take place in Room 1107 of the Department of State, will convene at 10 a.m. and is scheduled to continue until 1 p.m. Those planning to attend should use the Department of State entrance at 22nd and C Streets NW.

The agenda for this session will include:

1. A report on the outcome of the Habitat Conference.
2. A general assessment of the Conference.
3. Post-Habitat plans of the Habitat National Center and other organizations.

Members of the public may attend this session up to the capacity of the meeting room. They will be able to participate in the discussions subject to the chairman's instructions.

In order to comply with building security requirements, anyone who wishes to attend the meeting must advise the office of the Habitat Coordinator by telephone. The number there is (202) 632-0504.

Dated: June 21, 1976.

DONALD M. KRUMM,
Executive Secretary.

[FR Doc.76-18676 Filed 6-25-76;8:45 am]

[CM-6/65]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Meeting

The Government Advisory Committee on International Book and Library Programs will meet on July 29, 1976. The meeting is open to the public and will be held in Room 1105 in the Department of State, 2201 C Street, NW., Washington, D.C. from 9 a.m. to 5:30 p.m.

The agenda will include:

1. A discussion on the implementation of the Final Act of the Conference on Security and Cooperation in Europe.
2. A report on the International Book Committee meeting.
3. A report on the UNESCO Seminar on Reading Motivation.
4. A status report on the activities of UNESCO's Office of Free Flow of Information.
5. Reports on the annual meetings of associations affiliated with the Government Advisory Committee.
6. A proposal for the Book Development Council.
7. A discussion on relations between American and Egyptian publishing communities.

Members of the public may written comments to the Chairman prior to July 22, 1976. The Chairman will, as time permits, entertain all comments made by the public attending the meeting.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone (202) 632-2841.

Dated: June 21, 1976.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.76-18677 Filed 6-25-76;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MERCANTILE NATIONAL BANK, ATLANTA, GEORGIA

Suspension of Trading

It appearing that an extension of the Order, issued June 11, 1976, suspending trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 12(i) and 12(k) of the Securities Exchange Act of 1934, the suspension of trading in the securities of Mercantile National Bank, Atlanta, Georgia, on the over-the-counter market is hereby extended for the ten-day period commencing at midnight (e.d.t.) on June 21, 1976, and terminating at midnight (e.d.t.) on July 1, 1976.

Dated: June 21, 1976.

JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.76-18635 Filed 6-28-76;8:45 am]

Office of the Secretary

MELAMINE IN CRYSTAL FORM FROM JAPAN

Antidumping Amendment of Withholding of Appraisement Notice

A "Withholding of Appraisement Notice" with respect to melamine in crystal form from Japan was published in the FEDERAL REGISTER of June 18, 1976 (41 FR 24731-32).

The last paragraph of that notice contained an inadvertent omission and is hereby amended to read:

This notice, which is published pursuant to § 153.34(b), Customs Regulations (19 CFR 153.34(b)), shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

Dated: June 23, 1976.

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-18675 Filed 6-25-76;8:45 am]

[Public Debt Series—No. 15-76]

TREASURY NOTES OF SERIES N-1978

Interest Rate

JUNE 22, 1976.

The Secretary of the Treasury announced on June 21, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 15-76, dated June 16, 1976, will be 6⅞ percent per annum. Accordingly, the notes are hereby redesignated 6⅞ percent Treasury Notes of Series N-1978. Interest on the notes will be payable at the rate of 6⅞ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-18614 Filed 6-25-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

GUARDS AND INVESTIGATORS COMMITTEE OF LEAA'S PRIVATE SECURITY ADVISORY COUNCIL

Meeting

Notice is hereby given that the Guards and Investigators Committee of LEAA's Private Security Advisory Council (PSAC) will meet Thursday and Friday, July 15 & 16, 1976. The meeting will convene at 10 a.m. July 15, in the Back Bay Room of the Copley Plaza Hotel, Copley Square, Boston, Massachusetts. The meeting is scheduled to adjourn by Noon, July 16.

Discussion at the meeting will focus upon the development of proposed standards for the private investigations industry. The meeting will be open to the public.

For further information, please contact: Mr. Irving Slott, Director, Program Evaluation and Monitoring Staff, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531. 202/376-3830.

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

[FR Doc.76-18860 Filed 6-25-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[INT DES 76-25]

NAVAJO-EXXON URANIUM DEVELOPMENT PROPOSAL

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Bureau of Indian Affairs has prepared a Draft Environmental Statement for the Navajo-Exxon Uranium Development Proposal, which is located in San Juan County, New Mexico.

The Environmental statement considers human and physical environmental effects associated with the approval of a 400,000 acre tract exploration permit containing certain restrictions on options for mining leases and milling sites. Written comments are invited within forty five (45) days of this notice.

Copies are available for inspection at the following locations:

Bureau of Indian Affairs, Division of Trust Facilitation, Room 4554, Department of Interior Bldg., Washington, D.C. 20245. Telephone: (202) 343-4004.

Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona 86515. Telephone: (602) 871-4366.

Bureau of Indian Affairs, Shiprock Agency, Shiprock, New Mexico 87420. Telephone: (505) 368-4427.

Bureau of Indian Affairs, Navajo-Exxon Task Force, Room 3088, Federal Bldg., 517 Gold S.W., P.O. Box 1740, Albuquerque, New Mexico 87102. Telephone: (505) 766-3992.

Copies of the Draft Environmental Statement may be obtained from the Navajo-Exxon Office of the Bureau of Indian Affairs in Albuquerque, New Mexico.

Dated: June 23, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-18670 Filed 6-25-76;8:45 am]

NAVAJO-EXXON URANIUM DEVELOPMENT PROPOSAL

Draft Environmental Statement; Public Hearing

Public Hearings will be held to receive public comments regarding the environmental impacts portrayed in the Bureau of Indian Affairs Navajo-Exxon Uranium Development Proposal Draft Environmental Statement.

The Hearings are scheduled as follows:

August 3, 1976 at 10 a.m., Civic Center, Window Rock, Arizona.

August 6, 1976 at 10 a.m., San Juan Community College Auditorium, Farmington, New Mexico.

August 5, 1976 at 10 a.m., Boarding School Auditorium, Shiprock, New Mexico.

Oral and written statements by interested parties are invited. Oral statements by any party will be limited to no more than ten minutes. Written statements can be entered into the record by filing a copy with the presiding officer.

Additional information on the hearings and copies of the Navajo-Exxon Uranium Development Proposal Draft Environmental Statement may be obtained from the Navajo Exxon Task Force Office, Room 3088, Federal Building, 517 Gold S.W., Albuquerque, New Mexico 87102. Telephone (505) 766-3992.

Dated: June 23, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-18669 Filed 6-25-76;8:45 am]

Bureau of Land Management

[Serial No. A-9590]

ARIZONA

Proposed Withdrawal and Reservation of Lands

The Forest Service, United States Department of Agriculture has filed an application, Serial Number A-9590, for the withdrawal of the National Forest lands described below from location and entry under the general mining laws, but not the mineral leasing laws, subject to existing valid rights.

The applicant has requested the withdrawal for the purpose of preserving a geologically unique area within the San Francisco Peaks volcanic field.

On or before July 28, 1976, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

COCONINO NATIONAL FOREST

RED MOUNTAIN GEOLOGIC AREA

T. 25 N., R. 5 E., GSR Mer., Arizona.
Sec. 20, S½N½, S½;
Sec. 21, lots 3 to 8, inclusive, W½SE¼;
Sec. 28, W½E½, W½;
Sec. 29, all.

The areas described aggregate approximately 1907.87 acres in Coconino County.

Dated: June 18, 1976.

EDWARD F. SPANG,
Acting State Director.

[FR Doc.76-18585 Filed 6-25-76;8:45 am]

[Serial No. A 9291]

ARIZONA

Proposed Withdrawal and Reservation of Lands

The Forest Service, United States Department of Agriculture, has filed an application, Serial Number A-9291, for the withdrawal of the National Forest land described below from location and entry under the general mining laws, but not the mineral leasing laws, subject to existing valid rights.

The applicant wants to use the land to conduct science demonstration classes for students of public schools in the area. The land contains unique geological features, historical and archaeological sites which make it valuable for educational purposes.

On or before July 28, 1976, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secre-

tary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

COCONINO NATIONAL FOREST

ELDEN ENVIRONMENTAL STUDY AREA

T. 21 N., R. 7 E., GSR Mer., Arizona
Sec. 1, S½;
Sec. 2, lots 7, 8, SW¼ (less 14.25 acres in HES 86), S½SE¼;
T. 21 N., R. 8 E.
Sec. 6, lots 6, 7, NE¼SW¼, NW¼SE¼-SW¼, N½SW¼SE¼SW¼;
Sec. 7, lot 7.

The areas described aggregate approximately 778.00 acres in Coconino County.

Dated: June 18, 1976.

EDWARD F. SPANG,
Acting State Director.

[FR Doc.76-18586 Filed 6-25-76;8:45 am]

[Coal Land Classification Order Colorado No. 137]

Geological Survey

COLORADO

Classification of Lands

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO
Coal lands:
T. 36 N., R. 14 W.,
Sec. 6, lot 7, SE¼SW¼;
Sec. 7, lots 1 to 4, inclusive, E½W½.
T. 36 N., R. 15 W.
Sec. 1, NE¼SW¼, S½SW¼, SE¼;
Sec. 2, SE¼SE¼;
Sec. 11, E½, NE¼SW¼, S½SW¼;
Sec. 12;
Sec. 13, N½NE¼, SW¼NE¼, NW¼, NW¼SE¼;
Sec. 14;
Sec. 15, E½NE¼, SE¼SW¼, SE¼;
Sec. 21, E½, SE¼NW¼;
Secs. 22 and 23;
Sec. 24, NW¼, W½SW¼;
Sec. 26, N½NE¼, SW¼NE¼, E½W½, NW¼NW¼, SW¼SW¼, NW¼SE¼;
Sec. 27, NE¼NE¼, W½NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 28, NE¼, SE¼NW¼, S½;
Sec. 29, W½NE¼, SE¼SW¼, SE¼;
Sec. 32, NE¼, E½NW¼, N½SE¼;
Sec. 33;
Sec. 34, N½, SW¼, NW¼, NW¼SE¼;
Sec. 35, NW¼NW¼.
T. 36 N., R. 16 W.,
Sec. 5, lots 3 and 4, S½NW¼;
Sec. 6, lots 1 and 2, S½NE¼.
T. 37 N., R. 16 W.,
Sec. 31, SE¼NE¼, SE¼;
Sec. 32, S½NW¼, SW¼, W½SE¼.

The area described aggregates 8,912 acres, more or less, of which all are classified as coal.

Dated: June 11, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-18624 Filed 6-25-76;8:45 am]

[Coal Land Classification Order Utah No. 117]

UTAH

Classification of Lands

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SALT LAKE MERIDIAN, UTAH

Coal lands:
T. 34 S., R. 10 E.,
sec. 36, NW¼NE¼, NE¼NW¼.

The area described aggregates 80 acres, more or less, of which all are classified as coal.

Dated: June 16, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-18623 Filed 6-25-76;8:45 am]

National Park Service

CUYAHOGA VALLEY NATIONAL RECREATION AREA GENERAL MANAGEMENT PLAN

Meetings

Notice is hereby given of public meetings on the Cuyahoga Valley National Recreation Area Draft General Management Plan (master plan) to be held in the Cleveland-Akron area of Ohio. The meeting schedule:

July 29, 7:30 p.m. (e.d.t.)—Western Reserve Historical Society, 10825 East Boulevard, Cleveland, Ohio
July 30, 7:30 p.m. (e.d.t.)—Happy Days Trail Center, 434 West Streetsboro Road, (Route 303), 2 miles east of Peninsula, Ohio
July 31, 1 p.m. (e.d.t.)—John D. Morley Health Center, 177 South Broadway, Akron, Ohio

The plan will be reviewed and explained at each meeting and persons who wish to do so may comment verbally. Written comments may be submitted through August 27, 1976, to William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264.

After considering the comments, the National Park Service will prepare the document which, after approval by the Regional Director, will become the General Management Plan for the Recreation Area.

Copies of the draft plan have been distributed to various agencies and organizations concerned with the Recreation Area and to elected officials of communities surrounding the park. A summary containing a description of the recommendations of the plan has been sent to those who attended previous public meetings and workshops on the plan and to others who expressed interest. Copies of the full draft plan, or the summary, may be obtained from the Superintendent at the above address. The plan is available for review at Park Headquarters, 501 Streetsboro Road, State Route 303, Peninsula, Ohio and at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska.

Dated: June 18, 1976.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.76-18600 Filed 6-25-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Meeting

The Flue-Cured Tobacco Advisory Committee will meet in the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27605, at 1 p.m., on Monday, July 12, 1976.

At the June 17 meeting, the Committee recommended that Marketing Area A comprise all Georgia-Florida markets; Area B—all South Carolina-Border North Carolina (except Fayetteville) markets; and Area C—all Eastern North Carolina (plus Fayetteville) and Southern Middle Belt markets. Recommended opening dates are as follows: Area A, July 8; Area B, July 13; and Area C, July 20. The purpose of this meeting is to discuss remaining marketing areas and recommend opening dates and selling schedules for the flue-cured tobacco to be sold in said areas. Also, matters as specified in 7 CFR Part 29, Subpart G, § 29.-9404 will be discussed.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. J. W. York, Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street, S.W., United States Department of Agriculture, Washington, D.C. 20250, (202) 447-2567.

Dated: June 22, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.76-18618 Filed 6-25-76;8:45 am]

[Marketing Agreement 146]

PEANUT ADMINISTRATIVE COMMITTEE

Budget of Expenses of Administrative Committee and Rate of Assessment for the 1976 Crop Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically

produced peanuts (30 FR 9402), and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1976 and for the crop year beginning July 1, 1976, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the crop year beginning July 1, 1976, shall be in the total amount of $375,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the Terms and Conditions of Indemnification Applicable to 1976 Crop Peanuts, effective July 1, 1976, are estimated at, but may exceed $3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with section 48 of the marketing agreement, an assessment of the rate of $2.00 per net ton of farmers stock peanuts received or acquired other than those described in section 31(c) and (d) ($0.30 for administrative expenses and $1.70 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to section 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the $1.70 rate and not expended in providing indemnification on the 1976 crop peanuts shall be placed in such reserve and shall be available to pay indemnification expenses on subsequent crops.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments, they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industry-wide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 23, 1976.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.76-18711 Filed 6-25-76;8:45 am]

Office of the Secretary

CATTLE INDUSTRY ADVISORY COMMITTEE

Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the Cattle Industry Advisory Committee for an additional period of 2 years.

This Committee represents all segments of the cattle industry, from producer to consumer, and provides advice and counsel on a wide variety of Department programs and actions.

The Chairman of the Committee is Mr. Richard L. Feltner, Assistant Secretary for Marketing and Consumer Services. The Executive Secretary is Mr. John C. Pierce, Director, Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Authority for this Committee will expire June 9, 1978, unless the Secretary formally determines that continuance is in the public interest.

This notice is given in compliance with Public Law 92-463.

Dated: June 23, 1976.

J. PAUL BOLDUC,
Assistant Secretary for Administration.

[FR Doc.76-18619 Filed 6-25-76;8:45 am]

Soil Conservation Service

GREAT CREEK WATERSHED PROJECT, VIRGINIA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Great Creek Watershed project, Brunswick and Lunenburg Counties, Virginia, USDA-SCS-EIS-WS-(ADM)-76-2(F)-VA.

The EIS concerns a plan for watershed protection, flood prevention, and municipal and industrial water supply. The planned works of improvement provide for conservation land treatment and one multipurpose reservoir with capacity for floodwater retarding and municipal and industrial water.

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

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

Soil Conservation Service, USDA, Room 9026, Federal Building, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240.

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

Dated: June 17, 1976.

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

[FR Doc.76-18668 Filed 6-25-76;8:45 am]

LITTLE RIVER WATERSHED PROJECT, IOWA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the little River Watershed project, Decatur County, Iowa, USDA-SCS-EIS-WS-(ADM)-76-2(F)-IA.

The EIS concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and fish and wildlife. The planned works of improvement provide for conservation land treatment, 6 floodwater retarding structures, and 1 multipurpose reservoir with capacity for floodwater retarding, fish and wildlife, and municipal and industrial water.

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

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

Soil Conservation Service, USDA, 823 Federal Building, Des Moines, Iowa 50309

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

Dated: June 18, 1976.

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

[FR Doc.76-18620 Filed 6-25-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[Organization and Function Order 47-1]

MANUAL OF ADMINISTRATIVE INSTRUCTIONS

Organization and Functions

JUNE 16, 1976.

Subject: Bureau of International Economic Policy and Research. This order effective May 19, 1976 rescinds the material appearing at 41 FR 5412 of Febru-

ary 6, 1976. DIBA Organization and Function Order 47–1 "Bureau of International Economic Policy and Research" dated December 21, 1975, as amended, is hereby rescinded and should be discarded.

Department Organization Order 10–3 "Assistant Secretary for Domestic and International Business" dated May 19, 1976 transferred the Bureau of International Economic Policy and Research from the Domestic and International Business Administration to the Assistant Secretary for Policy.

DONALD E. JOHNSON,
Acting Assistant Secretary for Domestic and International Business.

[FR Doc.76–18584 Filed 6–25–76;8:45 am]

[Dept. Organization Order 10–1; Amendment 1]

Office of the Secretary

ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

Delegation of Authority

This order effective June 4, 1976 amends the material appearing at 41 FR 18536 of May 5, 1976.

Department Organization Order 10–1 of April 9, 1976 is hereby amended as shown below. The purpose of this amendment is to delegate to the Assistant Secretary for Science and Technology the operational responsibility for the National Voluntary Laboratory Accreditation Program.

1. SECTION 3. *Delegation of authority.* A new subparagraph .01g. is added, and paragraph .03 is revised to read as follows:

"g. Exercise the functions of the Secretary of Commerce in carrying out the National Voluntary Laboratory Accreditation Program as described in the procedures pertaining to such Program which are set out in Part 7 of Title 15 of the Code of Federal Regulations (41 FR 8163–8168, dated February 25, 1976) except for the function of issuing the annual report called for by § 7.17(b) of those procedures.

".03 The Assistant Secretary may delegate authorities except for the authority to issue or approve regulations and except that redelegation of other authorities in subparagraphs c., d., and g. of paragraph .01 above shall be limited to the Deputy Assistant Secretaries provided herein."

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–18595 Filed 6–25–76;8:45 am]

[Dept. Administrative Order Revocation Notice]

LOAN GUARANTEE PROGRAM

Revocation

This revocation notice effective June 7, 1976 supersedes the material appearing at 33 FR 10951 of August 1, 1968.

REVOCATION

Department Administrative Order 201–5 (formerly DO 132) of July 22, 1968 is hereby revoked.

EXPLANATION

The loan guarantee program is no longer active.

Delegations of authority provided for in DAO 201–5 are duplicative since they are included in the blanket delegation of authority in DOO 10–3 to the Assistant Secretary for Domestic and International Business regarding the Defense Production Act of 1950, as amended, and Executive Order 10480, as amended.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–18597 Filed 6–25–76;8:45 am]

[Dept. Organization Order 15–3]

OFFICE OF COMMUNICATIONS

Responsibilities and Functions

This order effective June 11, 1976 supersedes the materials appearing at 41 FR 14567 of April 6, 1976 and 41 FR 16679 of April 21, 1976.

SECTION 1. PURPOSE

.01 This order prescribes the responsibilities and functions of the Office of Communications.

.02 This revision will empower the Office of Communications to authorize the scheduling of news conferences proposed by operating units (paragraph 3.i.).

SEC. 2. GENERAL

The Office of Communications, which is continued as a Departmental office, is headed by the Director of Communications, who reports and is responsible to the Secretary. The Director is the principal advisor to the Secretary on public affairs matters, and is responsible for the overall public information program of the Department. He serves as the primary liaison for the Department with other Departments and agencies, and provides functional supervision to the public information offices in the operating units.

SEC. 3. FUNCTIONS

The Office of Communications shall:

a. Plan, develop and implement a coordinated public information program throughout the Department;

b. Prepare and issue press releases and TV/radio material on matters involving the Secretary or Under Secretary, and other officials in the Office of the Secretary as appropriate;

c. Provide, or supervise the provision of, other public affairs services required by the Secretary, Under Secretary, and other officials, including the handling of news conferences, arrangements for radio and television broadcasts, and arranging personal appearances;

d. Maintain liaison with the White House Office of Communications and the counterpart offices in other Departments and agencies to assure that the Department's public information activities are consistent and properly coordinated with those of the entire Executive Branch;

e. Prepare and publish the publication *Commerce America;*

f. Provide liaison with outside public groups and organizations concerned with Department activities;

g. Advise and assist the Office of the Secretary, and other offices as appropriate, by providing information, analysis, and news services concerning press and radio/TV coverage of Department activities;

h. Review and approve for lease all Commerce news items and other informational material such as speeches and publications, and review and approve all graphics, films, exhibits and advertising or promotional programs of the Department's public affairs offices;

i. Authorize scheduling of news conferences proposed by operating units and provide such staff assistance as may be appropriate; and

j. Exercise functional supervision of the public information activities of the operating units, whether performed by information staffs or otherwise, and review and advise on the effectiveness of the operating units in public affairs matters.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–18596 Filed 6–25–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

BIOLOGICAL PRODUCTS; PNEUMOCOCCAL VACCINES

Public Meeting

The Food and Drug Administration announces a public meeting to give all interested persons an opportunity to present their views and discuss release guidelines for Pneumococcal Vaccines and methods and problems of standardization, with emphasis on the potency, safety, stability, and efficacy of these vaccines. The meeting will be held from 8:30 a.m. to 4:30 p.m., Wednesday, July 21, 1976 in Rm. 115, Bldg. 29, National Institutes of Health, 8800 Rockville Pike, Bethesda, MD.

Dated: June 21, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76–18603 Filed 6–25–76;8:45 am]

[Docket No. 76N–0170; DESI 10137]

HYDROCORTISONE ACETATE DENTURE POWDER

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426),

each holder of a new drug application that became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration reports containing the best data available in support of the effectiveness of his product for the claimed indications. That information was needed to facilitate a determination by the Food and Drug Administration, with the assistance of the National Academy of Sciences-National Research Council (NAS–NRC), whether each claim in the labeling is suppported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. The sponsor of Mann Denture Powder containing hydrocortisone, described below, a product that has been used for relief of distress and inflammation when dentures are worn immediately following multiple dental extractions, submitted the information pursuant to the notice of July 9, 1966; however, the submission was made too late to be reviewed by the NAS–NRC.

NDA 10–137; Mann Denture Powder containing hydrocortisone acetate 0.5 percent; Mann Chemical Corp., 520 West Main St., Louisville, KY 40202.

The Food and Drug Administration reviewed the material submitted pursuant to the notice of July 9, 1966, as well as data in the new drug application. By letter of July 21, 1970, Mann Chemical Corporation was informed that the product was concluded to lack substantial evidence of effectiveness. In a notice published in the FEDERAL REGISTER of November 19, 1975 (40 FR 53609), the firm was again invited to submit data for evaluation by the FDA. The firm did not respond to either the letter of July 21, 1970 or the FEDERAL REGISTER notice of November 19, 1975.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 28, 1976, a written notice of appearance and request for hearing, and (2) on or before August 27, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for a hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who request the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31).

Dated: June 21, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76–18608 Filed 6–25–76;8:45 am]

[Docket No. 76N–0149; DESI 12191]

PREGNENOLONE SUCCINATE CREAM

Opportunity for Hearing on Proposal To Withdrawal Approval of New Drug Application

In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application that became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration reports containing the best data available fn support of the effectiveness of his product for the claimed indications. That information was needed to facilitate a determination by the Food and Drug Administration, with the assistance of the National Academy of Sciences-National Research Council (NAS–NRC), whether each claim

in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. The sponsor of Panzalone Cream, described below, a product that has been used to treat skin disorders, submitted the information requested by the notice of July 9, 1966; however, the submission was made too late to be reviewed by the NAS–NRC.

Panzalone Cream, containing pregnenolone succinate; Doak Pharmacal Co., Inc., 700 Shames Drive, Westbury, Long Island, NY 11590 (NDA 12–191).

The Food and Drug Administration reviewed the material submitted pursuant to the notice of July 9, 1966, as well as data in the new drug application. By letter of October 22, 1970, Doak Pharmacal Co. was informed that the product was concluded to be possibly effective and that data from adequate and well-controlled studies were necessary to provide substantial evidence of effectiveness. No data were submitted in response to that letter. In a notice published in the FEDERAL REGISTER of November 19, 1975 (40 FR 53609), the firm was again invited to submit data for evaluation by the FDA. No data have been submitted.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufacturers or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to shown why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 28, 1976, a written notice of appearance and request for hearing, and (2) on or before August 27, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31).

Dated: June 21, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–18609 Filed 6–25–76;8:45 am]

[Docket No. 76P–0203]

TOMATO JUICE CONCENTRATE DEVIATING FROM IDENTITY STANDARDS

Temporary Permit for Market Testing; Correction

In FR Doc. 76–16134 appearing at page 22620 in the FEDERAL REGISTER of Friday, June 4, 1976, the last paragraph in the center column is corrected in the first sentence by changing "tomato juice concentrate" to read "concentrated tomato juice." As corrected, the sentence reads "The name of the food is 'concentrated tomato juice.'"

Dated: June 18, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76–18602 Filed 6–25–76;8:45 am]

Health Services Administration

ALABAMA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Alabama Medical Review, Inc., designating it as the Professional Standards Review

Organization for the State of Alabama, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.3.

Such notice was also published in three consecutive issues of the *Dothan Eagle, The Birmingham News, The Birmingham Post-Herald, The Anniston Star, Florence Times-Tri-Cities Daily, The Montgomery Advertiser, The Alabama Journal, The Decatur Daily Tuscaloosa-Northport News, The Mobile Press Register, The Huntsville Times, Gadsden Times,* and the *Columbus Ledger-Enquirer* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Alabama of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Alabama who objects to the Secretary entering into an agreement with the Alabama Medical Review, Inc. on the grounds that such organization is not representative of doctors in the State of Alabama, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Alabama, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Alabama have expressed timely objection to the entering into an agreement with the Alabama Medical Review, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Alabama Medical Review, Inc. designating it as the Professional Standards Review Organization for the State of Alabama.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18481 Filed 6-25-76;8:45 am]

ALASKA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Alaska Professional Review Organization designating it as the Professional Standards Review Organization for the State of Alaska, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.4.

Such notice was also published in three consecutive issues of the *Anchorage Daily Times, Anchorage Daily News, Ketchikan Daily News, Fairbanks Daily News-Miner,* and *The Southeast Alaska Empire* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Alaska of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Alaska who objects to the Secretary entering into an agreement with the Alaska Professional Review Organization on the grounds that such organization is not representative of doctors in the State of Alaska, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Alaska, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 per centum of the doctors engaged in the active practice of medicine or osteopathy in the State of Alaska have expressed timely objection to the entering into an agreement with the Alaska Professional Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Alaska Professional Review Organization designating it as the Professional Standards Review Organization for the State of Alaska.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[F.R. Doc. 76-1848 Filed 6-25-76; 8:45 am]

CALIFORNIA

Agreement To Designate Professional Standards Review Organization

On May 4, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Santa Clara Valley PSRO designating it as the Professional Standards Review Organization for PSRO Area IX of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of *San Jose Mercury News* on May 4, 5, and 6, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area IX of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of California who objects to the Secretary entering into an agreement with the Santa Clara Valley PSRO on the grounds that such organization is not representative of doctors in PSRO Area IX of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022 on or before June 3, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area IX of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area IX of the State of California have expressed timely objection to the entering into an agreement with the Santa Clara Valley PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Santa Clara Valley PSRO designating it as the professional Standards Review Organization for PSRO Area IX of the State of California.

Dated: June 21, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18483 Filed 6-25-76;8:45 am]

CALIFORNIA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Kern County Professional Standards Review Organization, Inc. designating it as the Professional Standards Review Organization for PSRO Area XIV of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of the *Los Angeles Times* and *The Bakersfield Californian* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area XIV of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XIV of the State of California who objects to the Secretary entering into an agreement with the Kern County Professional Standards Review Organization, Inc. on the grounds that such organization is not representative of doctors in PSRO Area XIV of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area XIV of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area XIV of the State of California have expressed timely objection to the entering into an agreement with the Kern County Professional Standards Review Organization, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Kern County Professional Standards Review Organization, Inc. designating it as the Professional Standards Review Organization for PSRO Area XIV of the State of California.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18484 Filed 6-25-76;8:45 am]

CALIFORNIA

Agreement To Designate Professional Standards Review Organization

On May 4, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Ventura Area PSRO, Inc. designating it as the Professional Standards Review Organization for PSRO Area XVII of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of *Los Angeles Times* and the *Ventura County Star-Free Press*, on May 4, 5, and 6, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area XVII of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XVII of the State of California who objects to the Secretary entering into an agreement with the Ventura Area PSRO, Inc. on the grounds that such organization is not representative of doctors in PSRO Area XVII of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before June 3, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area XVII of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area XVII of the State of California have expressed timely objection to the entering into an agreement with the Ventura Area PSRO, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Ventura Area PSRO, Inc. designating it as the Professional Standards Review Organization for PSRO Area XVII of the State of California.

Dated: June 21, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18485 Filed 6-25-76;8:45 am]

CALIFORNIA

Agreement To Designate Professional Standards Review Organization

On May 4, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the California Area XXII PSRO designating it as the Professional Standards Review Organization for PSRO Area XXII of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of *Los Angeles Times* on May 4, 5, and 6, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area XXII of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XXII of the State of California who objects to the Secretary entering into an agreement with the California Area XXII PSRO on the grounds that such organization is not representative of doctors in PSRO Area XXII of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before June 3, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area XXII of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area XXII of the State of California have expressed timely objection to the entering into an agreement with the California Area XXII PSRO. Therefore, the Secretary will proceed to enter into an agreement with the California Area XXII PSRO designating it as the Professional Standards Review Organization for PSRO Area XXII of the State of California.

Dated: June 21, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18486 Filed 6-25-76;8:45 am]

DELAWARE

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Delaware Review Organization designating it as the Professional Standards Review Organization for the State of Delaware, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.10.

Such notice was also published in three consecutive issues of the *Delaware State News*, *The Morning News*, and the *Evening Journal* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Delaware of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Delaware who objects to the Secretary entering into an agreement with the Delaware Review organization on the grounds that such organization is not representative of doctors in the State of Delaware, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Delaware, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Delaware have expressed timely objection to the enter-

ing into an agreement with the Delaware Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Delaware Review Organization designating it as the Professional Standards Review Organization for the State of Delaware.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18487 Filed 6-25-76;8:45 am]

KENTUCKY

Physicians of Conduct of Poll

On May 4, 1976, the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Kentucky Peer Review Organization, Inc., designating it as the Professional Standards Review Organization for the State of Kentucky, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.21.

Such notice was also published in three consecutive issues of *The Bowling Green News, The Covington Kentucky Post, The Kentucky New Era, The Lexington Herald-Leader, Owensboro Messenger-Inquirer, The Paducah Sun-Democrat, The Cincinnati Enquirer, The Louisville Courier-Journal & Times,* and *The Ashland Independent* on May 4, 5, and 6, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Kentucky of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Kentucky who objects to the Secretary entering into an agreement with the Kentucky Peer Review Organization, Inc., on the grounds that such organization is not representative of doctors in the State of Kentucky, mail such objection in writing to the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022, on or before June 3, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Kentucky, the Secretary has determined, pursuant to 42 CFR 101.105, that more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Kentucky have expressed timely objection to entering into an agreement with the Kentucky Peer Review Organization, Inc.

Therefore, on June 28, 1976, the Secretary will, in accordance with 42 CFR 101.106, begin to conduct a poll of all doctors of medicine or osteopathy who are engaged in active practice in the State of Kentucky to determine whether the Kentucky Peer Review Organization, Inc., is representative of such doctors in the area.

Each such doctor will receive a ballot on which he shall indicate whether in his opinion the Kentucky Peer Review Organization, Inc., is or is not representative of the doctors of medicine or osteopathy engaged in active practice in the State of Kentucky. Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Kentucky who has not received a ballot by July 6, 1976, may request in writing a ballot from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. Only those completed ballots postmarked on or before July 28, 1978 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

Dated: June 22, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-18576 Filed 6-25-76;8:45 am]

MASSACHUSETTS

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Central Massachusetts Health Care Foundation designating it as the Professional Standards Review Organization for PSRO Area II of the State of Massachusetts, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.25.

Such notice was also published in three consecutive issues of *The Daily Sentinel & Leominster Enterprise, The Boston Globe, Worcester Telegram,* and the *Worcester Gazette* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area II of the State of Massachusetts of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Massachusetts who objects to the Secretary entering into an agreement with the Central Massachusetts Health Care Foundation on the grounds that such organization is not representative of doctors in PSRO Area II of the State of Massachusetts, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area II of the State of Massachusetts, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area II of the State of Massachusetts have expressed timely objection to the entering into an agreement with the Central Massachusetts Health Care Foundation. Therefore, the Secretary will proceed to enter into an agreement with the Central Massachusetts Health Care Foundation designating it as the Professional Standards Review Organization for PSRO Area II of the State of Massachusetts.

Dated: June 15, 1976.

LOUIS M. MELLMAN,
Administrator,
Health Services Administration.

[Fr. Doc.76-18488 Filed 6-25-76;8:45 am]

MINNESOTA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Professional Services Quality Council of Minnesota designating it as the Professional Standards Review Organization for PSRO Area III of the State of Minnesota, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.27.

Such notice was also published in three consecutive issues of the *St. Paul Dispatch, St. Paul Pioneer Press, Minneapolis Tribune,* and *The Minneapolis Star* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area III of the State of Minnesota of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Minnesota who objects to the Secretary entering into an agreement with the Professional Services Quality Council of Minnesota on the grounds that such organization is not representative of doctors in PSRO Area III of the State of Minnesota, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area III of the State of Minnesota, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 per centum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area III of the State of Minnesota have expressed timely objection to the entering into an agreement with the Professional Services Quality Council of Minnesota. Therefore, the Secretary will proceed to enter into an agreement with the Professional Services Quality Council of Minnesota designating it as the Professional Standards Review Organization for PSRRO Area III of the State of Minnesota.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18489 Filed 6-25-76;8:45 am]

MISSOURI

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Mid-Missouri PSRO Foundation designating it as the Professional Standards Review Organization for PSRO Area II of the State of Missouri, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.29.

Such notice was also published in three consecutive issues of the *St. Louis Post-Dispatch, Jefferson City Capital News, Jefferson City Post Tribune, The Mexico Ledger, The Rolla Daily News, The Hannibal Courier-Post, Columbia Tribune, Kirksville Daily Express,* and the *Daily News* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area II of the State of Missouri of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Missouri who objects to the Secretary entering into an agreement with the Mid-Missouri PSRO Foundation on the grounds that such organization is not representative of doctors in PSRO Area II of the State of Missouri, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area II of the State of Missouri, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area II of the State of Missouri have expressed timely objection to the entering into an agreement with the Mid-Missouri PSRO Foundation. Therefore, the Secretary will proceed to enter into an agreement with the Mid-Missouri PSRO Foundation designating it as the Professional Standards Review Organization for PSRO Area II of the State of Missouri.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18490 Filed 6-25-76;8:45 am]

MISSOURI

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Southeast Missouri Foundation for Medical Care designating it as the Professional Standards Review Organization for PSRO Area V of the State of Missouri, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.29.

Such notice was also published in three consecutive issues of *The Southeast Missourian, Daily Sikeston Standard, Daily American Republic,* and the *St. Louis Post Dispatch* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area V of the State of Missouri of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Missouri who objects to the Secretary entering into an agreement with the Southeast Missouri Foundation for Medical Care on the grounds that such organization is not representative of doctors in PSRO Area V of the State of Missouri, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area V of the State of Missouri, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area V of the State of Missouri have expressed timely objection to the entering into an agreement with the Southeast Missouri Foundation for Medical Care. Therefore, the Secretary will proceed to enter into an agreement with the Southeast Missouri Foundation for Medical Care designating it as the Professional Standards Review Organization for PSRO Area V of the State of Missouri.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18491 Filed 6-25-76;8:45 am]

NEVADA

Designation of Conditional Professional Standards Review Organization

I have determined that the Nevada Medical Association, which is the membership asociation representing the largest number of doctors of medicine in Nevada, has adopted a resolution, entitled "Resolution on Repeal of PSRO Legislation", which constitutes a formal policy position of opposition to, or noncooperation with, the established program of professional standards review, as provided under Title XI, Part B of the Social Security Act. Therefore, under section 108(b)(1) of Pub. L. 94-182, the notification and polling requirements of the Social Security Act are not applicable with respect to the making of an agreement by the Secretary under which he proposes to designate an organization as the Professional Standards Review Organization for the Area of Nevada.

Accordingly, the Nevada Professional Standards Review Organization has been designated as the conditional Professional Standards Review Organization for the area of Nevada.

Dated: May 27, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18493 Filed 6-25-76;8:45 am]

NEW JERSEY

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Area I—Region II Professional Standards Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of New Jersey, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.34.

Such notice was also published in three consecutive issues of *The Daily Advance,*

Morris County's Daily Record, and *The Star-Ledger* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area I of the State of New Jersey of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of New Jersey who objects to the Secretary entering into an agreement with the Area I—Region II Professional Standards Review Organization on the grounds that such organization is not representative of doctors in PSRO Area I of the State of New Jersey, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area I of the State of New Jersey, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of the State of New Jersey have expressed timely objection to the entering into an agreement with the Area I—Region II Professional Standards Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Area I—Region II Professional Standards Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of New Jersey.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18492 Filed 6-25-76;8:45 am]

OHIO

Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act [42 USC 1320c-1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Region Ten Peer Review Systems, Inc. for PSRO Area X, which area is designated a Professional Standards Review Organization area in 42 CFR 101.39.

The Secretary has determined that the Region Ten Peer Review Systems, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Ohio, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area X of the State of Ohio.

As stipulated in its Articles of Incorporation, the principal officers of the Region Ten Peer Review Systems, Inc. are:

Name and Office Held

1. Philip H. Taylor, M.D., Chairman.
2. William A. Millhon, M.D., Vice Chairman.
3. J. Hutchison Williams, M.D., President.
4. Richard F. Leedy, Jr., D.O., Vice President.

The official address of the corporation is 3720-J Olentangy River Road, Columbus, Ohio 43214.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area X of the State of Ohio who objects to the Secretary entering into an agreement with the Region Ten Peer Review Systems, Inc., on the grounds that this organization is not representative of the doctors in such area may, on or before July 28, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,954 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area X of the State of Ohio. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Region Ten Peer Review Systems, Inc. is representative of such doctors in the area; Provided that pursuant to section 108(b) of Pub. L. 94-182, the provisions of section 1152(f) [42 USC 1320c-1(f)], relating to notification and polling, as described above, shall not apply where: (1) The membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: June 14, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18494 Filed 6-25-76;8:45 am]

PENNSYLVANIA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Central Pennsylvania Area II PSRO designating it as the Professional Standards Review Organization for PSRO Area II of the State of Pennsylvania, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.42.

Such notice was also published in three consecutive issues of the *Berwick Enterprise, the LockHaven Express, Daily Review, Elmira Star-Gazette, Daily Item, The Lewistown Sentinel, The Morning Press, The Centre Daily Times*, and the *Williamsport Sun-Gazette* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area II of the State of Pennsylvania of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Central Pennsylvania Area II PSRO on the grounds that such organization is not representative of doctors in PSRO Area II of the State of Pennsylvania, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area II of the State of Pennsylvania, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area II of the State of Pennsylvania have expressed timely objection to the entering into an agreement with the Central Pennsylvania Area II PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Central Pennsylvania Area II PSRO designating it as

the Professional Standards Review Organization for PSRO Area II of the State of Pennsylvania.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18495 Filed 6-25-76;8:45 am]

PENNSYLVANIA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Eastern Pennsylvania Health Care Foundation designating it as the Professional Standards Review Organization for PSRO Area IV of the State of Pennsylvania, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.42.

Such notice was also published in three consecutive issues of *The Pocono Record, the Bethlehem Globe-Times, The Scranton Times, The Easton-Wilson Express, Evening Chronicle, Scranton Tribune, The Leighton Times News,* and *The Morning Call* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area IV of the State of Pennsylvania of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IV of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Eastern Pennsylvania Health Care Foundation on the grounds that such organization is not representative of doctors in PSRO Area IV of the State of Pennsylvania, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area IV of the State of Pennsylvania, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area IV of the State of Pennsylvania have expressed timely objection to the entering into an agreement with the Eastern Pennsylvania Health Care Foundation. Therefore, the Secretary will proceed to enter into an agreement with the Eastern Pennsylvania Health Care Foundation designating it as the Professional Standards Review Organization for PSRO Area IV of the State of Pennsylvania.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18496 Filed 6-25-76;8:45 am]

PENNSYLVANIA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Highlands PSRO Corporation designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Pennsylvania, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.42.

Such notice was also published in three consecutive issues of *The Daily News, Altoona Mirror,* and *The Johnstown Tribune-Democrat* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area VIII of the State of Pennsylvania of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VIII of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Highlands PSRO Corporation on the grounds that such organization is not representative of doctors in PSRO Area VIII of the State of Pennsylvania, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area VIII of the State of Pennsylvania, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area VIII of the State of Pennsylvania have expressed timely objection to the entering into an agreement with the Highlands PSRO Corporation. Therefore, the Secretary will proceed to enter into an agreement with the Highlands PSRO Corporation designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Pennsylvania.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18497 Filed 6-25-76;8:45 am]

SOUTH DAKOTA

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the South Dakota Foundation for Medical Care designating it as the Professional Standards Review Organization for the State of South Dakota, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.46.

Such notice was also published in three consecutive issues of *The Daily Republic, The Brookings Daily Register, Rapid City Journal, Watertown Public Opinion, The Daily Plainsman, Aberdeen American News, Yankton Daily Press and Dakotan, The Sioux City Journal, The Huronite,* and the *Sioux Falls Argus-Leader* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of South Dakota of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of South Dakota who objects to the Secretary entering into an agreement with the South Dakota Foundation for Medical Care on the grounds that such organization is not representative of doctors in the State of South Dakota, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of South Dakota, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of South Dakota have expressed timely objection to the entering into an agreement with the South Dakota Foundation for Medical Care. Therefore, the Secretary will proceed to enter into an agreement with the South Dakota Foundation for Medical Care designating it as the Professional Standards Review Organization for the State of South Dakota.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18498 Filed 6-25-76;8:45 am]

VERMONT

Agreement To Designate Professional Standards Review Organization

On March 25, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice

in which he announced his intention to enter into an agreement with the Vermont PSRO, Inc. designating it as the Professional Standards Review Organization for the State of Vermont, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.05.

Such notice was also published in three consecutive issues of *The Times-Argus*, the *Brattleboro Daily Reformer*, *The Burlington Free Press*, the *Bennington Banner*, *The Rutland Herald*, and *The Caledonian Record* on March 25, 26, and 27, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Vermont of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Vermont who objects to the Secretary entering into an agreement with the Vermont PSRO, Inc. on the grounds that such organization is not representative of doctors in the State of Vermont, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before April 26, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Vermont, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Vermont have expressed timely objection to the entering into an agreement with the Vermont PSRO, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Vermont PSRO, Inc. designating it as the Professional Standards Review Organization for the State of Vermont.

Dated: June 15, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-18499 Filed 6-25-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on July 26, 1976 from 7 p.m. to 9 p.m., local time and on July 27 and 28, 1976 from 9 a.m. to 5 p.m., local time at the Radisson South Hotel, Minneapolis, Minnesota.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advice the Commissioner of Education concerning the administration of preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public. The proposed agenda includes:

July 26, 1976: Briefing on Staff Activities
July 27, 1976: Review of NACVE projects and activities
July 28, 1976: Discussion of plans for future Council direction

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425 13th Street, N.W., Washington, D.C. 20004.

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

REGINALD PETTY,
Executive Director.

[FR Doc.76-18579 Filed 6-25-76;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting; Correction

This notice is to amend a portion of the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the FEDERAL REGISTER on Tuesday, June 22, 1976 on page 25042. The first paragraph of the notice should include an extra day for the Council meeting and site visits. The first paragraph should read as follows: Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Thursday, July 22, Friday, July 23, and Saturday, July 24, 1976. The meeting on Thursday, July 22 will be held from 1-3 p.m., and will include site visits. The meeting on July 23 will be held from 9 a.m.-4:30 p.m. Also on July 23, Committee meetings will be held. The Committees on Legislation and Adolescence will hold a short session from 11:30 a.m.-12 noon, and the Committee on Parent Involvement will meet from 7-8 p.m. On July 24, the meeting will be held from 9 a.m.-12 noon. The meeting of July 22 will be held at Capital School District, State Department of Public Instructions, Townsen Building, Lockerman and Federal, P.O. Box 697, Dover, Delaware 19901, and the meeting on July 23 and 24 will be at 70001 Headquarters, Robert Scott Building, 151 Chestnut Hill Road, Newark, Delaware 19711.

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

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.76-18576 Filed 6-25-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-556; OILSR No. 0-2154-27-9]

HOGANS 28

Hearing

In the matter of: Hogans 28—76-95-IS; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Hogans 28, Richard H. Hogan, d/b/a Hogans 28, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710 et seq.) received a notice of proceedings and opportunity for hearing issued April 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Hogan Acres located in Pine County, Minnesota contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 13, 1976, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 21, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before June 30, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of

which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 18, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18719 Filed 6-25-76;8:45 am]

[Docket No. N-76-557; OILSR No. 0-1305-46-10(I)]

RIVER HILLS PLANTATION

Hearing

In the matter of: River Hills Plantation—76-78-IS; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. River Hills Plantation, J. Ronald Terwilliger, President and River Hills Plantation Company, Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for River Hills Plantation Company, Inc., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 5, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 16, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 1, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 4, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18720 Filed 6-25-76;8:45 am]

[Docket No. N-76-561; OILSR No. 0-0236-53-2]

SNOW MOUNTAIN FARMS

Hearing

In the matter of: Snow Mountain Farms—76-98-IS; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Snow Mountain Farms, Cersosimo Skicountry, Inc. and Anthony Cersosimo, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued April 19, 1976, which as sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Cersosimo Skicountry, Inc. and Snow Mountain Farms located in Brattleboro, Vermont, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 30, 1976 at 10 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 9, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18721 Filed 6-25-76;8:45 am]

[Docket No. N-76-558; OILSR No. 0-3303-09-899]

SUWANNEE RIVER ESTATES

Hearing

In the matter of: Suwannee River Estates—76-99-IS; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Suwannee River Estates, Magnuson Corporation and Frank N. Magnuson, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued April 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Suwannee River Estates located in Gilchrist County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 7, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 28, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 7, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default

and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18722 Filed 6-25-76;8:45 am]

[Docket No. N-76-559; OILSR No. 0-0237-53-3]

TOWNSHEND ACRES

Hearing

In the matter of: Townshend Acres—76-97-IS, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d). Notice is hereby given that:

1. Townshend Acres, Cersosimo Skicountry, Inc. and Anthony Cersosimo, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued April 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Cersosimo Skicountry, Inc. and Townshend Acres located in Brattleboro, Vermont, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 30, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before July 9, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18723 Filed 6-25-76;8:45 am]

[Docket No. N-76-560; OILSR No. 0-0349-09-76]

UNIVERSITY ESTATES

Hearing

In the matter of: University Estates—suant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. University Estates, Robert Stechmann, President, American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq) received a Notice of Proceedings and Opportunity for Hearing issued April 20, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for University Estates located in Levi County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 6, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 29, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before July 8, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-18724 Filed 6-25-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76 122]

SHELL OIL CO.

Qualification as a Citizen of the United States

This is to give notice that pursuant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), Shell Oil Company of One Shell Plaza, Houston, Texas 77001, incorporated under the laws of the State of Delaware, did on 25 March 1976 file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification of the corporation as a citizen of the United States following the forms of oath prescribed in form CG-1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations on 11 June 1976, issued to Shell Oil Company a certificate of compliance on form CG-1262, as provided in 46 CFR 67.23-7. The certificate and any authorization granted thereunder will expire three years from the date thereof unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7.

Dated: June 17, 1976.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.76-78672 Filed 6-25-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on July 21, 1976, at the Holiday Inn, 900 East Main Street, Meriden, Connecticut.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss programs for the coming year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18636 Filed 6-25-76;8:45 am]

GEORGIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Georgia Advisory Committee (SAC) to this Commission will convene at 2 p.m. and end at 5:30 p.m. on July 30, 1976, at the Hyatt Regency Atlanta, 265 Peachtree Street, Grecian Room, Atlanta, Georgia 30303.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is programmatic planning and identification of major project for FY '77.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18637 Filed 6-25-76;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) to this Commission will convene at 7:30 pm. and end at 11 pm. on July 28, 1976, at the Ramada Inn, Concord, New Hampshire.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York.

The purpose of this meeting is to discuss programming for the coming year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESSWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18638 Filed 6-25-76;8:45 am]

NORTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) to this Commission will convene at 9:30 am. and end at 12 pm. on July 16, 1976, at the Holiday Inn, Highway I-29 and 13th Avenue South, Fargo, North Dakota 50101.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss the Committee's project on the Administration of Justice for Native Americans in the Dakotas.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18639 Filed 6-25-76;8:45 am]

RHODE ISLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) to this Commission will convene at 4 pm. and end at 6 pm. on July 20, 1976, at the Central Congregational Church, 296 Angell Street, Providence, Rhode Island.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York.

The purpose of this meeting is to discuss program proposals for the coming year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commssion.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18640 Filed 6-25-76;8:45 am]

SOUTH CAROLINA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Carolina Advisory Committee (SAC) to this Commission will convene at 3 p.m. and end at 6 p.m. on July 21, 1976, at the Board Room, S.C. Human Affairs Commission, 1111 Belleview Street, Columbia, South Carolina 29211.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting will be to discuss proposal for project of surveying public services and facilities in rural areas. At this meeting there will also be a discussion on followup project in Williamsburg County.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18641 Filed 6-25-76;8:45 am]

SOUTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 2 p.m. on July 12, 1976, at the Imperial 400 Motel, 125 Main Street, Rapid City, South Dakota 57701.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss the Committee's project on Criminal Justice for Native Americans in the Dakotas.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18642 Filed 6-25-76;8:45 am]

TEXAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Texas Advisory Committee (SAC) to this Commission will convene at 7 pm. and end at 10 pm. on July 16, 1976, at the Villa Capri, 2300 N. Interregional Highway, Austin, Texas 78705, and will reconvene on July 17, 1976, at 4 pm. and end at 7 pm. at the same location.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is to plan and review progress reports for the Texas Conference on Quality Education for Black Students, which is being sponsored by the Coalition for the Education of Black Children and Youth.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 23, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-18643 Filed 6-25-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

TRANSACTIONS IN COMMODITY OPTIONS ON FOREIGN EXCHANGE FUTURES CONTRACTS IN WOOL

Statutory Interpretation

The Commodity Futures Trading Commission ("Commission") has recently received numerous inquiries as to whether, under the Commodity Exchange Act, as amended, 7 U.S.C. 1, et seq. (Supp. IV, 1974) ("Act"), persons may legally offer, sell or enter into options on futures contracts in wool when the futures contracts underlying the options are traded on foreign exchanges.[1] This statement is issued to make clear the Commission's view on this matter.

Section 4c(a)(B) of the Act, 7 U.S.C. 6c(a)(B), generally makes it "unlawful for any person to offer to enter into, enter into, or confirm the execution of . . ." an option transaction relating to any of the commodities enumerated in section 2(a)(1) of the Act, 7 U.S.C. 2.[2] Included among these enumerated commodities is wool.

Section 4c(a)(B) was originally enacted as part of amendments to the Commodity Exchange Act in 1936.[3] The legislative history of that Section indicates that the ban on option trading in commodities enumerated in section 2(a)(1) of the Act reflected a strong concern to protect domestic futures markets in these commodities from adverse and artificial price effects that could result from speculative option trading.[4]

Wool became a commodity subject to regulation under the Act in 1954.[5] Since that time and to the present, wool futures contracts have been regularly traded in the United States, and the statutory ban on option trading in wool has thus been in effect since 1954. The legislative history of the amendment to section 2(a)(1) of the Act which added wool to the list of commodities enumerated in that Section contains no indication that the term "wool" was meant to apply other than in an all-inclusive manner, i.e., to all wool irrespective of its country of origin or where it may be processed.[6] Indeed, much of the wool that is delivered under wool futures contracts presently traded in the United States is imported.

The statutory prohibition in section 4c(a)(B) of the Act is expressly directed to option transactions involving "interstate commerce," which is defined in section 2(a)(1) of the Act to include:

> . . . commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, . . .

In addition, section 2(b) of the Act, 7 U.S.C. 3, provides:

> For the purpose of this Act (but not in any wise limiting the foregoing definition of interstate commerce) a transaction in respect to any article shall be considered to be in interstate commerce if such article is part of that current of commerce usual in the commodity trade whereby commodities and commodity products and by-products thereof are sent from one State, with the expectation that they will end their transit, after purchase, in another, . . . For the purpose of this paragraph *the word "State" includes* Territory, the District of Columbia, possession of the United States, and *foreign nation*. (emphasis added)

Thus, the Act provides that commodity transactions, including options, are in interstate commerce if they are part of that current of commerce usual in the commodity trade between any United States jurisdiction and a foreign nation.

In light of the legislative history of section 4c(a)(B) and the broad definition of "interstate commerce" contained in the Act, it is clear that the application of the prohibitions contained in section 4c(a)(B) is unaffected by whether or not some activity related to the carrying out of an option transaction occurs outside the United States. Therefore, the fact that an option transaction may involve a foreign futures contract does not remove it from the purview of, or prohibitions contained in, section 4c(a)(B). A contrary interpretation would emasculate the decision of Congress to ban trading in the United States in options in those commodities specifically enumerated in section 2(a)(1) of the Act.

Notwithstanding the above, the Commission is aware that this view apparently has not been understood by the public or the commodity trading industry. As a result, the Commission has determined that it will take no enforcement action against any person based solely on the fact that such person has, on or prior to this date, offered to enter into, entered into or confirmed the execution of, in the United States, any options on futures contracts traded on foreign exchanges involving wool. Also, no enforcement action will be instituted against any person based solely on the fact that such person, on this date, holds an interest in any such options presently outstanding and subsequently seeks to exercise or exercises the options. However, the Commission will take appropriate action to enforce the statutory prohibition contained in Section 4c(a)(B) of the Act against offering to enter into, entering into or confirming the execution of, in the United States after the date hereof, commodity options on futures contracts traded on foreign exchanges involving wool. Of course, the Commission's no-action position does not affect any rights of private parties that may have arisen and may presently exist as a result of the unlawfulness of these transactions.

Issued in Washington, D.C. on June 22, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-18601 Filed 6-25-76;8:45 am]

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[1] In particular, the Commission has received inquiries concerning the legality of the offer or sale in the United States of options on grease wool or Sydney wool futures contracts. The Commission understands that these futures contracts are traded on exchanges in London, England, and Sydney, Australia.

[2] Specifically Section 4c(a) provides: "It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction *in interstate commerce* in such commodity or the products or by-products thereof, or (2) determining the price basis of any such transaction *in interstate commerce* in such commodity, or (3) delivering any such commodity sold, shipped, or received *in interstate commerce* for the fulfillment thereof—

* * * * *

"(B) if such transaction involves any commodity specifically set forth in Section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and if such transaction is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty' . . ."

The term "option" is used herein to include all transactions described in Section 4c(a)(B).

[3] 49 Stat. 1491.

[4] *See, e.g.*, H.R. Rep. No. 421, 74th Cong., 1st Sess. 5 (1935); *Hearings on H.R. 3009 Before the House Committee on Agriculture*, 74th Cong., 1st Sess., at 94-95 (1935).

[5] 68 Stat. 913.

[6] *See, e.g.*, S. Rep. No. 83-840, 83 Cong., 2d Sess. 1 (1954).

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LAWRENCE AWARD NOMINATION-SCREENING GROUPS GENERAL ADVISORY COMMITTEE

Meeting

JUNE 24, 1976.

In accordance with the purposes of section 157b(3) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the General Advisory Committee has scheduled five groups to screen the nominations received for the Ernest Orlando Lawrence Memorial Award of the USERDA for 1976. Each group will meet in executive session for one day, beginning at 9 a.m. at the GAC office at 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, as follows:

July 19, 1976—National Security Panel
July 20, 1976—Chemistry and Metallurgy Panel
July 21, 1976—Physics Panel
July 22, 1976—Life Sciences Panel
July 23, 1976—Reactors Panel

The meetings will be in their entirety the exchanges of opinions and the formulation of recommendations to the General Advisory Committee relative to the nominating letters. The work of two groups (National Security and Chemistry & Metallurgy) will also include the review and discussion of classified documents. I have determined in accordance with subsection 10(d) of Pub. L. 92-463, that these five meetings will consist of exchanges of opinions, and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that two of the meetings (National Security and Chemistry & Metallurgy) will also involve review and discussion of classified documents considered exempt under exemptions (1) and (3) of 5 U.S.C. 552 (b). Any nonexempt material that may be discussed during the course of these meetings will be inextricably intertwined with the discussion of the exempt material, and no separation of this material is considered practical; and it is essential to close these meetings to protect such material and protect the free interchange of internal views and avoid undue interference with Committee operation; and in addition for the two groups noted above, to protect such classified information.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.76-18765 Filed 6-25-76;8:45 am]

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Extension

JUNE 25, 1976.

On September 30, 1975, ERDA published in the FEDERAL REGISTER (Vol. 40, page 44866) a Determination to Establish a Task Force on Demonstration Projects as a Comercialization Incentive. Said notice is hereby amended to extend the duration of the Task Force from June 30, 1976, to October 31, 1976. I hereby certify that this extension is in the public interest in order for the Task Force to prepare and deliver a final report.

The Task Force will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures, OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of that Act.

This determination follows consultation with the Office of Management and Budget pursuant to the relevant sections of the Federal Advisory Committee Act and OMB Circular No. A-63 (Revised).

R. G. ROMATOWSKI,
Advisory Committee Management Officer.

[FR Doc.76-18903 Filed 6-25-76;10:50 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-24]

CERTAIN EXERCISING DEVICES

Prehearing Conference

Notice is hereby given that a Prehearing Conference will be held at 10 a.m. on July 15, 1976, in the Office of the Administrative Law Judge, Bicentennial Building, Room 617, 600 E Street NW., Washington, D.C.

On or before July 9, 1976, each participant should serve any of the following documents on the Administrative Law Judge and all known parties:

1. Notice of intent to attend the above-noticed Prehearing Conference.
2. Motions pertaining to the scope of the proceeding.
3. A statement of issues and sub-issues in this proceeding.
4. A statement of the participant's position on each of the proposed issues.
5. A statement describing the evidence each participant proposes to present at the hearing, relating such evidence to each of the issues and sub-issues.
6. Requests for information.
7. Proposed stipulations.
8. A proposed agenda for the hearing.

The Secretary shall serve a copy of this notice upon all parties of record, and shall publish this notice in the FEDERAL REGISTER.

Issued June 22, 1976.

MYRON R. RENICK,
Presiding Officer.

[FR Doc.76-18717 Filed 6-25-76;8:45 am]

KNIVES, FORKS, AND SPOONS WITH STAINLESS-STEEL HANDLES

Report to the President

MAY 28, 1976.

To the President: Pursuant to headnote 2(c) to part 2, subpart D, of the appendix to the Tariff Schedules of the United States, the United States international Trade Commission (formerly the U.S. Tariff Commission) herein reports its determination of the apparent U.S. consumption of knives, forks, and spoons with stainless-steel handles in 1975 to have been 42,903,000 dozen pieces.

The data for each of the components used in the computation of apparent annual consumption of knives, forks, and spoons with stainless-steel handles are shown in the table below.

KNIVES, FORKS, AND SPOONS WITH STAINLESS-STEEL HANDLES: SHIPMENTS BY U.S. MANUFACTURERS, U.S. EXPORTS, U.S. IMPORTS FOR CONSUMPTION, AND APPARENT U.S. CONSUMPTION, 1975

(IN THOUSANDS OF DOZEN PIECES)

Components:	*Quantity*
Total shipments by U.S. manufacturers [1]	15,998
Exports	246
Imports for consumption	27,151
Apparent U.S. consumption [2]	42,903

[1] Includes only shipments of domestically produced products.
[2] Total shipments by U.S. manufacturers, plus imports, minus exports.
SOURCE: Shipments and exports as reported to the U.S. International Trade Commission by the domestic producers; imports compiled from official statistics of the U.S. Customs Service.

By order of the Commission.

Issued: June 23, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-18718 Filed 6-25-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 567-6; OPP-66017]

TERPENE POLYCHLORINATES

Cancellation of Registration of Pesticide Products

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973), the Environmental Protection Agency (EPA) has notified the following firms of its intention to cancel the registration of all products containing the active ingredient terpene polychlorinates:

EPA registration No.	Product	Registrant
134-24	Hess Bomb	Hess & Clark, division of Rhodia, Inc., Ashland, Ohio 44805.
148-561	De-Pester Strobane	Thompson-Hayward Chemical Co., P.O. Box 2383, Kansas City, Kans. 66110.
148-730	De-Pester Cotton Spray 3-0-4 Methyl Parathion Strobane.	
148-834	De-Pester Cotton Spray 3-0-6	
192-47	Destruxol Black Widow Spider Bomb.	Dexol Industries, 1450 West 228th St., Torrance, Calif. 90501.
241-91	Household Pressurized Space Spray	American Cyanamid Co., Box 400, Princeton, N.J. 08540.
449-464	Strobane 8# E.C	Tecnne Corp' c/o Farmland Industries, Inc., Agricultural Chemicals, Division, P.O. Box 7305, Kansas City, Mo. 64116.
498-11	Chase's Cedarized Moth Proofer Spray.	Chase Products Co., 19th St. & Gardner Blvd., Broadview, Ill. 60155.
655-361	HC Aerosol Concentrate for manufacturing purposes only.	Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York, N.Y. 10001.
901-13	Airosol Brand Moth Proofer	Airosol Co., Inc., 525 North 11th St., Neodesha, Kans. 66757.
1021-236	Pyrocide Aerosol Mix No. 965	McLaughlin Gormley King Co., 8810 10th Ave. North, Minneapolis, Minn. 55427.
1021-251	Pyrocide Aerosol Mix No. 5015	
1021-311	Pressurized Garbage Can Spray Concentrate No. 5131.	
1021-717	MGK Intermediate No. 1730	
1021-793	Pyrocide Intermediate No. 6514	
1021-1061	MGK Garbage Can Spray Concentrate No. 1831.	
1526-397	Strobane EC-60	A G Chem-Chem Dist. Arizona Agrochemical Co., P.O Box 21537, Phoenix, Ariz. 85036.
1929-19	Navy Brand Residual #700	Navy Brand Manufacturing Co., 5111 Southwest Ave., St. Louis, Mo. 63110.
2000-14	Good Way Insect Killer	Good-Way Insecticide Inc., 3613 North Buffalo Grove Rd., Arlington Heights, Ill. 60004.
2860-26	Windsor Moth Proofer Stainless	Windsor-Aerosol Division, Approved Products Inc,. 8804 Tyson Rd., Wyndmoor, Pa. 19118.
3008-18	Osmose Moth Proofer Spray	Osmose Wood Pres. Co. of America, Inc., 980 Ellicott St., Buffalo, N.Y. 14209.
4715-124	Best 4 Servis Brand Strobane Sulfur 20-40 Dust Cotton Insecticide.	Colorado International Corp., 5321 Dahlia St., Commerce City, Colo. 80022.
6125-3	Pine Oil Disinfectant Coef. 3	Bixon Chemical Corp., 50-19 97th Place, Corona, N.Y. 11368.
6296-15	NPI Moth Proofer	Nutrilite Product, Inc., 5600 Beach Blvd., Buena Park, Calif. 90620.
6384-5	Fur Glamor	Dorja Inc., P.O. Box 3274, Coral Gables, Fla. 33134.
7794-51	Red Barn Methyl Parathion Strobane 4-4 E. C.	W. R. Grace & Co., South Central Region, P.O. Box 35447 Tulsa, Okla. 74135.
7794-52	Red Barn Strobane Methyl Parathion 6-3 EC.	
8483-2	Insect O Blitz	Myers Labs, Inc., Warren, Pa. 16365.
8648-16	Staplcotn Strobane 6 E.C. Insecticide.	Staple Cotton Services Association, 210 West Market St., Greenwood, Miss. 38930.
8648-22	Staplcotn Brand 6-3 Strobane-Methyl Parathion.	
8648-23	Staplcotn Brand 8-2 Strobane-Methyl Parathion.	
9275-35	Berrien Strobane 6E	Berrien Products Co., Inc., Box 355, Nashville, Ga. 31639.
9779-9	Riverside Strobane 6-E	Riverside Chemical Co., P.O. Box 171199, 855 Ridge Lake Blvd., Memphis, Tenn. 38117.
9779-111	Riverside 1-1.5	
33955-513	Acme Fogger	Acme Division, PBI Gordon Corp., 300 South Third St., Kansas City, Kans. 66118.

The decision to cancel terpene polychlorinates was based on two major factors: (1) Health implications of test results and (2) lack of significant economic impact. The potential health impact was revealed in a study by Innes et al. entitled "Bioassay of Pesticides and Industrial Chemicals for Tumorigneicity in Mice, a Preliminary Note," J. National Cancer Institute 42(11): 111–114. (1969). The Innes Study showed a significant increase of hepatomas in male mice surviving daily oral treatments of 4.6 mg/kg terpene polychlorinates from day 7 to day 28 followed by 11 ppm in the diet for two years. These hepatomas were subsequently classified as lymphomes and occurred in eleven of the eighteen test animals which survived the two-year testing. Thus, the study indicated that use of terpene polychlorinates as a pesticide poses a carcinogenic hazard for humans.

The economic impact was determined to be negligible since no federally registered pesticide manufacturer has reported the production of any terpene polychlorinates containing products since 1974. In addition, the Teneco Chemical Company, which formerly produced Strobane, has voluntarily withdrawn its registrations for terpene polychlorinates and telephone contact with the registered companies in March of 1976 indicates no holdover stocks of the unformulated product.

The Agency has endeavored to discuss this cancellation action with representatives of the registrants listed above, and has been able to contact all but three of them. All of those with whom this Agency's action has been discussed have indicated their concurrence with the intended cancellation. Such cancellation shall be effective August 2, 1976, unless the registrants, or other interested persons with the concurrence of a registrant, request that the registration be continued in effect.

Requests that the registration of products containing terpene polychlorinates be continued may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Rm. 401, 401 M St. SW., Washington, D.C. 20460. The comments should bear a notation indicating both the subject and the OPP document control number "OPP–66017." Any comments filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

The Agency has determined that minimal, if any, existing stocks of these products are currently in commerce. However, the Agency has determined that since some stocks may still exist, the sale and use of such products may legally continue until December 31, 1976. The sale and use of such existing stocks has been determined to be consistent with the purposes of FIFRA.

Dated: June 18, 1976.

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

[FR Doc.76-18426 Filed 6-25-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-244]

COMMON CARRIER SERVICES INFORMATION

International Satellite Radio Applications Accepted for Filing

JUNE 21, 1976.

The applications listed herein have been found, upon initial review to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

357–DSE–P–76, RCA Alaska Communications, Inc., Unalaska, Alaska. For authority to construct a communication satellite earth station at this location for operation with a domestic communications satellite system. Lat. 53°52'43.7", Long. 166°32'13.7". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 40F3. sing a 10 meter antenna.

358–DSE–P/L–76, RCA Alaska Communications, Inc., Anchorage, Alaska. For authority to construct a Developmental communication satellite earth station at this location for operation with a domestic communications satellite system. Lat. 61°12'50", Long. 149°51'06". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

364–DSE–P–76, RCA Alaska Communications, Inc., Eagle River, Alaska. For authority to construct a communication satellite earth station at this location for operation with a domestic communications satellite system. Lat. 61°17'58", Long. 149°26'42". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 36000F9. Using a 15 meter antenna.

365–DSE–P–76, RCA Alaska Communications, Inc., Unalakleet, Alaska. For authority to construct a communication satellite earth station at this location for operation with a domestic communications satellite system. Lat. 63°52'38.4", Long. 160°47'14.7". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 40F3. Using a 5 meter antenna.

366–DSE–P/L–76, Comtronics Cable TV, Inc., Grand Junction, Colorado. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 39°03'29", Long. 108°35'48". Rec. freq: 3700–4200 MHz. Emission 34000F9. Using a 10 meter antenna.

367–DSE–P–76, Armstrong Utilities, Inc., Ashland, Ohio. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 40°50'45", Long. 82°20'50". Rec. freq: 3700–4200 GHz. Emission 36000F9. Using a 10 meter antenna.

359–DSE–P–76, The State of Alaska, Cape Pole, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 55°57'57", Long. 133°47'33". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

360–DSE–P–76, The State of Alaska, Karluk, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 57°34'16", Long. 154°27'11". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

361–DSE–P–76, The State of Alaska, Nikolski, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 52°56'35", Long., 168°51'02". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

362–DSE–P–76, The State of Alaska, Point Baker, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 56°21'14", Long. 133°37'13". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

363–DSE–P–76, The State of Alaska, Chignik Lagoon, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 56°18'32", Long. 158°32'09". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

[FR Doc. 76–18634 Filed 6–25–76;8:45 am]

[Docket No. 9944 File No. BP–14016; Docket No. 20819, File No. BP–14036]

WEST SIDE RADIO, INCORPORATED

Construction Permit Application

JUNE 21, 1976.

In re applications of West Side Radio, Incorporated, Tracy, California; Requests: 710 kHz, 500 W, DA–1, U. Olympic Broadcasters, Inc., T/A, Olympia Broadcasters, Inc., Carmichael, California; Requests: 710 kHz, 250 W, DA–1, U, for construction permits. Designating applications for hearing [41 FR 24018.]

The order in this proceeding, released June 8, 1976, FCC 76–483 is corrected as follows: West Side Radio, Inc., Tracy, California is changed to: West Side Radio, Incorporated, Tracy, California.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secertary.

[Fr Doc.76–18633 Filed 6–25–76;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibiilty (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the vessels indicated below, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act.

Certificate No.	*Owner/operator and vessels*
01330---	Shell tankers (U.K.), Ltd.: *Haminella.*
01361---	Transportacion Maritima Mexicana, S.A.: *Merida.*
01428---	Ocean Transport & Trading, Ltd.: *Ascanius.*
01505---	Servicio's Maritimos Mexicanos, S.A.: *Hermosillo, Colima, Chihuahua.*
01861---	BP Tanker Co., Ltd.: *British Aviator.*
01982---	AB Svenska Ostasiatiska Kompaniet: *Burma.*
02024---	A/S Hav and A/S Havtank: *Stavern, Permina III.*
02239---	Compagnia Marittima Carlo Cameli: *Paraggi.*
02250---	Davenport Marine Panama, S.A.: *North Atlantic Valour.*
02365---	Leon E. Breaux Towing, Inc.: *Luminetta.*
02601---	Caraibische Scheepvaart Maatchappij N.V.: *Toltec.*
02630---	The Offshore Co.: *Hustler.*
03044---	Bouchard Transportation Co., Inc.: *B. No. 110.*
03088---	Transpacific No. 1 Container Services Inc.: *Oriental Express.*
03137---	Cunard Steam-ship Co., Ltd.: *Markhor.*
03276---	Universe Tankships, Inc.: *Ore Titan.*
03317---	Belgulf Tankers, S.A.: *Belgulf Union.*
03432---	Hinode Kisen K.K.: *Fuji Maru.*
03436---	Iino Kaiun K.K.: *Kiho Maru.*
03453---	Kyosei Kisen Kabushiki Kaisha: *Seika Maru, Housei Maru, Seiwa Maru.*
03536---	Heriofson Shipping Co. A/S: *Hoegh Heron.*
03536---	Helofson Shipping Co. A/S: *Hoegh* saktieselskapet Jolund: *Black Swan.*
03727---	Continental Oil Co.: *TCB 304.*
04004---	Koninklijke Java-China-Paketvaart Lijnen N.V.: *Jupiter Moon, Jupiter Sun.*
04040---	Halfdan Ditlev Simonsen & Co.: *Vianna.*
04095---	M.G.R.S. Inc.: *Catalina.*
04283---	Gulf of Georgia Towing Co., Ltd.: *G of G 800.*
04356---	Pacific Far East Line, Inc.: *Saudi Bear.*
04388---	Franco Shipping & Managing Co., Ltd.: *Begonia, Camelia, Elpida, Salvia, Mimosa, Petunia, Torenia, Areti, Iris, Zinnia.*
04428---	Franco Compania Naviera, S.A.: *Kimo, Proto, Campanula, Oakland Star, Amfitriti, Spio.*
04609---	Standard Dredging Corp.: *SD 266.*
04803---	Brent Towing Co., Inc.: *B–428, B–524.*
04824---	Ocean Oil Carriers, Inc.: *Gaucho Taura.*
05013---	El–Pa Maritime Co., Ltd., Piraeus: *Martha.*
05036---	Compania Nacional de Navegacao: *Principe Perfeito.*
05045---	Cie Generale d'Arments Maritimes: *Loire.*
05262---	M. T. Epling Co.: *Mountainer.*
05285---	International Shipping, Ltd.: *Barbara Vaught, Louise Kirkpatrick, Pearle Jahn, Thelma Collins, Wanda Wheelock.*
05501---	Industrial Navigation Co., Ltd.: *Seamaster.*
05520---	Union Carbide Corp.: *GMD–10.*
05858---	Interislands Shipping Co., Ltd.: *Agate Islands, Amber Islands, Coral Islands, Ivory Islands, Onyx Islands, Opal Islands, Palm Islands, Topaz Islands.*
06385---	Regency Transportation Co., Inc.: *Cedros Pacific.*
06389---	Sears Oil Co., Inc.: *Utica Sears.*
06425---	Mainland Shipping Co.: *Destiny.*
06439---	Skips A/S Triton: *Tiberius.*
06487---	Naviera Ason, S.A.: *Reyes.*
06496---	Whaling City Dredge & Dock Corp.: *Jamestown.*
06571---	Luz-Armement, S.A.: *Guipuzkoa.*
06744---	Genangel Compania Naviera, S.A.: *Sissy.*
06903---	Sun Shipbuilding and Dry Dock Co.: *Westward Venture.*
06995---	Novorossiisk Shipping Co.: *Stanislav.*
07019---	Allied Shipping International Corp.: *Alkeos.*
07090---	Western Trading Co., Inc.: *Cape Ann.*
07397---	Aurora Australis Compania Armadora S.A.: *Sorokos.*
07780---	Gerontina Compania Naviera, S.A. Panama: *Evgenia I.*
08084---	Marenave Transport Corp., Monrovia, Liberia: *Arcadia Berlin.*
08153---	Sicula Partenopea di Navigazione, S.P.A.: *Ginera.*
08364---	Michaelson Lines, S.A. Panama: *Michaelson Queen.*
08414---	I.F.R. Services, Ltd.: *Bristol Clipper, Liverpool Clipper.*
08675---	Torre Canai S.P.A. di Navigazione Cagliari: *Piviere.*
08780---	Eagle Steamship Co., Ltd.: Diamond Eagle.
08876---	Virginia Transport Corp.: Virginia Star, Virginia Lily.
09262---	Transport Maritime Youville Ltee: *Transmar Venture.*
09351---	Wasson Towing Corp.: *Magnolia.*
09379---	Golden North Fisheries, Inc.: *Laney S.*
09440---	Barge Leasing Corp.: *Conrad.*
09488---	Saray Shipping Co., S.A.: *Cap Saray.*
09656---	Liberian Bulk Transport Inc.: *Ocean Wistaria.*
09709---	Yamashita Unyu K.K.: *Kinzan Maru.*
09780---	Glyfada Shipping Co., Ltd.: *Eurosailor.*
09832---	Aspherula Shipping Co., Ltd.: *Tomabi.*
09991---	Laurel Limited: *Pegasus No. 1.*
10026---	Dong Un Fishery Development Co., Ltd.: *Woo Pyong Ho.*
10041---	Towa Shipping Corp.: *Hatsufuji, Sun Deneb.*
10042---	Oyang Fisheries Co., Ltd.: *Oyang Ho No. 71.*
10065---	San Shin Navigation Co., Ltd.: *Sanshin Star.*
10138---	Ocean Marine Co., Ltd.: *Sun Auk.*
10229---	South Louisiana Dredging Co., Ltd.: *Western Warrior.*
10260---	Hollywood Marine, Inc.: C & H 106, MGL 51, MGL 52, S 1512, STC 2011, Wasson No. 1, Wasson No. 2, Wasson No. 8.

Certificate No.	Owner/operator and vessels
10322	Duk Soo Moolsan Co., Ltd.: *Duk Soo No. 61.*
10340	Sarda Ligure Di Navigazione, S.P.A.: *Integritas.*
10368	Kohosuisan Kabushiki Kaisha: *Koho Maru No. 18.*
10423	Merry Shipping Co., Inc.: *Royal Lancer.*
10443	Oberon Maritime Co., S.A.: *Eva Sun.*
10588	Shrine Navigation Co., Ltd., S.A.: *Edo.*
10813	Benitses Shipping Corp.: *Sun Benitses.*
10875	Thenamaris Maritime Inc.: *Eurometal.*
10916	Zapata North Sea, Inc.: *Louisiana.*
10997	Spanocean Line, Ltd.: *Cayman.*
11118	Hunting & Son Ltd.: *Avonfield.*
11148	Cranborne, Ltd.: *Cranborne.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-18715 Filed 6-25-76;8:45 am]

JAPAN LINE, LTD., ET AL.

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, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 8, 1976. 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 particularity 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.

Notice of Agreement Filed by:

R. Frederic Fisher, Esq., Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

In the matter of Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Yamashita-Shinnihon Steamship Co., Ltd., Japan Line (U.S.A.) Ltd., Kerr Steamship Co., Inc., Williams-Dimond-Roundtree Agencies, Inc., Williams, Dimond & Co. and Lilly Shipping Agencies.

Approved Agreement 9721, as amended, permitted Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Yamashita-Shinnihon Steamship Co., Ltd.; Japan Line (U.S.A.) Ltd.; Lilly Shipping Agencies; Kerr Steamship Co., Inc.; Williams, Dimond & Co.; Williams-Dimond-Rountree Agencies, Inc. to establish and operate the Oakland Container Terminal Co., Inc. (OCT) and the Los Angeles Container Terminal Co., Inc. (LACT). Article 7 of approved Agreement 9721 provides that the Board of Directors of each corporation will consist of eight members. The purpose of this requirement was to provide that there be two Board members representing each of the four line shareholders. However, by Agreement 9721-3 (approved by the Commission October 1, 1975) Kawasaki Kisen Kaisha, Ltd. and Kerr Steamship Co., Inc. transferred their interest in the LACT directly to Japan Line, Ltd., Mitsui O.S.K. Lines, Ltd., and the Yamashita-Shinnihon Steamship Co., Ltd. Therefore, consistent with that change, Agreement 9721-4, here, reduces the membership of the Board of LACT to six members.

Kawasaki Kisen Kaisha, Ltd. and Kerr Steamship Co., Inc. retained their interests in the OCT under Agreement 9721, therefore, the membership of the Board of OCT remains at eight members under Agreement 9721-4.

By order of the Federal Maritime Commission.

Dated: June 23, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-18713 Filed 6-25-76;8:45 am]

[Docket No. 76-35]

TARIFFS

Order To Show Cause

Cancellation of the consolidation allowance rule published in the freight tariffs of conferences and the rate agreement operating from United States Atlantic ports to ports in the United Kingdom, Ireland, the Scandinavian peninsula and continental Europe.

On December 23 and 24, 1975 the Commission received revisions to tariffs from certain conferences which serve the export trade of the United States from North Atlantic ports to Europe, as well as from the South Atlantic North Europe Rate Agreement (Agreement 9984). A list of the conferences, rate agreement and carriers which submitted these revisions is attached as Appendix "A". The tariff revisions received were to suspend the rules eastbound (outbound) relating to the payments of consolidation allowances and were to be effective January 12, 1976. The concerned conferences and rate agreement have voluntarily changed the effective date of the rule suspension to September 20, 1976.

The rules presently effective for outbound shipments provide for a fixed consolidation allowance of $525 per container unit to be paid the consolidator. An additional allowance of 40 percent of the total gross ocean freight is made when the container exceeds $2100 in freight revenue. Container units are defined as either two units of 19.5 feet each or one of 34/40 feet. A further requirement of the rule is that the consolidation must involve a minimum of three different commodities and four different shippers. Further, the consolidators have the option of utilizing the carrier's terminal facilities and stevedores for consolidation, but if these are used, then the carrier is entitled to $28 per long ton from the consolidator.

On January 30, 1976, the Commission served a Section 21 Order on those parties listed in Appendix "A" requiring information to determine, among other things, the effect the suspension of the consolidation allowances would have on the foreign commerce of the United States.

Information received in response to the section 21 Order revealed that large numbers of consolidators consolidate LTL freight pursuant to these rules. These entities were generally found to be operating from mid-western and north-eastern points in the United States. Consolidators included Commission licensed ocean freight forwarders, non-vessel operating common carriers with Commission filed tariffs, and firms which were strictly consolidators. Total figures for the carriers responding to the order indicate that for 1974 and 1975 $3,130,618 was paid out for allowances for consolidation of outbound freight performed by others pursuant to their rules. The figure paid out to consolidators represents 33 percent of gross revenues ($9,402,266) received by carriers for consolidated cargo shipped under the allowance rules for those two years.

It was additionally discovered through the Order that some of the carrier members favored continued payment of a consolidation allowance but would be denied this by virtue of the voting structure of the conferences.

In addition to the raw data received from carriers as a result of the section 21 order, information was also obtained from the consolidating entities themselves, as well as from shippers who avail themselves of these consolidating services.

The consensus of complaints received from shippers was that suspension of the rule would in effect eliminate these consolidating services upon which they had come to rely through the years. General concern was expressed about less control of shipments and greater exposure to pilferage, and damage due to increased handling of cargo. This latter concern was principally expressed by shippers who ship from the mid-west via eastern ports. Information received from the consolidators themselves was that elimination of the allowance rule

would in effect permit only a marginal profit, thereby greatly threatening the continued existence of their services.

The suspension of the consolidation allowances is intended only for the eastbound trade to Europe. No similar suspension is intended for the inbound trades where the allowance would continue to be paid European consolidators. Generally, the carriers which are members of eastbound conferences are also members of westbound conferences where the allowance will continue. Likewise, the rate agreement which operates in both directions of the trade from and to South Atlantic ports intends to suspend the allowances only in the export direction.

The Department of Justice has petitioned the Commission that it issue an order to Show Cause in this matter taking the position that the suspension of payment of the consolidation allowances constitutes unfiled, unapproved, and therefore, unlawful concerted action. They further maintain that such an activity prevents or destroys competition and is one not necessitated by a serious transportation need and is not in the public interest. The issues raised by the Department have already been under consideration and we are including them in the instant proceeding.

The Commission has a continuing duty to scrutinize those concerted carrier activities which are lawful solely by virtue of Commission approval under section 15 of the Shipping Act, 1916. In the instance where carriers purport to act within the scope of an agreement approved by the Commission, it is first necessary to determine whether or not the activity under scrutiny is in fact, within the scope of the agreement.

If it is determined that the activity under scrutiny is within the scope of the agreement and has received approval under section 15, the Commission has a continuing duty to decide whether there continues to exist a justification for the agreement's approval. Thus, if the rationale justifying approval is no longer apparent the Commission has the duty to disapprove that agreement or to require a modification to the basic agreement to insure compliance with standards mandated by section 15, Shipping Act, 1916.

It appears from a review of the relevant agreements that the concerted payment or suspension of payment of consolidation allowances may not be specifically within the scope of the approved Commission agreements at issue here. Therefore, such concerted action may be unlawful because their activity is an agreement to accomplish something which, among other things, controls, regulates, prevents, or destroys competition without prior approval of such an agreement.

Further, even if the concerted acts of implementing or suspending the allowance were within the scope of the basic agreements, it appears to the Commission that such a suspension of the consolidation rule may threaten the continued existence of the consolidation industry. An agreement which permits the creation by concerted action of circumstances detrimental to the commerce of the United States and contrary to the public interest must be disapproved under section 15 standards, unless modified to conform to those standards.

Also, the suspension of these allowances in the eastbound trade only may subject that cargo (LTL), the shippers of that cargo, and the consolidators of that cargo to undue or unreasonable prejudice or disadvantage vis-a-vis their European counterparts which would continue to enjoy the benefits of consolidation services in violation of section 16, First of the Shipping Act, 1916.

Now, therefore *It is ordered*, That pursuant to sections 15, 16, and 22 of the Shipping Act, 1916, the conferences, rate agreements and member lines as listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to Show Cause why the Commission should not find that the acts of implementing and suspending the consolidation allowance by concerted action is an activity which, among other things, controls, regulates, prevents, or destroys competition and which has been taken without prior Commission approval of such authority in violation of section 15, Shipping Act, 1916;

It is further ordered, That the same respondents Show Cause why, even if the acts of implementing and suspending the consolidation allowance are a concerted activity found to have been contemplated within the language of approved agreements under section 15, Shipping Act, 1916, the Commission should not find that the agreements are detrimental to the commerce of the United States and contrary to the public interest and must be disapproved unless modified by the parties to the agreements to remove the authority for concerted action in connection with the payment of allowances for the consolidation of cargo;

It is further ordered, That the same respondents Show Cause why, even if the acts of implementing and suspending the consolidation allowance by concerted action are found to have been within the scope of approved agreements under section 15, Shipping Act, 1916, the Commission should not find that the agreements are detrimental to the commerce of the United States and contrary to the public interest and must be disapproved unless modified by the parties to the agreements by authorizing each line to take independent action on matters concerning consolidation allowances;

It is further ordered, That the same respondents Show Cause why cancellation of subject consolidation allowances in the eastbound trade only does not subject LTL cargo, United States shippers of that cargo, and consolidators of that cargo to an undue or unreasonable prejudice or disadvantage vis-a-vis inbound LTL cargo which moves pursuant to existing consolidation allowances in violation of section 16, First, Shipping Act, 1916;

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before July 16, 1976.

Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business July 16, 1976. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business August 6, 1976.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondents;

It is further ordered, That persons other than those already party to this proceeding who desire to become parties and participate herein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's Rules of Practice and procedure (46 CFR 502.72) no later than close of business June 30, 1976.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies, as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

LIST OF CONFERENCES, RATE AGREEMENTS, CARRIERS TAKING TARIFF ACTION

North Atlantic Baltic Freight Conference (Agreement No. 7670).
North Atlantic Continental Freight Conference (Agreement No. 9214).
North Atlantic French Atlantic Freight Conference (Agreement No. 7770).
North Atlantic United Kingdom Freight Conference (Agreement No. 7100).
South Atlantic North Europe Rate Agreement (Agreement No. 9984).
Seatrain International, S.A. (A member of the South Atlantic North Europe Rate Agreement which files separate tariffs).

LIST OF CARRIERS PARTICIPATING IN CONFERENCES/RATE AGREEMENT NAMED ABOVE

American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004.
Atlantic Container Line (G.I.E.), 80 Pine Street, New York, N.Y. 10005.
Dart Containerline Co., Ltd., Reid House, Reid Street, Hamilton, Bermuda.
Hapag-Lloyd Aktiengesellschaft, Ballindamm 25, Hamburg, Germany.
Norwegian American Line, Den Norske Amerikalinje A/S, Jernbanetorget No. 2, Oslo, Norway.
Sea-Land Service, Inc., P.O. Box 900, Iselin, N.J. 08830.

United States Lines, Inc., One Broadway, New York, N.Y. 10004.
Transatlantic Container Management, N.V., (New England Expres Line, N.V.), Frankwjkei 70, 200 Antwerp, Belgium.
Combi Line, (a combined service of Hapag Lloyd AG & International Transport (ICT) B.V.), c/o HAPAG Lloyd AG, Ballin Damm 25, Zooo Hamburg 1, West Germany.
Seatrain International, S.A., Port Seatrain, Weehawken, New Jersey 07087.

[FR Doc.76-18714 Filed 6-25-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. E-8137; E-8217]

BOSTON EDISON CO. AND NEW ENGLAND POWER SERVICE CO.

Proposed Settlement Agreement

JUNE 22, 1976.

Take notice that on June 17, 1976, Boston Edison Company filed with the Presiding Administrative Law Judge a proposed Settlement Agreement in the above-referenced dockets on behalf of Boston Edison Company (Edison), Fitchburg Gas and Electric Light Company (Fitchburg) and New England Power Company (NEPCO), requesting that it, along with the record, be certified to the Commission for approval.

The proposed Agreement would terminate the two consolidated dockets. Docket No. E-8137 involves a contract providing for the sale of 40 MW entitlement of system capacity and corresponding system energy by Edison to Fitchburg. Docket No. E-8217 involves a contract under which Edison and NEPCO provide the necessary transmission service for the delivery of the Fitchburg entitlement to the Fitchburg system.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Captiol Street, NE., Washington, D.C. 20426, on or before July 7, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18730 Filed 6-25-76;8:45 am]

[Docket No. ER76-737]

DUKE POWER CO.

Tendered Contract Supplement

JUNE 22, 1976.

Take notice that on April 1, 1976, Duke Power Company tendered for filing a supplement to its electric power contract with Rutherford Electric Membership Corporation. The supplement provides for increases in designated Kw at Delivery Points 4, 7, and 11. The requested effective date is July 21, 1976.

Duke Power states that a copy of the filing has been mailed to the customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18731 Filed 6-25-76;8:45 am]

[Docket No. E-9453]

DUKE POWER CO.

Certification of Settlement Agreement

JUNE 22, 1976.

Take notice that on June 15, 1976, the Presiding Administrative Law Judge certified to the Commission a proposed Settlement Agreement involving Duke Power Company's proposed wholesale rate increase in the above captioned docket.

Copies of this Settlement Agreement are on file with the Commission and are available for public inspection. Any person desiring to comment on matters contained therein should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 16, 1976. Any person desiring to file reply comments should do so on or before July 30, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18726 Filed 6-25-76;8:45 am]

[Docket No. CP76-390]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

JUNE 22, 1976.

Take notice that on June 10, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-390 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and exchange with Northern Natural Gas Company (Northern) of up to 4,500,000 Mcf of natural gas, during the period October 1, 1976, through September 30, 1977, and of an equal volume during the period October 1, 1977, through October 31, 1978, if Northern elects to continue the arrangement for a second year, and the corresponding rescheduling of gas with Northern Illinois Gas Company (NI-Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Northern has advised that it does not have sufficient deliverability to meet existing peak day and seasonal requirements of its high priority markets and that, in order to offset this deficiency, Northern has entered into a two-year rescheduling of deliveries arrangement with NI-Gas, a partial requirements customer of Northern, which arrangement, authorized in Docket No. CP75-336, is currently in its first year of implementation. It is said that such arrangement provides for reduced deliveries by Northern to NI-Gas during each of the winter periods of 1975-76 and 1976-77 by an annual volume of 3,600,000 Mcf of gas at daily rates of up to 60,000 Mcf. It is asserted that Northern and NI-Gas have agreed to increase the rescheduled volumes and to extend the arrangement, which is the subject of pending application in Docket No. CP76-355, and that to accomodate the proposed expanded rescheduling arrangement, Applicant has agreed to provide such exchange and transportation services as are required on its part to effectuate the proposed expanded rescheduling arrangement.

It is indicated that Applicant and Northern have, therefore, entered into a seasonal exchange agreement, dated April 8, 1976, under which Applicant has agreed to the transportation and exchange of up to a maximum of 4,500,000 Mcf of natural gas for Northern during the period October 1, 1976, through September 30, 1977, and, at Northern's sole option, an equal volume during the period October 1, 1977, through October 31, 1978. Further, it is indicated that in order to enable Applicant to effectuate the seasonal exchange agreement, it and NI-Gas have entered into a rescheduling agreement, dated March 1, 1976, under which Applicant and NI-Gas have agreed to the rescheduling of deliveries from Applicant during like periods.

It is proposed herein that Applicant would deliver to Northern at an existing Mills County, Iowa, interconnection such volumes of gas as Northern might direct (not to exceed 160,000 Mcf per day), up to a maximum volume of 4,500,000 Mcf during the winter period October 1, 1976, to March 31, 1977, but not to exceed the quantity of gas NI-Gas has agreed to reschedule during the period under the terms of the agreement between Applicant and NI-Gas. It is stated that during the same period Applicant would reduce deliveries to NI-Gas by the agreed volume. Further, it is proposed that during the summer period April 1 to October 1, 1977, Northern would redeliver to Applicant a volume thermally equivalent to winter period deliveries at the Mills County interconnection in daily quantities of up to 90,000 Mcf of natural gas during April 1977, up to 145,000 Mcf of natural gas during May 1977, and up to 200,000 Mcf of gas thereafter until October 1, 1977, and that, pursuant to the terms of the rescheduling agreement, Applicant would increase deliveries to

NI-Gas by the amount redelivered by Northern until a volume of gas thermally equivalent to that delivered to Northern during the winter period has been redelivered. Applicant states that it agrees to accept a minimum daily volume of 40,000 Mcf tendered by Northern, within the ability of NI-Gas to receive equivalent rescheduled volumes, and up to 2,000,000 Mcf during any month of the summer period. It is said that Northern, at its sole option, may elect to continue the proposed arrangement with Applicant in effect from October 1, 1977, until October 31, 1978, in like quantities, and under the same terms and conditions, as for the period October 1, 1976, through September 30, 1977. Further, it is said that in the event Northern elects to continue for the optional period, it may request the right to make predeliveries of gas to Applicant during the 1977 summer period for delivery to Northern during the 1977–78 winter period.

Applicant proposes to utilize its existing facilities to render the proposed services.

It is said that the rate to be charged Northern by Applicant for the transportation service during the summer period proposed herein is 12.0 cents per Mcf of gas transported with an annual minimum charge of $270,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18732 Filed 6-25-76;8:45 am]

[Docket No. RI76-132]

NORTHERN MICHIGAN EXPLORATION CO.

Petition for Special Relief

JUNE 22, 1976.

Take notice that on June 14, 1976, Northern Michigan Exploration Company (Petitioner), 212 West Michigan Ave., Jackson, Michigan 49201, filed in Docket No. RI76-132 a petition for special relief of $1.7456 per Mcf pursuant to §§ 1.7 and 2.56 a(g)(2) of the Commission's rules of practice and procedure for sales of natural gas from its 12.5 percent working interest in West Cameron Block 639, Offshore Louisiana, to Trunkline Gas Company and Consumers Power Company.

Petitioner states that West Cameron Block 639 is located in more than 250 feet of water and that its costs, including a reasonable rate of return, exceed the national rate established in Opinion No. 699-H. Petitioner is currently making emergency deliveries to Trunkline from West Cameron Block 639 pursuant to § 157.29 of the Commission's rules of practice and procedure. It has also filed an application for limited term authorization to continue such deliveries to Trunkline beyond the emergency sale period until the issuance of a permanent certificate in Michigan Gas Storage Company, Docket No. CP74-322. In the latter proceeding, NOMECO proposes to sell this gas to its parent, Consumers Power Company. Petitioner requests relief for the limited term sale to Trunkline as well as the proposed permanent sale to Consumers Power. Additionally, Petitioner requests that, pursuant to Section 1.32 (b) of the Commission's Rules, the intermediate decision procedure be omitted inasmuch as NOMECO will begin to incur losses if it does not receive the requested relief by July 6, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 16, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18728 Filed 6-25-76;8:45 am]

[Docket No. ID-1792]

ROBERT P. WIWI

Application

JUNE 22, 1976.

Take notice that on June 9, 1976, Robert P. Wiwi (Applicant) filed an application with the Federal Power Commission. Pursuant to Section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions:

Vice President, The Cincinnati Gas & Electric Company, Public Utility.
Vice President, The Union Light, Heat and Power Company, Public Utility.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18729 Filed 6-25-76;8:45 am]

[Docket No. RP73-35 (PGA76-3) and RP74-89 (AP76-3)]

TRUNKLINE GAS CO.

Change in Tariff

JUNE 22, 1976.

Take notice that on June 15, 1976 Trunkline Gas Company (Trunkline) tendered for filing Sixteenth Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1. This revised sheets reflects rate adjustments under an advance payment tracker, a purchased gas transmission and compression tracker and a PGA rate adjustment to show increases in current cost of gas and recovery of amounts in the deferred purchased gas cost account. The tracking provisions are pursuant to Articles V and VI, respectively, of the Agreement in Docket No. RP74-89.

Trunkline requests an effective date of August 1, 1976 for this sheet.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 13, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken,

but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-18727 Filed 6-25-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-57]

AEROSPACE SAFETY ADVISORY PANEL

Meeting

The Aerospace Safety Advisory Panel will meet on July 23, 1976 in Room 7002, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C. The meeting is open to the public and will be held from 10:00 a.m. to 12:00 noon. The seating capacity of the room is about 40 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

At this time the Panel will summarize its fact-finding activities, conclusions and recommendations on the Shuttle program for the Administrator. The Panel will also present its written report to the Administrator for further detailed consideration.

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request."

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

The chairman of the Panel is Mr. Howard K. Nason. The other members are: Hon. Frank C. Di Luzio, Mr. Herbert E. Grier, Hon. Willis M. Hawkins, Lt. Gen. Warren D Johnson, USAF, Mr. John L. Kuranz, Mr. Lee R. Scherer, and Dr. Charles D. Harrington.

The contact for further information is Carl R. Praktish, Executive Secretary, Aerospace Safety Advisory Panel, 400 Maryland Avenue, S.W., Washington, D.C. 20546 (Phone: Area Code 202, 755-8436).

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs.

JUNE 21, 1976.

[FR Doc.76-18598 Filed 6-25-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

JUNE 21, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., room 314, Washington, D.C. on July 22, 1976.

The purpose of the meeting is to evaluate prospective seminar directors and their proposals for the program of Professions Seminars to be supported by the National Endowment for the Humanities in 1977.

Because the panel will discuss sensitive, personal data regarding persons nominated as seminar directors, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 522 (b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-18704 Filed 6-25-76;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

JUNE 21, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., room 314, Washington, D.C. on August 3, 6, 9, and 12, 1976, from 9 a.m. to 5:30 p.m.

The Purpose of the meeting is to review Independent Fellowship applications submitted to the National Endowment for the Humanities for 1977-78 fellowship grants.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting woud fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-18705 Filed 6-25-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

PRIVACY ACT OF 1974

Additional Systems of Records

Pursuant to the requirements of section 3 of the Privacy Act of 1974, U.S.C. 552a(c)(4), notice is hereby given of the existence and character of two new systems of records to be maintained by the National Science Foundation and of the routine uses thereof. Interested persons are invited to submit written data, views or arguments to the Director, National Science Foundation, ATTN: General Counsel, Washington, D.C. 20550, not later than thirty days from the date of this published notice.

NSF-41

System Name: Dissertation Advisers File.

System Location: National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418.

Categories of Individuals Covered by the System: Dissertation Advisers of PhD's from U.S. universities, from 1963 forward. Data are as given in the Doctorate Records File, a separate system of records (see NSF-6).

Categories of Records in the System: Advisee's serial number, institution, field, year, and month of graduation, Adviser's name and Doctorate Records File ID#, if available.

Routine Use of Records Maintained in the the System: Records may be transferred to other Federal agencies to enable them to conduct statistical studies. No other routine uses have been identified, although data from this system is used in the preparation of statistical studies. For example, information from the file is used along with other records to provide statistical information on career achievements of individuals who may have been supported by Federal Government agencies for part of their training, or for other statistical purposes. The results of these studies do not reveal the identities of individuals.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System.

Storage: The records are kept by the National Academy of Sciences on Computer Tapes

Retrievability: Alphabetically by last name of individual

Safeguards: Buildings employ security guards. Buildings are locked during non-business hours. Records are kept in locked rooms during non-business hours.

Retention and Disposal: Records are kept indefinitely

System Manager: Division Director, Division of Science Resources Studies.

Notification Procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record Access Procedures: See *Notification*, above.

Contesting Record Procedures: See *Notification*, above.

Record Source Categories: Doctorate Records File, NSF System of Records No. 6.

NSF–42

System Name: Nominees for and Recipients of the Alan T. Waterman Award Nomination File.

Location: National Science Foundation, Office of Planning and Resources Management, 1800 G Street, NW., Washington, D.C. 20550.

Category of Individuals covered by the system: Persons who have been nominated for or who have received the National Science Foundation's Alan T. Waterman Award.

Category of Records in the system: Biographical information concerning past employment, education, achievements, and other similar personal data.

Routine Uses of Records Maintained in the System: None, although name, affiliation, and other pertinent information is released to the press on awardees. No information is released on other nominees.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, Disposing of Records in the System:

Storage: Paper records maintained in file folders.

Retrievability: Folders for nominees are filed alphabetically. Recipients are arranged alphabetically by year of award.

Safeguard: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Folders are maintained in locked file.

Retention and Disposal: After five years, records are transferred to the Federal Records Center.

System Manager: Director, Office of Planning and Resources Management.

Notification Procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. Your request must specify whether you are interested in nominee or recipient records. If you are interested in records concerning recipients, the year you received the award should be specified. If you are interested in nominee records, you should note that only persons nominated within the last five years are considered for any given year's award. Therefore, unless your request otherwise specifies, it will be assumed to cover only records for the last five years preceding the request. If you are interested in earlier years, your request should also specify your scientific field or fields of activity.

Record Access Procedures: See *Notification* above.

Contesting Record Procedures: See *Notification* above.

Sources: Nominees, Universities, and Societies.

Dated: June 23, 1976.

H. GUYFORD STEVER,
Director.

[FR Doc.76–18734 Filed 6–25–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–332]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL.

Availability of Draft Supplement No. 1 to the Final Environmental Statement for the Barnwell Nuclear Fuel Plant

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Supplement No. 1 to the Final Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the Barnwell Nuclear Fuel Plant in Barnwell, South Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and at the Barnwell County Courthouse, Office of the County Commission, Barnwell, South Carolina. The Draft Supplement is also being made available at the State Clearinghouse, Division of Administration, 1205 Pendleton Street, 4th Floor, Columbia, South Carolina 29201, and at the regional clearinghouse, Lower Savannah Regional Planning and Development Commission, P.O. Box 850, Aiken, South Carolina 29801. Requests for copies of the Draft Supplement, identified as NUREG–0082 Supp. 1 (Draft), should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Division of Fuel Cycle and Material Safety.

This supplement treats combined impacts of all BNFP facilities, combined impacts with other facilities, and information which has become available since publication of the FES. The staff will prepare a second supplement to treat safeguards considerations and the final cost-benefit analysis, which will complete its environmental review.

The Applicant's Environmental Report, as supplemented, submitted by Allied-General Nuclear Services and the Final Environmental Statement are also available for public inspection at the above-designated locations. Notice of availability of the Final Environmental Statement was published in the FEDERAL REGISTER on January 30, 1974 (40 FR 3844).

Pursuant to 10 CFR Part 51, interested persons may submit comments on Draft Supplement No. 1 to the Final Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Statement (local agencies may obtain these documents upon request). Comments are due by August 23, 1976. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Barnwell County Courthouse. Upon consideration of comments submitted with respect to the draft supplemental statement, the Commission's staff will prepare a final supplemental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Supplement to the Final Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Bethesda, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT M. BERNERO,
Chief, Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.76–18645 Filed 6–25–76;8:45 am]

[Docket No. 50–313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR–51, issued to Arkansas Power & Light Company (the licensee), which revised Technical Specifications for operation of the Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment (1) provides for the removal of surveillance capsules during the remainder of Cycle 1 operation, (2) revises Technical Specification 4.2.7 to conform with Appendix H to 10 CFR Part 50, (3) alters the charcoal filter requirements for the Hydrogen Purge System to permit reactor operation until the end of Cycle 1 with available spare filters installed in the system and (4) increases the frequency of gross radioiodine determination and establishes reporting requirements for significant changes in gross radioiodine concentration. The Commission also granted an exemption to Section II.C.2 of Appendix H to 10 CFR Part 50 which permits the licensee to operate the facility during the remainder of Cycle 1 operation with the reactor vessel surveillance specimens and holder tubes removed from the reactor vessel.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings

as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated May 19, June 4 and June 10, 1976, (2) April 20, 1976 request for exemption, (3) Amendment No. 12 to License No. DPR-51, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas 72801.

A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18646 Filed 6-25-76;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Order for Modification of License

I. Baltimore Gas and Electric Company, Gas & Electric Building, Charles Center, Baltimore, Maryland 21203 (the Licensee), is the holder of Facility Operating License No. DPR-53 which authorizes the operation of a nuclear power reactor known as Calvert Cliffs Nuclear Power Plant, Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2560 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Calvert County, Maryland.

II. In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the Licensee on September 12, 1974, and with the Order for Modification of License dated December 27, 1974, the reactor core peak linear heat rate is limited to 15.2 kW/ft in all fuel assemblies. To further comply with the Order of December 27, 1974, the Licensee submitted on July 9, 1975, a re-evaluation of ECCS cooling performance to verify the operating limitations proposed in the Licensee's submittal of September 12, 1974. The ECCS performance evaluation submittal by the Licensee on July 9, 1975, was based upon a subsequently approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, § 50.46 and Appendix K. The evaluation indicated that with peak linear heat generation rate limited to 15.8 kW/ft, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry, and long term cooling. The NRC staff review of the Licensee's submittal of July 9, 1975, is continuing. In the meanwhile, the Technical Specifications have been limited to 15.2 kW/ft based on the earlier evaluation.

On June 8, 1976, the NRC staff was informed by CE that several errors had been discovered in STRIKIN-2, the computer code used to calculate peak clad temperature and the clad oxidation percentage in both CE ECCS models. These errors were discovered by CE during an internal Quality Assurance audit of their LOCA evaluation model codes. While some of these errors have either no significant effect or a conservative effect on the evaluation results, some lead to non-conservative values. Based on a preliminary assessment, incuding information and supportive calculations by CE, the staff has determined that the following two code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Combustion Engineering plants:

(1) Guide Tube Model—The code treated the control rod guide tube as a solid rod rather than a hollow tube. This resulted in an excess heat storage capacity in the guide tube which then led to excessive thermal radiation cooling from the hot rod to the guide tube.

(2) View Factors for Radiation Cooling Model—The code did not conservatively treat the view factors in the thermal radiation model to account for the possible effect of rupture and ballooning of adjacent fuel rods which contact the hot rod and reduce the surface area available for radiation cooling.

For this reason the staff instructed CE and the Licensee to provide a revised calculation of peak clad temperature for the worst break area identified in previous calculations with the errors properly corrected. Using the more recent CE evaluation model, with the code corrected for the two items discussed above, and with an additional correction of a sign error in the source term of the conduction equations (this latter error produced a conservative effect), the revised calculations demonstrate that for peak linear heat generation rates of 14.9 kW/ft in all fuel assemblies, the peak clad temperature and amount of cladding oxidation remain below the criteria set forth in 10 CFR 50.46(b). The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model they will demonstrate that operation with these peak linear heat generation rates would conform to the criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible.

However, since a revised evaluation for the entire break spectrum for the facility using the new evaluation model properly corrected cannot be completed for several weeks, the staff believes that it is prudent to impose an interim penalty on allowable peak linear heat generation rate to account for uncertainties that may result from the fact that calculations thus far have been made only for the worst case break previously identified. The staff concludes that an additional limitation of 1 kW/ft will eliminate uncertainties resulting from the preliminary limited break spectrum calculations thus far performed, and will assure that ECCS performance at the facility will conform to all the criteria set forth in 10 CFR § 50.46(b). These additional limitations will provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on June 11, 1976, the Licensee promptly modified plant setpoints to reduce peak linear heat generation rate by 1 kW/ft to 13.9 kW/ft in all fuel assemblies. The NRC staff believes that the Licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, the Calvert County Library, Prince Frederick, Maryland: (1) Letters dated June 13, 1975 and December 9, 1975, from the NRC staff to Combustion Engineering; (2) Letter dated June 14, 1976, from Baltimore Gas and Electric Company to the Director of Nuclear Reactor Regulation; (3) Letter dated June 15, 1976, from Combustion Engineering to the NRC staff; and (4) This Order for Modification of License, In the Matter of Baltimore Gas and Electric Company (Calvert Cliffs Nuclear Power Plant, Unit No. 1), Docket No. 50-317.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That facility Operating License No. DPR-53 is hereby amended by adding the following new provisions:

(1) As soon as possible, the Licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved

by the NRC staff on June 13, 1975, and December 9, 1975, and corrected for the errors described herein.

(2) Until further authorization by the Commission, the reactor shall not be operated with a peak linear heat generation rate in excess of 13.9 kW/ft for all fuel assemblies.

Dated in Bethesda, Maryland this 17th day of June, 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76-18647 Filed 6-25-76;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications for the facility to (1) decrease from three to two the required number of operable boric acid flow paths to the reactor coolant system and (2) correct minor editorial errors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 8, 1975, (2) Amendment No. 15 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are avilable for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18648 Filed 6-25-76;8:45 am]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), which revised Technical Specifications for operation of Unit 1 of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modified the use of existing isolation valves which serve as part of the new nitrogen recirculation system.

The application, as modified, for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for the amendment dated May 13, 1976, and a supplement thereto dated May 20, 1976, (2) Amendment No. 16 to License No. DRP-35, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18649 Filed 6-25-76;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Order for Modification of License

I. Florida Power & Light Company, Post Office Box 3100, Miami, Florida 33101 (the Licensee), is the holder of Facility Operating License No. DPR-67 which authorizes the operation of a nuclear power reactor known as St. Lucie Plant Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2560 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site on Hutchinson Island in St. Lucie County, Florida.

II. FSAR analyses, setpoint analyses, and Technical Specifications for St. Lucie Unit No. 1 were based on a reactor coolant flow rate of 370,000 gpm. However, hot functional test measurements have indicated that slightly less flow may exist. As a result the Licensee submitted interim limitations and supporting analyses for the purpose of demonstrating that operation at up to 90 percent of rated power would provide adequate assurance of public health and safety with a minimum reactor coolant flow of 354,000 gpm some 6 percent less than the measured flow during flow tests. On the basis of a preliminary assessment of this information Amendment No. 5 to License DPR-67 was issued on April 30, 1976, which limited power to 60 percent of rated power, under conditions specified therein, pending completion of a more detailed review.

The staff has completed a more detailed review of the information, originally submitted by the letters dated April 27 and 30, 1976, and additional information submitted by a letter dated May 14, 1976, regarding the reduced flow ECCS performance analysis and the use of a calorimetric technique to obtain an independent check on the measured value of flow rate.

The Licensee proposed appropriate interim limitations for operation at 90% of full power with a reactor coolant flow rate of at least 354,000 gpm. In support of this evaluation, the Licensee provided an analysis of ECCS performance under the proposed conditions, which indicated that peak clad temperature and cladding oxidation values would be within the limits of 10 CFR 50.46(b) at peak linear heat generation rates of 15.6 kW/ft.

The ECCS performance evaluation submitted by the Licensee was based upon the most current approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer

of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, 50.46 and Appendix K. The evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

On June 8, 1976, the NRC staff was informed by CE that several errors had been discovered in STRIKIN-2, the computer code used to calculate peak clad temperature and the clad oxidation percentage in their ECCS model. These errors were discovered by CE during an internal Quality Assurance audit of their LOCA evaluation model codes. While some of these errors have either no significant effect or a conservative effect on the evaluation results, some lead to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by CE, the staff has determined that the following two code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Combustion Engineering Plants:

(1) Guide Tube Model—The code treated the control rod guide tube as a solid rod rather than a hollow tube. This resulted in an excess heat storage capacity in the guide tube which then led to excessive thermal radiation cooling from the hot rod to the guide tube.

(2) View Factors for Radiation Cooling Model—The code did not conservatively treat the view factors in the thermal radiation model to account for the possible effect of rupture and ballooning of adjacent fuel rods which contact the hot rod and reduce the surface area available for radiation cooling.

For this reason the staff instructed CE and the Licensee to provide a revised calculation of peak clad temperature for the worst break area identified in previous calculations with the errors properly corrected. The revised ECCS calculations were performed using the current, NRC staff approved, CE ECCS evaluation model, a reactor coolant flow rate value, which was reduced corresponding to current flow-test measurements and a power level of 90 percent of full power. The code was corrected for the two items discussed above, and with an additional correction of a sign error in the source term of the conduction equations (this latter error produced a conservative effect), the revised calculations demonstrate that for peak linear heat generation rates of 13.7 kW/ft in all fuel assemblies, at a power level of 90 percent of full power, the peak clad temperature and amount of cladding oxidation remain below the criteria set forth in 10 CFR 50.46(b). The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model they will demonstrate that operation with these peak linear heat generation rates would conform to the criteria of 10 CFR 50.46 (b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible. However, since a revised evaluation for the entire break spectrum for the facility using the new evaluation model properly corrected cannot be completed for several weeks, the staff believes that it is prudent to impose an interim penalty on allowable peak linear heat generation rate to account for uncertainties that may result from the fact that calculations thus far have been made only for the worst case break previously identified, The staff concludes that an additional limitation of 1 kW/ft will eliminate uncertainties resulting from the preliminary limited break spectrum calculations thus far performed, and will assure that ECCS performance at the facility will conform to all the criteria set forth in 10 CFR 50.46 (b). These additional limitations will provide reasonable assurance that the public health and safety will not be endangered.

With respect to all other aspects of operation at 90 percent of full power at a minimum coolant flow rate of 354,000 gpm the staff safety evaluation dated June 17, 1976, indicates that such operation will fully conform to the requirements of the Commission's regulations and will provide reasonable assurance of no undue risk to public health and safety.

Upon notification by the NRC staff on June 11, 1976, the Licensee promptly modified plant set points to reduce peak linear heat generation rate by 1 kW/ft to 12.7 kW/ft in all assemblies. This limitation is appropriate for operation at 90 percent of rated power. The NRC staff believes that the Licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III. Copies of the following documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450: (1) Letter dated December 9, 1975, from the NRC staff to Combustion Engineering, and letter dated June 13, 1975 from the NRC staff to Combustion Engineering; (2) Letters dated April 27, April 30, May 14, June 14, and June 15, 1976, from Florida Power & Light Company to the Director of Nuclear Reactor Regulation; (3) Letter dated June 15, 1976, from Combustion Engineering to the NRC staff; (4) This Order for Modification of License, In the Matter of Florida Power & Light Company (St. Lucie Plant Unit No. 1, Docket No. 50-335); and (5) Safety Evaluation by the Office of Nuclear Reactor Regulation Supporting an Interim Power Limit of 90 percent of Full Power, Florida Power & Light Company, St. Lucie Plant Unit No. 1, Docket No. 50-335, dated June 17, 1976.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That Facility Operating License No. DPR-67 is hereby amended by adding the following new provisions:

(1) As soon as possible, the Licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved by the NRC staff on December 9, 1975, and June 13, 1975, and corrected for the errors described herein.

(2) Until further authorization by the Commission, the reactor shall not be operated with a peak linear heat generation rate in excess of 12.7 kW/ft for all fuel assemblies.

(3) Until further authorization by the Commission, operation of the facility shall be limited to 90 percent of rated power and the following limitation shall apply in lieu of Section K of Enclosure 1 of the license:

Operation shall be in accordance with the limitations set forth in the Safety Evaluation by the Office of Nuclear Reactor Regulation Supporting An Interim Power Limit Of 90 Percent Of Full Power.

Dated in Bethesda, Maryland, this 17th day of June 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76-18650 Filed 6-25-76;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Order for Modification of License

I. The Maine Yankee Atomic Power Company (the Licensee), is the holder of Facility Operating License No. DPR-36 which authorizes the operation of a nuclear power reactor known as Maine Yankee Atomic Power Station (the facility) at steady state reactor power levels not in excess of 2440 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Lincoln County, Maine.

II. In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the Licensee on March 27, 1975, the Technical Specifications issued June 24, 1975, for the facility limit the reactor core peak linear heat rate to 13.3 kW/ft in all fuel assemblies. The ECCS performance evaluation submitted by the Licensee was based upon a previously approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, 50.46 and Appendix K. The

evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

On February 11, 1976, the licensee submitted revised ECCS performance calculations based on the more recent CE evaluation model approved by the NRC staff on December 9, 1975. This analysis predicted a substantially lower peak clad temperature and local clad oxidation than the calculations on which the existing Technical Specifications were based. On May 6, 1976, while we were still evaluating the February 11, 1976 submittal, the licensee informed us of the existence of some errors in STRIKIN-2, the computer code used by CE to calculate peak clad temperature and clad oxidation percentage in their ECCS model for Maine Yankee. These errors resulted in several small changes in the peak clad temperature and clad oxidation percentage. While this information was under review, on June 8, 1976, we were informed by CE that the errors were somewhat worse than previously described and were applicable to other facilities as well.

These errors were discovered by CE during an internal Quality Assurance audit of their LOCA evaluation model codes. While some of these errors have either no significant effect or a conservative effect on the evaluation results, some lead to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by CE, the staff has determined that the following two code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Combustion Engineering plants:

(1) Guide Tube Model—The code treated the control rod guide tube as a solid rod rather than a hollow tube. This resulted in an excess heat storage capacity in the guide tube which then led to excessive thermal radiation cooling from the hot rod to the guide tube.

(2) View Factors for Radiation Cooling Model—The code did not conservatively treat the view factors in the thermal radiation model to account for the possible effect of rupture and ballooning of adjacent fuel rods which contact the hot rod and reduce the surface area available for radiation cooling.

For this reason the staff instructed CE and the Licensee to provide a revised calculation of peak clad temperature for the worst break area identified in previous calculations with the errors properly corrected. Using the CE evaluation model which was approved by the NRC staff on December 9, 1975, with the code corrected for the two items discussed above, and with an additional correction of a sign error in the source term of the conduction equations (this latter error produced a conservative effect), the revised calculations demonstrate that for peak linear heat generation rates of 13.3 kW/ft, the peak clad temperature and amount of cladding oxidation remain below the criteria set forth in 10 CFR 50.46(b). The improvements in the revised code offset the non-conservative effect of the two errors discussed above. The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model they will demonstrate that operation with these peak linear heat generation rates would conform to the criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible.

However, since a revised evaluation for the entire break spectrum for the facility using the new evaluation model, properly corrected, cannot be completed for several weeks, the staff believes that it is prudent to impose an interim penalty on allowable peak linear heat generation rate to account for uncertainties that may result from the fact that calculations thus far have been made only for the worst case break previously identified. The staff concludes that an additional limitation of 1 kW/ft will eliminate uncertainties resulting from the preliminary limited break spectrum calculations thus far performed, and will assure that ECCS performance at the facility will conform to all the criteria set forth in 10 CFR 50.46(b). These additional limitations will provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on June 14, 1976, the Licensee promptly reduced the peak linear heat generation rate limit by 1 kW/ft to 12.3 kW/ft in all assemblies. The NRC staff believes that the Licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and are being placed in the Commission's Local Public Document Room at the Wiscasset Public Library Association, High Street, Wiscasset, Maine 04578: (1) Letter dated December 9, 1975, from the NRC staff to Combustion Engineering, and by letter dated June 13, 1975, from the NRC staff to Combustion Engineering; (2) letter dated June 14, 1976, from Maine Yankee Atomic Power Company to the Office of Nuclear Reactor Regulation; (3) letter dated June 15, 1976, from Combustion Engineering to the NRC staff; and (4) this Order for Modification of License, In the Matter of Maine Yankee Atomic Power Company (Maine Yankee Atomic Power Station), Docket No. 50-309.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That Facility Operating License No. DPR-36 is hereby amended by adding the following new provisions:

(1) As soon as possible, the Licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved by the NRC staff on December 9, 1975, and corrected for the errors described herein.

(2) Until further authorization by the Commission, the reactor shall not be operated with a peak linear heat generation rate in excess of 12.3 kW/ft for all fuel assemblies.

Dated in Bethesda, Maryland, this 17th day of June 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76-18651 Filed 6-25-76;8:45 am]

[Docket No. 50-538]

MEMPHIS STATE UNIVERSITY

Issuance of Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPRR-122 to the Memphis State University (the licensee) located in Memphis, Tennessee. The permit authorizes the licensee to receive, possess, and construct, but not operate, an AGN-201 (Serial No. 108) nuclear research reactor on its campus in Shelby County, Tennessee. The facility is intended to be operated at power levels up to 100 milliwatts for educational training and research purposes. The construction permit is effective as of its date of issuance. The earliest date for completion of the construction of the facility is July 1, 1976, and the latest date for completion of this activity is July 1, 1977.

Notice of proposed issuance of the permit was published in the FEDERAL REGISTER on April 1, 1976 (41 FR 14017). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permit. The application, as amended, for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

A copy of (1) the application dated April 11, 1975, and amendments thereto dated August 27, 1975, December 5, 1975 and February 10, 1976, filed by Memphis State University, (2) Construction Permit No. CPRR-122, (3) the Commission's concurrently issued Safety Evaluation, and (4) the Commission's Negative Declaration dated June 14, 1976 (which is also being published in the FEDERAL REGISTER) and associated Environmental

Impact Appraisal are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. A single copy of items (2) through (4) above may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18652 Filed 6-25-76;8:45 am]

[Docket No. 50-538]

MEMPHIS STATE UNIVERSITY RESEARCH REACTOR

Negative Declaration Regarding Construction and Operation

The U.S. Nuclear Regulatory Commission (the Commission) has considered the issuance of Construction Permit No. CPRR-122 to the Memphis State University (MSU) and subsequently will consider the issuance of a facility operating license to MSU. The construction permit authorizes MSU to receive, possess and construct the AGN-201, Serial No. 108, nuclear research reactor on its campus in Shelby County, Tennessee. The subsequent consideration involves the issuance of a facility operating license that would authorize operation of the reactor at 0.1 watt (thermal).

The Commission's Division of Operating Reactors has prepared an Environmental Impact Appraisal for receipt, possession, construction and subsequent operation of this research reactor. On the basis of this appraisal, we have concluded that an environmental impact statement for these particular actions is not warranted because there will be no significant environmental impact attributable to the actions.

The Environmental Impact Appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland, this 14th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18653 Filed 6-25-76;8:45 am]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-65 issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 2, located in the Town of Waterford, Connecticut. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications to require the operability and surveillance of hydraulic snubbers necessary to protect the primary coolant system and all other safety related systems and components.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 2, 1976, (2) Amendment No. 11 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut 06385.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 21st day of June 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-18654 Filed 6-25-76;8:45 am]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Order for Modification of License

I. Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, P.O. Box 270, Hartford, Connecticut 06101 (the Licensees), are the holders of Operating License No. DPR-65 which authorizes the operation of a nuclear power reactor known as Millstone Nuclear Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2560 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensees' site in Waterford, Connecticut.

II. In conformance with the evaluation of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the Licensees on April 21, 1975, the Technical Specifications issued August 1, 1975 for the facility limit the reactor core peak linear heat rate to 15.3 kW/ft.

The ECCS performance evaluation submitted by the Licensees was based upon a previously approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, 50.46 and Appendix K. The evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

On June 8, 1976, the NRC staff was informed by CE that several errors had been discovered in STRIKIN-2, the computer code used to calculate peak clad temperature and the clad oxidation percentage in their ECCS model. These errors were discovered by CE during an internal Quality Assurance audit of their LOCA evaluation model codes. While some of these errors have either no significant effect or a conservative effect on the evaluation results, some lead to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by CE, the staff has determined that the following two code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Combustion Engineering plants:

(1) Guide Tube Model—The code treated the control rod guide tube as a solid rod rather than a hollow tube. This resulted in an excess heat storage capacity in the guide tube which then led to excessive thermal radiation cooling from the hot rod to the guide tube.

(2) View Factors for Radiation Cooling Model—The code did not conservatively treat the view factors in the thermal radiation model to account for the possible effect of rupture and ballooning of adjacent fuel rods which contact the hot rod and reduce the surface area available for radiation cooling.

For this reason the staff instructed CE and the Licensees to provide a revised calculation of peak clad temperature for the worst break area identified in previous calculations with the errors properly corrected. Using a more recent CE evalaution model which has also been approved by the NRC staff, with the code corrected for the two items discussed above, and with an additional correction of a sign error in the source term of the conduction equations (this latter error produced a conservative effect), the revised calculations demonstrate that for peak linear heat generation rates of 15.1 kW/ft the peak clad temperature and amount of cladding oxidation remain below the criteria set forth in 10 CFR 50.46(b). The improvements in the revised code offset the non-conservative effect of the two errors discussed above. The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model they will demonstrate that operation with a peak linear heat generation rate of 15.1 kW/ft will fully conform to the criteria of 10 CFR 50.46(b). Such revised calculations, fully conforming to the requirements of 10 CFR 50.46, are to be provided for the facility as soon as possible.

However, since a revised evaluation for the entire break spectrum for the facility using the new evaluation model properly corrected cannot be completed for several weeks, the staff believes that it is prudent to impose an interim penalty on allowable peak linear heat generation rate to account for uncertainties that may result from the fact that calculations thus far have been made only for the worst case break previously identified. The staff concludes that an additional limitation of 1 kW/ft will eliminate uncertainties resulting from the preliminary limited break spectrum calculations thus far performed and will assure that ECCS performance at the facility will conform to all the criteria set forth in 10 CFR 50.46(b). These additional limitations will provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on June 11, 1976, the Licensees promptly imposed a reduced peak linear heat generation rate limit on the plant, limiting it to 14.1 kW/ft. The NRC staff believes that the Licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut: (1) Letters dated June 13, 1975 and December 9, 1975, from the NRC staff to Combustion Engineering; (2) Letter dated June 14, 1976, from Northeast Nuclear Energy Company to G Lear, Chief, Operating Reactors Branch No. 3; (3) Letter dated June 15, 1976, from Combustion Engineering to the NRC staff; and (4) This Order for Modification of License, In the Matter of Northeast Nuclear Energy Company to G. Lear, ford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (Millstone Nuclear Power Station, Unit No. 2), Docket No. 50-336.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That Facility Operating License No. DPR-56 is hereby amended by adding the following new provisions:

(1) As soon as possible, the Licensees shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved by the NRC staff on June 13, 1975 and December 9, 1975, and corrected for the errors described herein.

(2) Until further authorization by the Commission, the reactor shall not be operated with a peak linear heat generation rate in excess of 14.1 kw/ft.

Dated in Bethesda, Maryland this 17th day of June 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76-18655 Filed 6-25-76;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-22, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises the Monticello Technical Specifications to incorporate more specific Limiting Conditions for Operation for Average Planar Linear Heat Generation Rate, Linear Heat Generation Rate, and Maximum Critical Power Ratio limits.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 23, 1976, (2) Amendment No. 20 to License No. DPR-22, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-18656 Filed 6-25-76;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Order for Modification of License

I.

Omaha Public Power Company, 1623 Harney Street, Omaha, Nebraska 68102, (the Licensee), is the holder of Facility Operating License No. DPR-40 which authorizes the operation of a nuclear power reactor known as Fort Calhoun Station, Unit No. 1 (the facility) at steady state reactor power levels not in excess of 1420 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site near Blair in Washington County, Nebraska.

II.

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the Licensee on February 3, 1975, the Technical Specifications issued April 30, 1975 for the facility limit the reactor core peak linear heat rate to 14.0 kW/ft in all fuel assemblies except the spare "B" type fuel assembly. In the spare "B" type fuel assembly, the linear heat rate is limited to 13.4 kW/ft. The ECCS performance evaluation submitted by the Licensee was based upon a previously approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the

Commission's ECCS Acceptance Criteria, 10 CFR Part 50, 50.46 and Appendix K. The evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR 50.46 (b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

On June 8, 1976, the NRC staff was informed by CE that several errors had been discovered in STRIKIN–2, the computer code used to calculate peak clad temperature and the clad oxidation percentage in their ECCS model. These errors were discovered by CE during an internal Quality Assurance audit of their LOCA evaluation model codes. While some of these errors have either no significant effect or a conservative effect on the evaluation results, some lead to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by CE, the staff has determined that the following two code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Combustion Engineering plants:

(1) Guide Tube Model—The code treated the control rod guide tube as a solid rod rather than a hollow tube. This resulted in an excess heat storage capacity in the guide tube which then led to excessive thermal radiation cooling from the hot rod to the guide tube.

(2) View Factors for Radiation Cooling Model—The code did not conservatively treat the view factors in the thermal radiation model to account for the possible effect of rupture and ballooning of adjacent fuel rods which contact the hot rod and reduce the surface area available for radiation cooling.

For this reason the staff instructed CE and the Licensee to provide a revised calculation of peak clad temperature for the worst break area identified in previous calculations with the errors properly corrected. Using a more recent CE evaluation model which has also been approved by the NRC staff, with the code corrected for the two items discussed above, and with an additional correction of a sign error in the source term of the conduction equations (this latter error produced a conservative effect), the revised calculations demonstrate that for peak linear heat generation rates of 13.4 kW/ft in the spare "B" assembly and 14.0 kW/ft in all other fuel assemblies, the peak clad temperature and amount of cladding oxidation remain below the criteria set forth in 10 CFR 50.46(b). The improvements in the revised code offset the nonconservative effect of the two errors discussed above. The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model they will demonstrate that operation with these peak linear heat generation rates would conform to the criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible.

However, since a revised evaluation for the entire break spectrum for the facility using the new evaluation model properly corrected cannot be completed for several weeks, the staff believes that it is prudent to impose an interim penalty on allowable peak linear heat generation rate to account for uncertainties that may result from the fact that calculations thus far have been made only for the worst case break previously identified. The staff concludes that an additional limitation of 1 kW/ft will eliminate uncertainties resulting from the preliminary limited break spectrum calculations thus far performed, and will assure that ECCS performance at the faciilty will conform to all the criteria set forth in 10 CFR 50.46(b). These additional limitations will provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on June 11, 1976, the Licensee promptly modified plant setpoints to reduce peak linear heat generation rate by 1 kW/ft to 12.4 kW/ft in the spare "B" assembly and to 13.0 kW/ft in all other assemblies. The NRC staff believes that the Licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska: (1) Letters dated June 13, 1975 and December 9, 1975 from the NRC staff to Combustion Engineering; (2) Letter dated June 14, 1976 from Omaha Public Power District to Director of Nuclear Reactor Regulation; (3) Letter dated June 15, 1976, from Combustion Engineering to the NRC staff; and (4) This Order for Modification of License, In the Matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1), Docket No. 50–285.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That Facility Operating License No. DPR–40 is hereby amended by adding the following new provisions:

(1) As soon as possible, the Licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Company's Evaluation Model approved by the NRC staff on June 13, 1975 and December 9, 1975 and corrected for the errors described herein.

(2) Until further authorization by the Commission, the reactor shall not be operated with a peak linear heat generation rate in excess of 12.4 kW/ft for the spare "B" assembly or in excess of 13.0 kW/ft for all other fuel assembles.

Dated in Bethesda, Maryland this 17th day of June, 1976.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76–18657 Filed 6–25–76;8:45 am]

[Docket Nos. 50–275–OL; 50–323–OL]

PACIFIC GAS AND ELECTRIC CO.

Order Relative to Prehearing Conference

In the matter of Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units Nos. 1 and 2).

The prehearing conference required by 10 CFR 2.752 will be held at the Cavalier Room, San Luis Bay Inn, Marre Ranch, Avila Beach, California. The conference will commence at 9:30 a.m. (local time) on Tuesday, July 13, 1976.

The public is invited to attend. No limited appearance statements will be taken at the prehearing conference but will be received later at the evidentiary hearing.

It is so ordered.

Dated at Bethesda, Maryland this 21st day of June, 1976.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.76–18658 Filed 6–25–76;8:45 am]

[Docket Nos. 50–514; 50–515]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Schedule for Evidentiary Hearing

In the matter of Portland General Electric Company, Puget Sound Power and Light Company, Pacific Power and Light Company, (Pebble Springs Nuclear Plant, Units 1 and 2).

As noted in this Board's Order dated June 16, 1976, an evidentiary session in this proceeding shall convene on August 17, 1976, in Seattle, Washington, at a location to be designated by a later Order. This session will be concerned with assertions and contentions respecting the need for the power which would be generated by the proposed Pebble Springs facility. This session will be convened and held at the same time and place with a similar session respecting the need for power, which will be conducted by the Atomic Safety and Licensing Board In the Matter of Puget Sound Power and Light Company, et al. (Skagit Nuclear Power Plant, Units 1 and 2), Docket Nos. STN 50–522 and STN 50–523.

This joint hearing session shall convene at 9 a.m., local time, on Tuesday, August 17, 1976, in Room 514 of the New Federal Building, 915 Second Avenue, Seattle, Washington 98174.

It is so ordered.

Dated at Bethesda, Maryland, this 18th day of June, 1976.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.76-18659 Filed 6-25-76;8:45 am]

[Docket Nos. 50-448; 50-449]

POTOMAC ELECTRIC POWER CO.

Order Relating to Evidentiary Hearing

In the matter of Potomac Electric Power Company (Douglas Point Nuclear Generating Station, Units 1 and 2).

In the prehearing conference on April 14, 1976 agreement was reached on the site related environmental issues which would be considered at the evidentiary hearing. By letter of May 26, 1976 Chesapeake Bay Foundation and the Citizens for a Clean Potomac withdrew Contention No. 5 relating to salt drift but, since the Board submitted a question concerning the effect of salt drift on tobacco farming, the salt drift question will be specifically considered.

The hearing will commence at 1:00 p.m. (local time) on July 19, 1976 in the auditorium, Thomas Stone High School, Route 5, Waldorf, Maryland. There will also be an evening session commencing at 7:00 p.m. (local time) on that date. The hearing will convene at 9:00 a.m. (local time) the remainder of the week until all appropriate issues have been heard.

The public is invited to attend. Limited appearance statements will be accepted as the first item on the agenda after preliminary matters have been concluded. Oral statements will be limited to five (5) minutes each but written material may be submitted without limitation on length. The session Monday evening is for the convenience of those who wish to make limited appearances and cannot attend the opening session.

Counsel for Chesapeake Bay Foundation contacted the Board to ask if his witnesses would be permitted to briefly paraphrase their direct testimony in addition to the detailed written submittal. He was told that this is not only permitted but desirable in order for the public to be informed.

It is so ordered.

Dated at Bethesda, Maryland this 21st day of June 1976.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.76-18660 Filed 6-25-76;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to add requirements for (1) backup pumping capability to the fire water system; (2) surveillance for the added pumps; and (3) an additional class IE power source for the plant protective system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 14, 1976, (2) Amendment No. 14 to License No. DPR-34, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 18th day of June, 1976.

For the Nuclear Regulatory Commission.

ROBERT A. CLARK,
Chief, Special Reactors Branch, Division of Project Management.

[FR Doc.76-18661 Filed 6-25-76;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to (1) add requirements for operation of analytical system moisture monitors between reactor shutdown and 5 percent power; also calibration frequency for these monitors is stated; (2) revise allowable primary system impurity levels and method of specifying moisture impurity from parts per million to dew point temperature; (3) add a definition of operable dew point moisture monitor; (4) add functional checks and tests for dew point moisture monitors; (5) revise the core reactivity status surveillance and limiting conditions for operation; (6) isolate the helium storage system from the helium circulator buffer helium system when the reactor is in operation; (7) allow bypass of plant protective system moisture monitors for testing during the startup testing program; and (8) add reporting requirements.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 11, 1975; December 1, 1975; March 23, 1976; and June 14, 1976; (2) Amendment No. 13 to License No. DPR-34, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT A. CLARK,
Chief, Special Reactors Branch, Division of Project Management.

[FR Doc.76-18662 Filed 6-25-76;8:45 am]

[Docket Nos. STN 50-556; STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA AND ASSOCIATED ELECTRIC COOPERATIVE, INC.

Special Prehearing Conference

In the matter of Public Service Company of Oklahoma and Associated Electric Cooperative, Inc. (Black Fox Station, Units 1 and 2).

Notice is hereby given that, pursuant to the Atomic Safety and Licensing Board's Memorandum and Order of June 7, 1976, establishing a schedule for certain prehearing events, and in accordance with § 2.751a of the Commission's Rules of Practice, 10 CFR Part 2, a special prehearing conference will be held in the above-identified proceeding on July 21, 1976, at 10:00 a.m. in the U.S. Courthouse, Bankruptcy Room 2, 333 West 4th, Tulsa, Oklahoma.

The Atomic Safety and Licensing Board (the Board) established to conduct this proceeding is composed of Dr. Paul W. Purdom and Mr. Frederick J. Shon as technical members and Mr. Daniel M. Head as Chairman.[1]

The Special Prehearing will deal with the following matters:

1. The status of the Izaak Walton League and its petition to intervene;
2. Whether the Board should approve, in whole or in part, the stipulation between the Applicant, the NRC Staff, the Izaak Walton League, Citizens Action for Safe Energy, and Mrs. Ilene Younghein;
3. Oral argument on all contentions not agreed upon in the aforementioned stipulation;
4. Oral argument on all outstanding motions;
5. A discussion of any steps necessary for further crystallization of the issues;
6. The need for discovery and the time required therefore;
7. Establishment of a schedule for further action; and
8. Such other matters as may aid in the orderly disposition of the proceeding.

In addition, the Board hereby orders that discovery is open on the contentions that have been agreed upon by the parties in the stipulation referred to in paragraph number 2 above.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing which will be held at a later date to be fixed by the Board. Members of the public wishing to make a limited appearance pursuant to § 2.715(a) of the Commission's rules of practice may identify themselves at the Special Prehearing Conference but oral or written statements to be presented by limited appearance will not be received at this conference. The Board will receive such limited appearance statements at the beginning of the evidentiary hearing.

Issued at Bethesda, Maryland, this 7th day of June 1976.

[1] Mr. Ivan W. Smith had been Chairman of the Board but, because of a schedule conflict, the Board was reconstituted on June 6, 1976, with Mr. Head as Chairman.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.76-18663 Filed 6-25-76;8:45 am]

[Docket No. STN 50-485]

ROCHESTER GAS AND ELECTRIC CORP. ET AL.

Availability of Final Environmental Statement for the Sterling Power Project Nuclear Unit No. 1

Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation.

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed Sterling Power Project Nuclear Unit No. 1 to be located in Cayuga County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Oswego City Library, 120 East Second Street, Oswego, New York. The Final Environmental Statement is also being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York, and at the Central New York Regional Planning and Development Board, 321 East Water Street, Syracuse, New York.

The notice of availability of the Draft Environmental Statement for the Sterling Power Project Nuclear Unit No. 1 and requests for comments from interested persons was published in the FEDERAL REGISTER on January 6, 1976 (41 FR 1137). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement

Copies of the Final Environmental Statement (Document No. NUREG-0075) may be purchased, at $9.75 for printed copies and $2.25 for microfiche, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Rockville, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 3, Division of Site Safety and Environmental Analysis.

[FR Doc.76-18664 Filed 6-25-76;8:45 am]

[Docket Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 17 and 22 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments consist of changes in the Technical Specfications that will add new shock suppressor (snubber) limiting conditions for operation and surveillance requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact apraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 18, 1976, (2) Amendment No. 17 to License No. DPR-24, (3) Amendment No. 22 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Document Department, University of Wisconsin—Stevens Point Library, Stevens Point, Wisconsin.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of June 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.

[FR Doc.76-18665 Filed 6-25-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts

of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.117, "Tornado Design Classification," describes a method acceptable to the NRC staff for identifying the structures, systems, and components of light-water-cooled reactors that should be designed to withstand the effects of the Design Basis Tornado and remain functional.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.117 will, however, be particularly useful in evaluating the need for an early revision if received by August 27, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 21st day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-18666 Filed 6-25-76;8:45 am]

PRIVACY ACT OF 1974

System of Records; Minor Amendments

Correction

In FR Doc. 76-17979 appearing on page 24955 in the issue for June 21, 1976 make the following correction:

In column 2, the 1st entry in the eighth line from the bottom should read "NRC-38 * * *"

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0152]

BRITTANY CAPITAL CORP.

Approval for Transfer of Control of a Small Business Investment Company

On February 20, 1976, a notice for request for approval for transfer of control was published in the FEDERAL REGISTER (41 FR 7829) stating that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701, of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1976)) for the transfer of Control of Brittany Capital Corporation, 4325 Republic Bank Tower, Dallas, Texas 75201, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

Rambin Financial Corporation will own 100 percent of the issued and outstanding stock of this company.

Interested persons were given to the close of business March 6, 1976, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other information, SBA approved this application for transfer of control. Approval was effective June 9, 1976.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 16, 1976.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.76-18587 Filed 6-25-76;8:45 am]

[License No. 16/10-0013]

FIRST TEXAS INVESTMENT CO.

Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1976)), for transfer of control of First Texas Investment Company (First Texas), 13025 Champions Drive, Houston, Texas 77069, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

First Texas was licensed on December 11, 1959, and has a paid-in capital and paid-in surplus of $390,000. The proposed new owners have tentative plans to increase this capitalization to $500,000 during the next two years. The transfer of control is being made pursuant to a purpose and sale agreement between Messrs. Sumner and Rowntree (purchasers) and Kingsway Financial Corporation (seller).

On November 19, 1973, SBA approved the sale of this company to Kingsway Financial Corporation. Messrs. Sumner and Rowntree will own all the issued and outstanding stock of First Texas.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, the officers and directors of First Texas will be as follows:

Neal C. L. Sumner, 311 Teakwood, Houston, Texas 77024, Chairman of the Board, Secretary, Treasurer.
Lynn D. Rowntree, Route 4, 1106 Stoney Hill, Houston, Texas 77077, President, Director.
Linda J. Sumner, 311 Teakwood, Houston, Texas 77024, Director.

There will be no significant changes to the present operations of the Licensee nor its charter or bylaws. However, the principal office will be moved to 1200 Milam, 29th Floor, Houston, Texas 77001.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of First Texas under their management, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before July 13, 1975, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to:

Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published by First Texas in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 18, 1976.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.76-18588 Filed 6-25-76;8:45 am]

TENNESSEE VALLEY AUTHORITY

[OMB Circular A-95]

INTERIM PROCEDURES

Implementation

Notice is hereby given that the Tennessee Valley Authority (TVA) has adopted interim procedures to guide the intergovernmental coordination and review of direct TVA developmental activities and the approval of non-TVA activities having a significant impact on state, interstate, area-wide, or local development plans or programs or on the environment. These procedures are intended to implement Part II of the revised Office of Management and Budget (OMB) Circular No. A-95 published January 13, 1976, (41 FR 2052) and Title IV of the Intergovernmental Cooperation Act of 1968 (Pub. L. No. 90-577, 82 Stat. 1098). To a large degree, these procedures reflect the coordination procedures previously established by TVA and reviewing clearinghouses over the past several years in implementing the requirements of earlier OMB Circulars No. A-95.

Under these procedures, all direct TVA development activities, including the

acquisition, use, transfer, or grant of interest in real property under TVA's control, and approvals of non-TVA activities meeting the threshold test of "significantly affecting area or community development or the physical environment" will be coordinated with state, regional, and local agencies through established clearinghouses to minimize intergovernmental conflicts and assure maximum feasible consistency of TVA projects and activities with state, area-wide, and local plans. In addition, clearinghouse review will enable TVA to obtain the comments and views of state and local environmental protection agencies in accordance with the requirements of the National Environmental Policy Act of 1969 (Pub. L. No. 91-190, 83 Stat. 852) and the Council on Environmental Quality's Guidelines (38 FR 20550 (1973)). The state or local clearinghouses, designated by the OMB Circular, serve as an intergovernmental liaison and ensure that the appropriate state and local governmental agencies, departments and offices are given an opportunity to review and comment on proposed TVA projects, activities, or approvals requiring A-95 review.

OMB Circular No A-95 under which these procedures are issued provides certain criteria which the clearinghouse or reviewing agency may use in commenting on the proposal. Although these criteria were developed by OMB primarily for use in the review of applications for grants and other types of Federal assistance, such standards are to be followed by clearinghouse insofar as relevant and feasible in the consideration of direct Federal development activities such as those undertaken by TVA.

Briefly summarized, the criteria contained in Part I paragraph 5 of OMB Circular No. A-95 seek to guide the responding clearinghouse or agency in evaluating the Federal proposal to provide the following types of information:

1. Whether the proposal is consistent with or contributes to the fulfillment of comprehensive planning for the state or area affected;

2. Whether the proposal duplicates, runs counter to, or requires further coordination with other projects;

3. Whether there are suggestions for revising the project to improve its effectiveness or efficiency;

4. Whether the project contributes to achieving state and area objectives and priorities related to: (a) the development and/or conservation of natural and human resources; (b) the planning for economic and community development including appropriate land uses, balanced transportation systems, adequate recreation and open space, and the protection of areas of unique natural beauty, historical and scientific interest;

5. Obtaining information and comments related to assessing the environmental impact of and the alternatives to the proposal;

6. To what extent the proposal contributes to more balanced patterns of settlement of the area population, including minority groups.

Interested persons may participate in developing final procedures by submitting written comments to TVA's Director of Navigation Development and Regional Studies, Tennessee Valley Authority, 511 Arnstein Building, 501 Market Street, Knoxville, Tennessee 37902. All comments received on or before July 26, 1976, will be considered in preparing the final procedures. Copies of all comments received will be available for public inspection at the office of the TVA Director of Information, E12A3 Commerce Realty Building, 400 Commerce Avenue, Knoxville, Tennessee 37902, between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

Because these procedures are intended primarily for intra-agency use with copies to be made available directly to the affected state and local clearinghouses, they will not be codified for publication as a section of the Code of Federal Regulations.

The interim procedures are as follows:

Office of Management and Budget

Circular A-95 Coordination Procedures

Office of Management and Budget Circular A-95 establishes procedures for coordination with state, regional, and local agencies of those Federal planning and developmental activities having a significant impact on area and community development or the physical environment.

Coordination is accomplished through a system of state, regional, and metropolitan clearinghouses set up under the OMB circular as intergovernmental liaison to ensure that appropriate governmental agencies, departments, and offices are given an opportunity to review and comment on the Federal proposal.

All direct TVA development activities and approval of non-TVA activities which significantly affect area and community development or the physical environment are subject to A-95 coordination. As used in this instruction, "development activities" include TVA projects and the acquisition, use, transfer, or grant of an interest in real property under TVA's control. "Approvals of non-TVA activities" include the licensing, permitting, or approval of non-Federal developments or activities. State and local activities or projects in which TVA is participating will be coordinated by the state or local agency sponsoring the activity or project if coordination is required under A-95, unless the TVA office or division responsible for the project or activity determines that TVA should assume coordination responsibility.

Where the developmental activity or approval requires the preparation of an environmental impact statement by TVA, the impact statement review and the A-95 coordination will be combined to the extent possible and the impact statement will be circulated to state and regional clearinghouses for review and comment.

Coordination Procedures

Early in the process of planning a TVA development activity or in the processing of a request for a TVA approval the responsible office or division makes a determination as to the significance of effects upon area or community development and the need for A-95 coordination. The office or division consults with the Division of Navigation Development and Regional Studies in the event of uncertainty as to the applicability of A-95 to a particular activity or approval.

An advance alert will be of assistance in the maintenance of interagency relationships. This preliminary notice should be given in advance of providing the necessary descriptive materials for formal transmittal to the clearinghouses. Therefore, the responsible office or division should notify the Division of Navigation Development and Regional Studies as soon as a determination is made that any proposed project or action will require A-95 coordination.

The Division of Navigation Development and Regional Studies will be the primary point of contact within TVA between the state, regional, and metropolitan clearinghouses and TVA offices and divisions, except as noted in "Scheduling Review" below.

Information Required

TVA Projects—On all projects requiring A-95 coordination materials approximating the type and scope submitted to the Office of the General Manager for project authorization should be furnished to the Division of Navigation Development and Regional Studies for transmittal to the appropriate state and regional clearinghouses. In general, the material should provide a broad description of the project (without needless reference to technical details and specifications), include any maps, charts, or other supportive data that is helpful in understanding the nature or scope of the proposal and, where relevant, include a statement of general project policies relating to land acquisition and road and utility adjustments.

Land Transactions—Whenever land actions (not a part of an overall project) are proposed which require A-95 coordination, appropriate descriptive material and maps should be furnished to the Division of Navigation Development and Regional Studies for transmittal to the proper clearinghouses for state and local review.

TVA Permits, Licenses, and Approvals—Whenever proposed actions to be carried out by other parties require a TVA permit, license, or other official TVA approval (*e.g.*, approval pursuant to Section 26a of the TVA Act), the responsible office or division determines whether the proposed action will have such a significant effect upon area or community development as to require A-95 coordination and, if so, furnishes appropriate information to the Division of Navigation Development and Regional Studies for transmittal to the proper clearinghouses for state and local review.

Environmental Impact Statements—If coordination with state and local agencies involves projects or land actions which have a significant impact on area or community development and significant environmental impact, these two aspects of the project or action are coordinated concurrently by means of the environmental impact statement and the procedures for its review. The analysis of environmental considerations and the coordination of state, regional, and local reviews are carried out pursuant to TVA's Procedures for Environmental Planning and Assessment (39 FR 5671 (1974)).

Cooperative Projects—With regard to state and local projects in which TVA is participating to an extent requiring the approval of the General Manager or the Board and coordination is not being handled by TVA, the office or division responsible for TVA's participation will request the state or local agency sponsoring the project or land action to furnish information to TVA to determine whether A-95 coordination is necessary or has been properly carried out.

Scheduling Review

Many state and regional clearinghouses do not have large staffs to handle A-95 coordination; instead, the clearinghouses rely upon

staffs from operating agencies for comments on specific matters. Therefore, informal consultation between TVA offices and divisions and counterpart state and local agencies will be important in TVA project planning, as these are the agencies that will eventually be asked to comment on project or land-related proposals transmitted by TVA for formal A–95 coordination. Such informal consultation will take place early in the preliminary planning of a project. At the same time, the Division of Navigation Development and Regional Studies should be notified concerning such advance discussions with state and local agencies and will, in turn, advise the appropriate state and regional clearinghouses of such preliminary planning and TVA contacts with state and local agencies.

Upon completion of general plans for a proposed TVA development activity or of the initial review of a request for approval or, where appropriate, the completion of a draft environmental impact statement, the information required for coordination will be furnished with sufficient copies by the office or division responsible to the Division of Navigation Development and Regional Studies to initiate review by the clearinghouses having jurisdiction over the area or areas concerned. Normally such review will be limited to one state and one regional clearinghouse. In the case of projects or actions affecting more than one state or subregion, all clearinghouses concerned will be included in the circulation of materials for review and comment.

Review Time—State and regional clearinghouses may have a period of 30 days after receipt of proposals for TVA projects or land actions for review and comment. Forty-five days will be allowed for review of and comment on draft environmental impact statements. In exceptional circumstances and for reasons stated at the time of transmittal by TVA, clearinghouses may be asked to expedite their review. Limited extensions of time to comment may be granted by TVA where project schedules permit.

All comments received will be forwarded to appropriate TVA offices and divisions and will be considered in further planning or modification of plans for the proposal or in processing requests for approval. Comments on draft environmental impact statements will be considered and treated in accordance with the requirements of the National Environmental Policy Act of 1969 and TVA's Procedures for Environmental Planning and Assessment (39 FR 5671 (1974)).

All steps of formal A–95 coordination should be completed prior to submission of a proposal or approval for final authorization. Generally, the entire proposal should be coordinated at one time. Separate parts of the proposal will not be resubmitted for coordination unless there are significant departures from the original or modified plans.

Notification of Clearinghouses—Where no significant adverse comments or questions are raised by the reviewing clearinghouse, TVA will proceed to carry out the proposal or approval without further notice to the clearinghouses concerned unless notice is specifically requested. In the case of proposals or approvals where significant questions or objections were raised and not resolved or which are abandoned, postponed for a considerable length of time, or significantly modified before implementation, the clearinghouses concerned will be notified of the final action taken and the reasons therefor. Where the coordination and review was undertaken on the basis of a draft environmental impact statement, a copy of the final statement will be transmitted for information to each reviewing clearinghouse.

EXCLUSIONS AND INFORMAL REVIEW

Certain activities are of such minor importance with regard to their impacts on area and community development or the physical environment or are of such routine and continuing nature that they do not require coordination except under unusual circumstances. The following actions normally do not require A–95 coordination:

1. Agricultural land-use licenses and other agreements involving minor land uses.
2. Harvesting of timber and wood products from TVA lands.
3. Watershed research experiments and demonstrations on non-Federal lands, such as strip mine reclamation and hydrologic studies.
4. Minor plan approvals under Section 26a of the TVA Act.

Certain other activities have by practice and agreement been determined by TVA and the reviewing agencies to be best handled on an informal coordination basis, allowing more direct discussion and avoiding procedural delays. These arrangements satisfy the purposes of A–95 review and include:

1. Routing of transmission lines.
2. Location of substations.
3. Changes in public access to TVA lakes and modification of reservoir shoreland facilities for recreation use.

In addition, whenever state, regional, or metropolitan clearinghouse review is desirable but not required under this instruction, the responsible office or division may request the assistance of the Division of Navigation Development and Regional Studies in carrying out such a review.

Effective Date: These interim procedures shall become effective July 25, 1976.

Dated: June 21, 1976.

LYNN SEEBER,
General Manager.

[FR Doc.76–18627 Filed 6–25–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 80]

ASSIGNMENT OF HEARINGS

JUNE 23, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 136786 (Sub-No. 91), *Robco Transportation, Inc.*, now assigned July 23, 1976, at Omaha, Nebr. is postponed indefinitely, instead of *Nolte Bros. Truck Line, Inc.*

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–18735 Filed 6–25–76;8:45 am]

[Notice No. 79]

ASSIGNMENT OF HEARINGS

JUNE 23, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 120098 (Sub 28), Uintah Freightways, now being assigned continued hearings on July 19, 1976 (2 days), at Grand Junction, Colorado and will be held at Howard Johnson's, I–70 at Horizon Drive and October 4, 1976 (4 days), at Salt Lake City, Utah and will be held at the Tri Arc Travel Lodge, 161 West 6th South Street.

MC 59135 (Sub-No. 31), Red Star Express Lines of Auburn Inc. d.b.a. Red Star Express lines, now assigned June 28, 1976, at New York, N.Y. will be held in Court Room 4, Customs Court, No. 1 Federal Plaza instead of Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 113678 (Sub 615), Curtis, Inc. now being assigned July 26, 1976 (2 days), at Denver, Colorado and will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 134035 (Sub 14), Douglas Trucking Company now being assigned August 23, 1976 (2 days), at Los Angeles, California in a hearing room to be later designated.

MC 123048 (Sub 333), Diamond Transportation System, Inc. now being assigned September 14, 1976 (1 day), at Chicago, Illinois in a hearing room to be later designated.

MC 134323 (Sub-No. 80), Jay Lines, Inc., now assigned July 20, 1976 at Dallas, Tex. will be held in Room 330, U.S. Post Office & Courthouse Building, Bryan and Ervay Streets instead of Room 5A15–17, Federal Building, 1100 Commerce Street.

MC 107678 (Sub-No. 59), Hill & Hill Truck Lines, Inc., now assigned July 21, 1976, at Dallas, Tex. will be held in Room 330, U.S. Post Office and Courthouse Building, Bryan and Ervay Streets instead of Room 5A15–17, Federal Building, 1100 Commerce Street.

MC 119774 (Sub-No. 88), Eagle Trucking Company, now assigned July 26, 1976, at Dallas, Tex. will be held in Room 330, U.S. Post Office & Courthouse Building, Bryan and Ervay Streets instead of Room 5A15–17, Federal Building, 1100 Commerce Street.

MC–C 8833, Oliver Trucking Company, Inc., v. Eck Miller Transp., Corp., now being assigned September 28, 1976 (2 days), at Frankfort, Ky., in a hearing room to be later designated.

No. 36325, Radioactive Materials Special Train Service, Nationwide now being continued to July 26, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M 29035, General Increase Household Goods Carrier's Bureau, Agent, now assigned July 13, 1976, at Washington, D.C. is postponed to September 8, 1976, at the Offices of the Interstate Commerce Commerce Commission, Washington, D.C.

MC 135236 (Sub 9), Logan Trucking, Inc. now being assigned September 29, 1976 and MC 113495 (Sub 75), Gregory Heavy Haulers, Inc., also being assigned September 29, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135811 (Sub 9), Gardner Trucking Co., Inc. now being assigned September 21, 1976 (for pre-hearing conference) at the Offices of the Interstate Commerce Commission in Washingtgon, D.C.

MC 109540 (Sub 34), Yeary Transfer Company, Inc. and MC 141641 (Sub 1), Wilson Certified Express, Inc. now being assigned September 1, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-18736 Filed 6-25-76;8:45 am]

[Notice No. 77]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 23, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13700 (Sub-No. 6TA), filed June 10, 1976. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th St., Holland, Mich. 49423. Applicant's representative: Delwyn J. Van Dyke (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Allegan, Mich., on the one hand, and, on the other, the plantsite of Fisher Body Corp., at or near Lordstown, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. W. Winchester, Inc., M-89, Allegan, Mich. 49010. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 15155 (Sub-No. 4TA), filed June 15, 1976. Applicant: H & W MOTOR LINES, INC., 94 Pintard Ave., New Rochelle, N.Y. 10805. Applicant's representative: David M. Marshall, 135 State St., Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and materials and supplies* used in the sale and distribution of such commodities, between S. Volney, N.Y., and Westfield, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Commercial Distributing Co., Inc., South Broad St., Westfield, Mass. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 21455 (Sub-No. 41TA), filed June 15, 1976. Applicant: GENE MITCHELL CO., 1106 Division St., West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy flour and soy protein* (except in bulk), from St. Joseph, Mo., to Phoenix and Tucson, Ariz.; El Dorado, Ft. Smith and Little Rock, Ark.; Chico, Fresno, Modesto, Oakland, Sacramento and San Francisco, Calif.; Denver and Pueblo, Colo.; Hutchinson, Kansas City and Witchita, Kans.; Springfield, Mo.; Grand Island and Lincoln, Nebr.; Albuquerque, N. Mex.; Oklahoma City and Tulsa, Okla.; Beaumont, Carrollton, Corpus Christi, Dallas, El Paso, Harlingen, Houston, Lubbock, Paris, San Antonio and Waco, Tex., for 180 days. Supporting shipper: Campbell-Taggart, Inc., P.O. Box 2640, Dallas, Tex. 75221. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 35807 (Sub-No. 57TA), filed June 15, 1976. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin and currency*, between Birmingham, Ala., on the one hand, and, on the other, Jay, Fla., under a continuing contract with Federal Reserve Bank of Atlanta Birmingham Branch, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Reserve Bank of Atlanta Birmingham Branch, P.O. Box 10447, Birmingham, Ala. 35202. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 45764 (Sub-No. 27TA), filed June 7, 1976. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway & Saville Ave., Eddystone, Pa. 19013. Applicant's representative: Paul Sullivan, 711 Washington Bldg., 15th & New York Ave., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Commodities*, the transportation of which because of size or weight require the use of special equipment or special handling, and (b) *self-propelled articles* each weighing 15,000 lbs. or more *and related machinery, tools, parts and supplies* moving in connection therewith (restricted to commodities which are transported on trailers); (a) between points in Maryland, and the District of Columbia, on the one hand, and, on the other, points in Ohio, South Carolina, and West Virginia and (b) from points in North Carolina, South Carolina and Virginia, to points in Maryland and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: VSL Corporation, 8006 Haute Court, Springfield, Va. 22150. Ocean Systems, Inc., Dulles International Aerospace Park, 13860 Park Center Road, Herndon, Va. 22070. Inland Ryerson Construction Co., 4601 North Point Blvd., Baltimore, Md. 21237. Peabody Engineering, 7909 Philadelphia Road, Baltimore, Md. 21237. Raymond International, Inc., 560 Hudson St., Hackensack, N.J. 07601. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 47583 (Sub-No. 29TA), filed June 14, 1976. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Company, Inc., at or near Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Louisiana, Kansas, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee and Texas, for 180 days. Supporting shipper: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Fed-

eral Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 52579 (Sub-No. 155TA), filed June 16, 1976. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from points in Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina and Tennessee, to points in the Chicago, Ill., Commercial Zone, as defined by the Interstate Commerce Commission, for 180 days. Supporting shippers: (1) Marshall Field & Company, 111 N. State St., Chicago, Ill. 60639. (2) Wieboldt Stores, Inc., 300 S. Wieboldt Drive, Des Plaines, Ill. 60016. (3) Community Discount Centers, Inc., 4747 N. Ravenswood, Chicago, Ill. 60640. and (4) Carson Pirie Scott & Co., 1 S. State St., Chicago, Ill. 60603. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 54444 (Sub-No. 5TA), filed June 3, 1976. Applicant: MAIN EXPRESS & STORAGE CO., 5938 S. 13th St., Milwaukee, Wis. 53221. Applicant's representative: Rolfe E. Hanson, 121 W. Doty St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between General Mitchell Field, Milwaukee, Wis., and points within the Wisconsin Counties of Racine, Kenosha, Waukesha, Washington and Ozaukee, restricted to shipments having an immediately prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 57880 (Sub-No. 16TA), filed June 10, 1976. Applicant: ASHTON TRUCKING CO., 1201 North Broadway, P.O. Box 472, Monte Vista, Colo. 81144. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite rock*, from the mine location of Johns-Manville Perlite Corp., near N. Aqua, N. Mex., to rail loading siloes at Antonito, Colo. Applicant intends to interline, delivery at Antonito will be to railhead for transportation beyond Colorado by rail, for 180 days. Supporting shipper: Johns-Manville Sales Corp., Greenwood Plaza, Denver, Colo. 80217. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 95304 (Sub-No. 26TA), filed June 14, 1976. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 168, King George, Va. 22485. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paperboard and paperboard products*, from Lynchburg, Va., to points in Maryland, the District of Columbia, West Virginia, Pennsylvania, New Jersey, New York, North Carolina, Delaware, Connecticut, Rhode Island, New Hampshire, Massachusetts, Vermont, Ohio, Indiana, Minnesota, Wisconsin, Michigan and Maine, for 180 days. Supporting shipper: R. H. Northwood, Vice-President, The Mead Corporation, 118 W. First St., Dayton, Ohio 45402. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502, Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 97357 (Sub-No. 54TA), filed June 14, 1976. Applicant: ALLYN TRANSPORTATION COMPANY, 14011 South Central Ave., Los Angeles, Calif. 90059. Applicant's representative: Michael L. Springer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed and unprocessed crushed shale rock*, in bulk, in hopper type vehicles, between points in Unitah County, Utah, on the one hand, and, Orange County, Calif., on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Oil Company of California, Union Oil Center, Los Angeles, Calif. 90017. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 102616 (Sub-No. 919TA), filed June 14, 1976. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common Carrier*, by motor vehicle, over irregular routes, transporting: *Aviation gasoline and jet fuel*, in bulk, in shipper owned and/or shipper controlled tank vehicles, from East Chicago, Ill., to Menominee, Mich., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rengo Brothers, Inc., 9200 Aura St., Kaleva, Mich. 49645. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 106074 (Sub-No. 24TA), filed June 11, 1976. Applicant: B & P MOTOR LINES, INC., P.O. Box 741, Forest City, N.C. 28043. Applicant's representative: Charles G. Dennis, Suite 101, 10205 Oasis St., San Antonio, Tex. 78216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt liquor beverages* (except in bulk), *and advertising materials and supplies* used in connection therewith (not to exceed 10% of weight), from San Antonio, Tex., to points in Georgia (except Atlanta), North Carolina, South Carolina, Virginia and points in Tennessee on and east of U.S. Highway 27, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pearl Brewing Company, P.O. Box 1661, San Antonio, Tex. 78206. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 107496 (Sub-No. 1034TA), filed June 15, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plaster and plaster products*, in bulk, in tank vehicles, from the facilities of Georgia Pacific Corporation, at or near Fort Dodge, Iowa, to Marrieta, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Pacific Corporation, 1062 Lancaster Ave., Rosemont, Pa. 19010. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107515 (Sub-No. 1012TA), filed June 15, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plantsite and warehouse facilities of the Tennessee Doughnut Co., in Davidson County, Tenn., to Kansas City, Kans., and points in its commercial zone, Chicago and Peoria, Ill., Milwaukee and Green Bay, Wis., and Little Rock, Ark., for 180 days. Supporting shipper: Tennessee Doughnut Co., 1201 Gallatin Road, Nashville, Tenn. 37206. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 108207 (Sub-No. 444TA), filed June 10, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Appli-

cant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, meats, meat products, and meat by-products*, from Norman, Okla., to points in Kansas, Iowa and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Malone Products, Inc., 3050 Classen, Norman, Okla. 73069. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 109397 (Sub-No. 329TA), filed June 14, 1976. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *U.S. Government security classified materials*, weighing in excess of 5,000 pounds, between the facilities of U.S. Energy Research and Development Administration at Oak Ridge, Tenn., on the one hand, and, on the other, the facilities of Goodyear Aerospace Corporation, at Suffield, Ohio, for 180 days. Supporting shipper: U.S. Energy Research & Development Administration, P.O. Box E, Oak Ridge, Tenn. 37830. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No MC 111729 (Sub-No. 661TA), filed June 15, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs pharmaceuticals, related supplies, and business records*, between Dothan and Montgomery, Ala., on the one hand, and, on the other, points in Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty Okaloosa, Santa Rosa, Wakulla, Walton and Washington Counties, Fla.; and points in Brooks, Baker, Calhoun, Chattahoochee, Clay, Colquith, Crisp, Decatur, Dooley, Dougherty, Early, Grady, Lee, Macon, Marian, Miller, Mitchell, Quitman, Randolph, Schley Seminole, Stewart, Sumter, Tift, Terrell, Thomas, Webster and Worth Counties, Ga., for 180 days. Supporting shippers: Durr Drug Company, Montgomery, Ala. and Tri State Pharmaceuticals, Dothan, Ala., Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 662TA), filed June 16, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies*, between Chicago, Ill., and Wurtsmith Air Force Base, Mich., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: GAF Photo Service, 2717 North Lehman Court, Chicago, Ill. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 663TA), filed June 15, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park, Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and dried cut flowers, decorative greens, and floral supplies*, when moving at the same time and in the same vehicle with commodities the transportation of which is subject to economic regulation; (a) Between Davenport, Iowa, on the one hand, and, on the other, Abington, Aledo, Alpha, Bushnell, Galesburg, Geneseo, Kewanee, Knoxville, LaHarpe, Monmouth, Orion, Savannah, and Viola, Ill.; and (b) between Burlington, Iowa, on the one hand, and, on the other, Aledo, Alpha, Beardstown, Carthage, Dallas City, Galesburg, Hamilton, Kewanee, Macomb, Monmouth, Oquawka, Peoria, Quincy, Rock Island, Springfield and Viola, Ill., for 180 days. Supporting shippers: Tri-City Wholesale Florist, Davenport, Iowa. and Bochs of Burlington, Burlington, Iowa. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112669 (Sub-No. 12TA) filed June 10, 1976. Applicant: FRIESEN TRUCK LINE, INC., 1207 East Second Ave., Hutchinson, Kans. 67501. Applicant's representative: Larry E. Gregg, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice Cream products and water ice products*, from Hutchinson, Kans., to Denver County, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jackson Ice Cream Company, Inc., 2600 East Fourth St., Hutchinson, Kans. 67501. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 113362 (Sub-No. 296TA), (correction), filed May 12, 1976, published in the FEDERAL REGISTER issue of May 28, 1976, republished as corrected this issue. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, pet foods, pet supplies and cleaning compounds* (except in bulk), from the plantsite or warehouse facilities of R. T. French Company, Springfield, Mo., to the Upper Penninsula Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The R. T. French Company, One Mustard St., Rochester, N.Y. 14609. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309. The purpose of this republication is to correct the applicant's representatives address.

No. MC 116014 (Sub-No. 78TA), filed June 10, 1976. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paperboard and paperboard products*, from Chesapeake and Lynchburg, Va., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Michigan, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin, for 180 days. Supporting shippers: R. H. Northwood, Vice-President, The Mead Corporation, 118 West First St., Dayton, Ohio 45402, and Joseph D. Sharpe, Assistant General Transportation Manager, Weyerhaeuser Company, 201 Dexter St., West, Chesapeake, Va. 23324. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 216 Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 116073 (Sub-No. 325TA), filed June 10, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, *and buildings*, from the plantsites of Fairmont Homes, Inc., near Nappanee, Ind., to points in Iowa, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, Pennsylvania, Tennessee, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fairmont Homes, Inc., P.O. Box 27, County Rd. 7, Nappanee, Ind. 46550. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119726 (Sub-No. 70TA), (correction), filed May 21, 1976, published in the FEDERAL REGISTER issue of

Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from points in Stone SouthocerarTanswe SNo v
County, Miss., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Missouri, Texas, Arkansas, Tennessee, Alabama (except Mobile, Ala.), Florida, Georgia, North Carolina, South Carolina and California; and (2) *Materials and supplies* used in the manufacture of paper and paper products, from points in the destination states named in (1) above to points in Stone County, Miss., for 180 days. Appplicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dunn Paper Company, 218 Riverview St., Port Huron, Mich. 48060. Send protests to: William S. Ennis, Transportation Specialist, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204. The purpose of this republication is to add Stone County, Miss., in lieu of Stone County, Mass.

No. MC 123048 (Sub-No. 341TA), filed June 15, 1976. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 W. Doty St., Madison Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood, wood products and gypsum board*, from Boise, Idaho, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sioux Veneer Panel Company, Inc., P.O. Box 7572, Boise, Idaho 83707. Send protests to: Gail A. Daugherty, Transporation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 123424 (Sub-No. 4TA), filed June 15, 1976. Applicant: POSA, INC., 122 Kingsland Ave., Brooklyn, N.Y. 11222. Applicant's representative: Bruce J. Robbins, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *malt beverages, related advertising materials, and returned empty malt beverage containers*, between Volney, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey and New York; and (2) *Materials, equipment and supplies* used in the production, packaging and sale of malt beverages (except commodities in bulk), from points in Connecticut, New Jersey and New York, to Volney, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Miller Brewing Company, 4000 West State St., Milwaukee, Wis. 53208. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 125040 (Sub-No. 3TA), (amendment), filed March 19, 1976, published in the FEDERAL REGISTER issue of April 1, 1976, republished as amended this issue. Applicant: R. CONLEY, INC., 6891 Seneca St., Elma, N.Y. 14059. Applicant's representative: Robert V. Giannini, 900 Midtown Tower, Rochester, N.Y. 14604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, in bulk, in tank vehicles, from Sodus, N.Y., to points in Virginia, New Jersey, Pennsylvania, Massachusetts, New York, West Virginia, Maryland, Delaware, Rhode Island, Maine, New Hampshire, Vermont and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Indian Summer, Inc., Box 128, Sodus, N.Y. 14551. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 133095 (Sub-No. 98TA), filed June 15, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Mathews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tuners*, for automobile radios, from Arcade, N.Y., to Seguin, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard C. Schrank, Traffic Manager, Motorola, Inc., 1299 East Algonquin Road, Schaumburg, Ill. 60196. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 139139 (Sub-No. 2TA), filed June 10, 1976. Applicant: LESTER GRAY, P.O. Box 372, Bemidji, Minn. 56601. Applicant's representative: Lester Gray (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and rails*, from Kelliher, Minn., to Ft. Smith and Little Rock, Ark.; Aurora, Fox Lake, Kankakee, Mt. Prospect, Urbana, Waukegan and Woodstock, Ill.; Michigan City, Ind.; Cedar Rapids, Clinton, Ft. Dodge, Marshalltown, Ottumwa and Spencer, Iowa; Merriam, Kans.; Billings, Mont.; Lincoln and Omaha, Nebr.; Devils Lake and Minot, N. Dak.; Oklahoma City Commercial Zone and Tulsa, Okla.; Mitchell, S. Dak.; Memphis, Tenn.; Dallas and Fort Worth Commercial Zone, Tex.; and Eau Claire and LaCrosse, Wis. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Par Mark Fence Co., Kelliher, Minn. 56650. Send protests to: District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 140733 (Sub-No. 3TA), filed June 7, 1976. Applicant: DWANE L. FORD, doing business as D & G TRUCKING, 424 Canyon, Mampa, Idaho 83651. Applicant's representative: Applicant, % Transport Management Service Co., P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used tire casings* suitable only for recapping or junk, from points in California south of U.S. Highway 40, to the facilities of Big O Tire Co., in Ada County, Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Big O Tire Co. of Idaho, Inc., 4500 Enterprise St., Boise, Idaho 83705. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort St., Box 07, Boise, Idaho 83724.

No. MC 141803 (Sub-No. 1TA), (Correction) filed April 30, 1976, published in the FEDERAL REGISTER issue of May 28, 1976, republished as corrected this issue. Applicant: KENNETH W. FREEMAN, doing business as EAGLE TRANSPORT, P.O. Box 28, Haines, Alaska 99827. Applicant's representative: L. B. Jacobson, 123 Seward St., P.O. Box 1211, Juneau, Alaska. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, including those requiring special equipment, mobile homes and modular units requiring the use of pintle hitch (except articles of unusual value, Classes A and B explosives, livestock and commodities in bulk), between points in Alaska south and east of the Yukon Territory-British Columbia-Alaska boundary line (except Skagway, Alaska), for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, Interstate Commerce Commission, P.O. Box 1532, Anchorage, Alaska 99510. The purpose of

this republication is to add the destination point in this proceeding.

No. MC 141804 (Sub-No. 13TA), filed June 15, 1976. Applicant: WESTERN EXPRESS, DIV. OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper rolls* (wrapping paper), from Longview, Wash., to the plantsite and warehouse facilities of Avery Label, at or near Monrovia, Calif., for 180 days. Supporting shipper: Avery Label Systems, Division of Avery International, 777 East Foothill Blvd., Azusa, Calif. 91702. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142117 (Sub-No. 1TA), filed June 10, 1976. Applicant: J. D. McCOTTER, INC., Route 2, Broad Creek, P.O. Box 937, Washington, N.C. 27889. Applicant's representative: J. D. McCotter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, from Washington, N.C., to Mt. Clemmons, Grand Rapids, Detroit, Lansing and Livoria, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shakespeare Company, Box 246, Columbia, S.C. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 142125 (Sub-No. 1TA), filed June 14, 1976. Applicant: WESTERN WISCONSIN TRUCKING CO., INC., Route No. 1, Independence, Wis. 54747. Applicant's representative: Stephen G. Kohner, 454 Ronald Ave., Winona, Minn. 55987. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Batched concrete*, in in-transit mixers, from Wabasha, Winona and Red Wing, Minn., to Trempealeau, Buffalo, Pierce, Pepin, Dunn, Eau Claire, Jackson and La Crosse Counties, Wis.; and (2) *Sand, gravel, dirt, stone, cinders, ashes, asphalt mix*, in dump trucks, from Wabasha, Minn., to points in (1) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Modern Concrete Co., Inc., 4980 W. 6th St., Winona, Minn. 55987. Wabasha Sand Gravel & Ready Mixed Co., Inc., Wabasha, Minn. 55981. and Independence Ready Mixed Concrete Co., Inc., Independence, Wis. 54747. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-18738 Filed 6-25-76;8:45 am]

PIPELINES

Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1975 REPORTS

Valuation Docket No.	
1414	Alleghany Pipeline Company, P.O. Box 2521, Houston, TX 77001
1302	Amoco Pipeline Co., P.O. Box 6110-A, Chicago, IL 60680
1378	Arapahoe Pipe Line Company, 200 East Golf Road, Palatine, IL 60067
1329	ARCO Pipe Line Company, ARCO Building, Independence, KS 67301
1291	Ashland Pipe Line Company, 1409 Winchester Ave., Ashland, KY 41101
1381	Badger Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1430	Belle Fourche Pipeline Company, P.O. Drawer 2360, Casper, WY 82601
1425	Black Lake Pipe Line Company, P.O. Box 308, Independence, KS 67301
1322	Buckeye Pipe Line Company, P.O. Box 368, Emmaus, PA 18049
1382	Butte Pipe Line Company, P.O. Box 2648, Houston, TX 77001
1416	Chevron Pipe Line Company, P.O. Box 599, Denver, CO 80201
1368	Cheyenne Pipeline Company, P.O. Box 370, Cody, WY 82414
1427	Chicap Pipe Line Company, 200 East Golf Road, Palatine, IL 60067
1312	Cities Service Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1433	Collins Pipeline Company, P.O. Box 2511, Houston, TX 77001
1422	Colonial Pipeline Company, Lenox Towers, P.O. Box 18855, Atlanta, GA 30326
1316	Continental Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1426	Cook Inlet Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1341	CRA, Inc., 3115 North Oak Trafficway, Kansas City, MO 64116
1352	Crown Central Pipe Line & Transportation Corp., P.O. Box 1759, Houston, TX 77002
1365	Crown-Rancho Pipe Line Corp., P.O. Box 1759, Houston, TX 77002
1349	Diamond Shamrock Corp., P.O. Box 631, Amarillo, TX 79173
1411	Dixie Pipeline Co., P.O. Box 2220, Houston, TX 77001
1385	Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1338	The Eureka Pipe Line Co., 963 Market St., Parkersburg, W. VA. 26101
1394	Exxon Pipeline Co., P.O. Box 2220, Houston, TX 77001
1389	Four Corners Pipe Line Co., Box 2648, Houston, TX 77001
1333	Gulf Refining Company, P.O. Drawer 2100, Houston, TX 77001
1409	Hess Pipeline Co., P.O. Box 502, Woodbridge, NJ 07095
1431	Hydrocarbon Transportation, Inc., 2223 Dodge St., Omaha, NE 68102
1406	Jayhawk Pipeline Corp., P.O. Box 1030, Wichita, KS 67217
1413	Jet Lines, Inc., 522 Cottage Grove Road, Bloomfield, CT 06002
1375	Kaneb Pipe Line Co., P.O. Box 22029, Houston, TX 77027
1299	Kaw Pipe Line Co., P.O. Box 52332, Houston, TX 77052
1429	Kerr-McGee Pipeline Corp., Kerr-McGee Center, Oklahoma City, OK 73125
1419	Lake Charles Pipe Line Co., P.O. Drawer 1267, Ponca City, OK 74601
1354	Lakehead Pipe Line Co., Inc., 3025 Tower Ave., Superior, WI 54880
1403	Laurel Pipe Line Company, P.O. Drawer 2100, Houston, TX 77001
1395	MAPCO, Inc., 1437 South Boulder Ave., Tulsa, OK 74119
1392	Marathon Pipe Line Co., 539 South Main St., Findlay, OH 45840
1357	Michigan-Ohio Pipeline Corp., 600 West Pickard St., Mt. Pleasant, MI 48854
1353	Mid-Valley Pipeline Co., P.O. Box 2039, Tulsa, OK 74102
1384	Minnesota Pipe Line Co., P.O. Box 2256, Wichita, KS 67201
1311	Mobil Pipe Line Co., P.O. Box 900, Dallas, TX 75221
1292	Ohio River Pipe Line Co., 1409 Winchester Ave., Ashland, KY 41101
1380	Okan Pipeline Co., P.O. Box 2100, Houston, TX 77001
1417	Olympic Pipe Line Co., P.O. Box 900, Dallas, TX 75221
1420	Paloma Pipe Line Co., 1600 First National Bank Building, Dallas, TX 75202
1321	Phillips Petroleum Co., Adams Building, Bartlesville, OK 74004
1320	Phillips Pipe Line Co., Adams Building, Bartlesville, OK 74004
1372	Pioneer Pipe Line Co., P.O. Drawer 1267, Ponca City OK 74601
1343	Plantation Pipe Line Co., P.O. Box 18616, Atlanta, GA 30326
1367	Platte Pipe Line Co., 539 S. Main St., Findlay, OH 45840
1410	Portal Pipe Line Co., 1401 Elm St., Dallas, TX 75202
1347	Portland Pipe Line Corp., P.O. Box 2590-30 Hill St., South Portland, ME 04106
1327	Pure Transportation Co., 200 East Golf Road, Palatine, IL 60067
1428	Santa Fe Pipe Line Co., 1200 Thompson Bldg., 5th & Boston Sts., Tulsa, OK 74103
1369	Shamrock Pipe Line Corp., P.O. Box 631, Amarillo, TX 79173
1326	Shell Pipe Line Corp., P.O. Box 2648, Houston, TX 77001
1402	Skelly Pipe Line Co., 1437 South Boulder, Tulsa OK 74119
1335	Sohio Pipe Line Co., P.O. Box 5774, Cleveland, OH 44101
1424	Southcap Pipe Line Co., 200 East Golf Road, Palatine, IL 60067
1393	Southern Pacific Pipe Lines, Inc., 610 S. Main St., Los Angeles, CA 90014
1370	Sun Oil Line Co. of Michigan, P.O. Box 2039, Tulsa, OK 74102
1315	Sun Pipe Line Co., P.O. Box 2039, Tulsa, OK 74102
1386	Tecumseh Pipe Line Co., P.O. Box 308, Independence, KS 67301
1300	Texaco-Cities Service Pipe Line Co., P.O. Box 52332, Houston, TX 77052
1408	Texas Eastern Transmission Corp. (Little Big Inch Division) P.O. Box 2521 Houston, TX 77001

Valuation Docket No.	
1293	Texas-New Mexico Pipe Line Co., P.O. Box 52332, Houston, TX 77052
1330	The Texas Pipe Line Co., P.O. Box 52332, Houston, TX 77052
1379	Trans Mountain Oil Pipe Line Corporation, 400 East Broadway, Vancouver, British Columbia, Canada V5T1X2
1412	Trans-Ohio Pipeline Co., P.O. Box 2521, Houston, TX 77001
1432	UCAR Pipeline Incorporated, P.O. Box 22146, Houston, TX 77027
1388	West Emerald Pipe Line Corp., P.O. Box 631, Amarillo, TX 79173
1396	West Shore Pipe Line Co., 200 East Randolph Drive, Chicago, IL 60601
1362	West Texas Gulf Pipe Line Co., P.O. Drawer 2100, Houston, TX 77001
1421	White Shoal Pipeline Corp., Kerr-McGee Center, Oklahoma City, OK 73102
1423	William Pipe Line Company, P.O. Drawer 3448, Tulsa, OK 74101
1377	Wolverine Pipe Line Co., P.O. Box 900, Dallas, TX 75221
1355	Wyco Pipe Line Co., 200 East Randolph Drive, Chicago, IL 60601
1373	Yellowstone Pipe Line Co., P.O. Drawer 1267, Ponco City, OK 74601

On or before July 28, 1976, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in the valuation of any carrier named above may, pursuant to rule 72 of the Commission's general rules of practice (49 CFR 1100.72), file an original and three copies of a petition for leave to intervene and, if granted, thus to come within the category of "additional parties as the Commission may prescribe" under section 19a (h) of the act, thereby enabling the party to file a protest. Blanket petition to intervene in all or several of these proceedings is not permissible. Individual petitions to intervene must be filed with respect to each valuation in which participation is sought. It is also required that a copy of the petition to intervene be served at the address shown above upon the carrier whose property is the subject of the tentative valuation and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition; they are entitled to file protest as a matter of right under the statute.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-18739 Filed 6-25-76;8:45 am]

[Notice No. 133]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Younger Brothers, Inc., MC-531 Sub-315	MC-531 Sub-324	June 10, 1976
Mid 7 Transportation Co., MC-16831 Sub-17	MC-16831 Sub-20	June 14, 1976
Mid 7 Transportation Co., MC-16831 Sub-21	MC-16831 Sub-20	Do.
John T. Sisk, MC-20916 Sub-15	MC-20916 Sub-17	June 16, 1976
John T. Sisk, MC-20916 Sub-16	MC-20916 Sub-17	June 16, 1976
Virginia Furniture Carriers, Inc., MC-40830 Sub-10	MC-40830 Sub-11	June 17, 1976
Elizabeth Freight Forwarding Corp., MC-52574 Sub-49	MC-52574 Sub-50	June 14, 1976
Herman Bros., Inc., MC-61396 Sub-275	MC-61396 Sub-276	June 18, 1976
Schilli Motor Lines, Inc., MC-106674 Sub-155	MC-106674 Sub-148	June 16, 1976
Bulk Carriers, Inc., MC-107010 Sub-53	MC-107010 Sub-54	June 10, 1976
Ruan Transport Corp., MC-107496 Sub-990	MC-107496 Sub-997	June 17, 1976
Ruan Transport Corp., MC-107496 Sub-993	MC-107496 Sub-997	Do.
Indianhead Truck Line Inc., MC-108449 Sub-377	MC-108449 Sub-382	June 14, 1976
Indianhead Truck Line Inc., MC-108449 Sub-379	MC-108449 Sub-382	Do.
Purolator Courier Corp., MC-111729 Sub-417	MC-111729 Sub-432	June 15, 1976
Purolator Courier Corp., MC-111729 Sub-419	MC-111729 Sub-432	Do.
Gale B. Alexander, MC-114389 Sub-17	MC-114389 Sub-18	June 21, 1976
Dart Transit Co., MC-114457 Sub-193	MC-114457 Sub-201	June 17, 1976
Dart Transit Co., MC-114457 Sub-194	MC-114457 Sub-201	Do.
Wynne Transport Service, Inc., MC-114725 Sub-74	MC-114725 Sub-73	June 10, 1976
Dahlsten Truck Lines, Inc., MC-115669 Sub-147	MC-115669 Sub-149	June 11, 1976
Byars Oil Co., Inc., MC-116289 Sub-3	MC-116289 Sub-4	June 16, 1976
Russ Transport, Inc., MC-116459 Sub-56	MC-116459 Sub-57	June 14, 1976
Carl Subler Trucking, Inc., MC-116763 Sub-273	MC-116763 Sub-274	June 16, 1976
K & S Tankline, MC-119557 Sub-6	MC-119557 Sub-7	June 10, 1976
Schwerman Trucking Co., MC-124078 Sub-623	MC-124078 Sub-628	June 15, 1976
D.b.a. J. M. Booth Trucking, MC-124964 Sub-22	MC-124964 Sub-20	Do.
Commercial Transport, Inc., MC-125114 Sub-5	MC-125114 Sub-6	Do.
Sam Towler, MC-125925 Sub-16	MC-125925 Sub-17	June 16, 1976
D.b.a. All-Star Transportation, MC-134182 Sub-29	MC-134182 Sub-30	Do.
Wilderness Bound, Ltd., MC-134361 Sub-5	MC-134361 Sub-6	June 18, 1076
National Transportation, Inc., MC-134734 Sub-25	MC-134734 Sub-19	June 11, 1976
American Transport, Inc., MC-135007 Sub-48	MC-135007 Sub-47	June 17, 1976
Jack Hodge Transport, Inc., MC-135486 Sub-6	MC-135486 Sub-8	Do.
J. B. Hunt Transport, Inc., MC-135797 Sub-29	MC-135797 Sub-31	June 18, 1976
D.b.a. Sullivan Trucking, Co., MC-136220 Sub-16	MC-136220 Sub-15	June 11, 1976
D.b.a. Sullivan Trucking, Co., MC-136220 Sub-17	MC-136220 Sub-18	Do.
D.b.a. Sullivan Trucking, Co., MC-136220 Sub-20	MC-136220 Sub-22	Do.
Space Carriers, Inc., MC-136512 Sub-8	MC-136512 Sub-9	June 16, 1976
Moore Transportation, Co., Inc., MC-138104 Sub-21	MC-138104 Sub-24	Do.
Hartley Oil Co., Inc., MC-138335 Sub-2	MC-138335 Sub-1	June 15, 1976
Klima, Inc., MC-139884 Sub-1	MC-139884 Sub-3	June 18, 1976
Margie L. Berrien, MC-140244 Sub-2	MC-140244 Sub-3	June 8, 1976
Frankhauser Bros., Inc., MC-140709 Sub-1	MC-140709 Sub-2	June 11, 1976
Van Groll, Inc., MC-140947 Sub-1	MC-140947 Sub-2	June 18, 1976
Farber Dunlap, MC-141038 Sub-1	MC-141038 Sub-2	June 10, 1976
D.b.a. Bill Amerson Trucking, MC-141266 Sub-1	MC-141266 Sub-2	June 15, 1976

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-18737 Filed 6-25-76;8:45 am]

federal register

MONDAY, JUNE 28, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ADMINISTRATIVE FUNCTIONS, PRACTICES AND PROCEDURES

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N–0216]

ADMINISTRATIVE FUNCTIONS, PRACTICES AND PROCEDURES

Redesignation of Subpart

The Food and Drug Administration (FDA) is redesignating existing Subpart F of the administrative procedural regulations on public hearings as Subpart B to allow for the placement of a new Subpart C in the proper numerical sequence.

In the FEDERAL REGISTER of May 27, 1975 (40 FR 22950), the Commissioner of Food and Drugs issued regulations governing a broad range of FDA administrative practices and procedures. The May 27, 1975 regulations were subsequently withdrawn and reissued as a proposal (published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682)). The Commissioner has concluded that it is more reasonable to issue several separate final regulations based on individual issues and subparts rather than attempting to address all of the diverse comments submitted on the proposal in a single final order.

Elsewhere in this issue of the FEDERAL REGISTER, Subpart C. (§§ 2.200 through 2.209 (21 CFR 2.200 through 2.209)) governing informal public hearings before a Public Board of Inquiry, is being published as a final order. Since Subpart C will issue as the first final regulation, and since the section numbers are in a higher range than the existing Subpart F, (§§ 2.48 through 2.104), it is necessary to redesignate existing Subpart F of Part 2 as Subpart B of Part 2. The Commissioner's redesignation of Subpart F as Subpart B should in no way be construed as a withdrawal of the proposal to amend the procedures governing formal evidentiary public hearings, which was proposed as Subpart B of Part 2. To provide continuity during the transfer, the references to Subpart F are also being amended at this time. The section numbers will remain the same.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart B—Public Hearings

1. By redesignating Subpart F as Subpart B to read as set forth above.

§§ 2.48, 2.51, 2.53, 2.57, 2.73 [Amended]

2. In §§ 2.48, 2.51, 2.53, 2.57, and 2.73 by changing the reference "Subpart F" to read "Subpart B."

PART 8—COLOR ADDITIVES

§ 8.21 [Amended]

3. In § 8.21 by changing the reference "Subpart F" to read "Subpart B."

PART 430—ANTIBIOTIC DRUGS; GENERAL

§ 430.20 [Amended]

4. In § 430.20, paragraphs (c), (d) (10) (v), (e), and (f) are amended by changing the reference "Subpart F" to read "Subpart B."

The changes being made are nonsubstantive and for this reason notice and public procedure are not prerequisites to this promulgation.

Effective date: This amendment shall become effective June 28, 1976.

Dated: June 10, 1976.

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

[FR Doc.76–18449 Filed 6–25–76;8:45 am]

[Docket No. 76N–0168]

PART 2—ADMINISTRATIVE PRACTICES AND PROCEDURES

Public Hearing Before a Public Board of Inquiry

The Food and Drug Administration (FDA) is establishing procedures for an informal public hearing before a Public Board of Inquiry (Board). A hearing before a Board would be an alternative to a formal trial-type hearing, and could be requested by any person who would otherwise have a statutory right to a formal evidentiary hearing. Such a hearing would be conducted in the form of a scientific inquiry rather than a legal trial. These regulations shall be effective July 28, 1976.

In the FEDERAL REGISTER of May 27, 1975 (40 FR 22950), the Commissioner of Food and Drugs issued regulations governing a broad range of FDA administrative practices and procedures. Subpart C of those regulations, § 2.200 through 2.209 (21 CFR 2.200 through 2.209), consisted of rules governing informal public hearings before a Board. Although they were published as final regulations, the Commissioner allowed 90 days for comment and delayed their effective date for 2 months.

On July 31, 1975, the United States District Court for the District of Columbia issued an Order permanently enjoining the Commissioner from issuing the regulations "without complying, as a condition precedent, with the requirements of section 553 of the Administrative Procedure Act, 5 U.S.C. 553." "American College of Neuropsychopharmacology v. Weinberger, et al.", Civil Action No. 75–1187. Accordingly, in the FEDERAL REGISTER of August 4, 1975, 40 FR 32750), the Commissioner stayed the effectiveness of the regulations until further notice. Pursuant to the Court's Order, the Commissioner had the Court's Findings of Fact, Conclusions of Law, and Order published in the FEDERAL REGISTER of August 6, 1975 (40 FR 33063). Rather than appeal the District Court's ruling, the Commissioner concluded that the more appropriate course would be to republish the May 27 regulations as a proposal. This was done on September 3, 1975 (40 FR 40682), and 30 additional days were allowed for comment.

When the entire set of procedural regulations was republished as a proposal for comment, the Commissioner recognized that it might ultimately prove desirable to issue individual subparts as separate final regulations. The relative sparsity of comments on proposed Subpart C, Public Hearing before a Public Board of Inquiry, together with the greater attention paid to other provisions of the proposal, makes it appropriate to issue Subpart C as final regulations at this time without waiting for the completion of other subparts of the September 3, 1975 proposal. Publication of Subpart C will also enable the agency to convene a Board of Inquiry the first time one is requested or determined to be appropriate. The Commissioner sees no advantage in postponing publication of Subpart C as final regulations until the comments on the remaining subparts have been evaluated and any necessary revisions in the proposed regulations have been agreed upon within the agency. Accordingly, Subpart C is being published as the first of several final regulations codifying the agency's administrative procedures that will appear in future issues of the FEDERAL REGISTER.

While FDA received a total of 160 comments on the entire set of proposed procedural regulations, only 7 were on Subpart C—Public Hearing before a Public Board of Inquiry. None of these seven comments identified fundamental problems with the proposed regulations, and Subpart C final regulations reflect no major changes from the original proposal.

The comments received and the Commissioner's evaluation of each are discussed below.

ANALYSIS OF AND RESPONSE TO COMMENTS

1. One comment opposed use of a Board on the ground that the private party wishing a hearing helps select the Board members. The comment asserted that this procedure is unprecedented in the courts and, to its knowledge, unprecedented in other administrative agencies.

The Commissioner concludes that there is nothing inappropriate in permitting parties to participate in submitting nominees from which the Board members will be selected. Section 2.202 (a) requires that all members be qualified as experts in the issues to be heard and be free from bias or prejudice. Moreover, each party is required to submit five nominees, thereby assuring that the Commissioner will not be unduly restricted in choosing Board members. These criteria assure that it wil be possible to select suitable members.

The Commissioner wishes to make clear that the provision for the submission of nominees for a Board by the parties to the proceeding is not designed to permit persons or organizations with an interest in the outcome to designate members who are expected to represent their viewpoint. The purpose is to assure

that the Commissioner has a cross-section of qualified nominees from which to select a tribunal whose members are expected to provide their best independent judgment on the merits of a controversy. A commitment to represent a particular viewpoint or interest will disqualify a nominee for consideration as a Board member.

2. One comment stated that governmental decisions must be made by public officials because assertedly, "outsiders" are not as accountable as civil servants for their decisions, are frequently ill-informed about "regulatory matters" even if technically well qualified, and are not subject to the strict conflict-of-interest prohibitions that apply to civil servants. The comment stressed that a Board will make the initial decision on regulatory matters and that its decision may become final unless the Commissioner intervenes.

The Commissioner advises that he remains accountable for all FDA decisions. Under the procedures for a Board, the final decision is effectively made by the Commissioner, either by formally affirming, modifying, or rejecting the decision of the Board or by reviewing the decision of the Board and determining to leave it undisturbed. The fact that the Board may make an initial decision on a regulatory matter which may become final if the Commissioner chooses not to intervene does not indicate abdication of regulatory responsibility to the Board. The initial decision of any Board will be carefully reviewed by the Office of the Commissioner and the bureau concerned. The bureau may appeal the Board's ruling to the Commissioner, as may any other aggrieved party, and the Commissioner may review the decision on his own initiative. This procedure provides ample assurance that the agency will consider fully the consequences of any decision made by a Board.

The Commissioner also rejects the conclusion that Board members would be insufficiently informed about "regulatory matters," which the Commissioner understands to involve the application of scientific principles to the administration or enforcement of particular statutes. A Board is envisioned principally as a substitute for a formal evidentiary hearing, which would be presided over by an administrative law judge who might be no better informed about the agency's regulatory program than members of a Board. All pertinent information about regulatory matters will be brought to the attention of the Board by the FDA bureau involved. Moreover, the Commissioner, in reviewing the decision of the Board, can weigh the regulatory implications of the decision.

The suggestion that Board members would not be subject to the same conflict-of-interest prohibitions as regular FDA employees is simply not correct. Board members would be special government employees, as defined in 18 U.S.C. 202, and, in their regulatory capacity, would be subject to the same statutory conflict-of-interest restrictions as govern full-time agency employees.

3. One comment stated that Board members should not have "ties" to those who nominated them. Another comment expressed concern that Board members may have a financial interest in the outcome of the decision, including stock ownership in the company involved or in other companies marketing a similar or competing product, or may be employed by such a company. The comment acknowledged that the Board members are subject to the conflict-of-interest rules applicable to special government employees, but asserted that such rules are weak and allow for the issuance of exemptions.

The Commissioner notes that under § 2.202, a Board member is subject to the conflict-of-interest restrictions and must be free from bias or prejudice with respect to the issues involved. Accordingly, any nominee who had a significant relationship to a party to the hearing would be ineligible to serve as a Board member. Under 18 U.S.C. 208, a special Government employee—a class that will include all members of any Public Board of Inquiry—is prohibited from having any financial interest in the outcome of a decision unless a specific exemption has been granted. Stock ownership in or an employment relationship to companies having a financial interest in the decision of the Board would thus be prohibited. The Commissioner does not contemplate granting exemptions in such cases. The Commissioner concludes that these basic criteria are sufficient to en- members and the integrity of the pro- sure the independence of the Board ceeding.

4. One comment suggested a major revision in the procedures for a Board convened to resolve an issue concerning approval or withdrawal of a new animal drug or animal feed or water additive. The comment suggested that a Board should be required to be held if the person requesting a hearing demanded one, whereas under the proposed regulations the Commissioner could choose to refuse the request and instead order an evidentiary hearing to be held before an administrative law judge.

The comment also suggested a different means of selecting Board members. According to the comment, the Board should consist of one person selected by the Commissioner from the nominees of (1) the American Society of Animal Science, (2) the National Academy of Sciences (or, alternatively, a public member), and (3) the Industrial Veterinarians Association, and in addition, one person from the nominees submitted by the livestock association concerned with the type of animals covered by the particular drug or food additive under consideration. For example, if the drug to be evaluated was for use in beef cattle, under the suggested procedure the American National Cattlemen's Association would submit a group of nominees from which the Commissioner would select one Board member. (Other specified associations and societies were named for the other animal groups: The American Society of Dairy Science, The National Pork Producers Council, The National Wool Growers Association, The Sheep Producers Council, The American Association of Equine Practitioners, The Poultry Science Association (in lieu of nominees from the American Society of Animal Science), The National Broiler Council, The Turkey Federation, The American Animal Hospital Association (for non-food-producing animals other than equine) and The American Feed Manufacturers Association (when the issue concerned the addition of a drug to the feed of any animal).) Under the suggested procedure, the Commissioner would choose an additional person to be chairman of the Board. The comment contended this approach was justified by differences between veterinary and human medicine. The comment asserted that specialists in human medicine are disease or system-oriented, while veterinary medical specialists are species-oriented. The comment stated that veterinarians are qualified, and frequently board-certified, in such fields as bovine, swine, ovine, or small animal medicine and contended that the suggested revision in composition would ensure that the Board had sufficient breadth to expertise.

The comment also urged that representatives of the bureau and applicant, but no others, should be permitted to be present at most deliberative sessions of the Board, noting that under the proposed regulations such sessions would be closed to all outside parties as are a multi-judge court's deliberative sessions.

The Commissioner is not persuaded that the procedure for selecting Board members suggested by the comment would produce a more qualified Board than the procedure proposed. The expertise required of Board members will vary from issue to issue. Consequently, identifying specific organizations in the regulations as the source of nominees would prove inadequate to assure the best qualified members. For example, a Board dealing with issues involving animal drugs and feed additives used in food-producing animals would very often have to concern itself with questions of human food safety. Although the suggested procedure might produce a Board familiar with particular animal species, the procedure would likely prove to be too restrictive to assure Board members qualified to evaluate issues involving human food safety. Moreover, naming particular organizations in the regulations as the source of nominees would imply FDA endorsement of the organizations' expertise and impartiality and encourage an erroneous belief that nominees for a Board are chosen to represent the interests of a particular organization.

The Commissioner concludes that the established procedure provides ample assurance that issues relating to animal drugs and feed additives will be properly considered. The participants in such a

hearing may put before the Board any scientific information which they believe it should consider. Consequently, the necessity for Board expertise in each particular species in which the product involved is being, or is to be, used is not essential.

The Commissioner also concludes that he should retain the discretion to order the holding of a formal evidentiary hearing even when a Board has been requested by the objecting parties. Conceivably, certain issues may be more fully explored or more expeditiously resolved in a formal evidentiary hearing than by a board of sicentific experts.

The Commissioner rejects the suggestion that representatives of the bureau and applicant should be present at most deliberative sessions of the Board. It would not be appropriate to permit only some of the participants to be present at otherwise closed sessions of the Board. Such a procedure would allow the introduction of evidence and argument to which the other participants would have no opportunity to respond and, thus, violate a basic tenet of administrative due process. The Commissioner concludes that the Board should be permitted to deliberate in private when necessary to facilitate thorough and candid discussion of the issues, just as courts and juries are permitted to do.

5. One comment dealt with the provision in § 2.202(c), which states that the Commissioner shall choose one Board member from the lists of nominees submitted by the director of the bureau and by any person who is not a party but whose petition is the subject of the hearing. The comment urged that these two sources of nominees should not be grouped, as their interests and points of view are likely to differ significantly. The comment suggested that the Commissioner should be required to select one of the Board members from the list submitted by a nonparty petitioner if that petitioner is not a regulated person with a commercial interest in the issue before the Board.

The Commissioner notes that the only circumstance in which a petitioner would not be a party to a hearing before a Board would be when FDA had taken the action sought by the petitioner. In such circumstances, FDA and the nonparty petitioner would be in substantial agreement as to the basic propriety of the action under review, and the nominees from the two sources can appropriately be considered together.

6. One comment contended that the entire concept of a Board serves the interest of industry and excludes participation of consumers. The comment stated that the rights given to participate in the selection of at least one Board member and to "veto" FDA employees (since employees may be Board members only with the agreement of all parties) are rights accorded only to parties. The comment stated that FDA has defined parties in such a way to exclude consumer groups in most instances.

The Commissioner points out that parties to a Board that is held in place of a formal evidentiary hearing are those persons who have objected to agency action and requested a hearing. Consumer groups have frequently objected to agency action in the past, including the action on which the first Board was originally scheduled to be convened, and in such circumstances would be parties to a Board. Where consumer groups have not objected to agency action that is subject to a request for hearing, it is presumably because they are in substantial agreement with the agency's position and their views would therefore adequately be represented by the FDA bureau involved. Moreover, with the exception of the right to submit nominees for Board membership, nonparty participants have the same rights before the Board as parties. Consumer participation in a Board is therefore not excluded even when individual consumers or consumer groups file no objections.

7. One comment opposed the condition that a person must waive his right to demand a formal evidentiary hearing before he can obtain a hearing before a Board, or before an advisory committee. The comment pointed to the Pesticide Chemicals Amendment of 1954 (21 U.S.C. 346a) as an instance in which Congress provided a scientific review mechanism without exacting a waiver of the right to a trial-type hearing. The comment urged that, at least until these new procedures are tried and perfected, they should be available without waiver of the right to an evidentiary hearing.

The Commissioner concludes that it would rarely be in the public interest to afford parties an opportunity to insist upon a formal evidentiary hearing after a hearing had been held before a Board. It would not be efficient to convene a Board if the losing party could subsequently relitigate the same issues before an administrative law judge. Instead of facilitating the administrative disposition of contested issues, such an approach would be sure to prolong their resolution. Under the regulations no person is required to waive his right to a formal evidentiary hearing or to accede to a public hearing before a Board or before an advisory committee; an alternative form of hearing will be conducted only if agreed to by all parties having a right to a trial-type hearing. The Commissioner concludes that a single hearing should ordinarily be sufficient to resolve any factual disputes that may rise.

In rare cases, however, the Commissioner, on his own initiative, may determine that a Board should be convened to consider a matter before reaching an initial agency decision, even though that decision might be subject to objections that would require a formal evidentiary hearing. For example, the Commissioner may conclude that it is appropriate to submit the question of the safety of a food additive to a Board prior to a formal decision to approve or disapprove marketing. Any party objecting to the agency's resulting decision would be statutorily entitled to a formal evidentiary hearing. In such a case, the Commissioner would ordinarily deny any request that the second hearing on the matter be conducted before a Board.

8. One comment stated that §§ 2.200(c), 2.300(a)(3), and 2.400(c) should make clear that a person asserting a right to a formal evidentiary hearing may request a hearing before a Board (or before an advisory committee or before the Commissioner) if his request for a formal evidentiary hearing is denied, without waiving his right to judicial review of that denial.

The Commissioner agrees that a person asserting a right to a formal evidentiary hearing may request a hearing before a Board (or before an advisory committee or before the Commissioner) if his request for a formal evidentiary hearing is denied. Such a request would not be pursuant to §§ 2.200(c), 2.300(a)(3), and 2.400(c), however, but would be in a form of a petition to the Commissioner to exercise his discretion to hold such a hearing under §§ 2.200(a), 2.300(a)(1) or 2.400(a). Thus, no waiver of any right to a formal hearing would be implied. It should be noted, however, that after a denial of a hearing, a request to the Commissioner to convene a hearing on his own initiative would not delay the time provided by statute for seeking judicial review of the denial of a formal evidentiary hearing.

9. One comment opposed the requirement that Board members must be "free from bias or prejudice with respect to the issues involved," as required by § 2.202(a). The comment asserted that the best experts are very likely to have published their views on the issues at hand and are otherwise likely to have an active scholarly and professional life. The comment stated that in a recent instance FDA had advised certain members of an agency advisory committee that if they participated in a private seminar conducted by a public interest group they would risk removal from the committee on grounds of bias. The comment stated that if "bias" were defined in a restricted fashion, FDA advisers would be inhibited from speaking on technical issues and Board members will be chosen because of lack of publications and activity in their field.

The Commissioner anticipates, and indeed hopes, that Board members would ordinarily be active in the scientific field pertinent to the inquiry. The Commissioner concludes, however, that it would not be appropriate to have as Board members persons who had already reached conclusions on the factual issues before the Board. Public confidence in the integrity of the decisions of a Board would be jeopardized if its members were known to have already formed opinions on the very issues on which they will hear evidence.

Similarly, it is the policy of FDA that members of advisory committees should refrain from participating in meetings where they might be called on to express views on issues that are before their committee. It would be inappropriate for an advisory committee member to announce his conclusions on such an

issue before he had considered all the evidence before the committee and participated in deliberations with the other members. The same restraints should apply to Board members. Accordingly, a nominee could not be appointed if there were a genuine likelihood that he or she had prejudged an issue to be submitted for decision by the Board.

10. One comment stated that each member of an advisory committee or Board should be required to write a detailed individual opinion. The comment asserted that only under such a constraint, if then, would these members perform careful scientific work. The comment asserted that in the past outside experts advising the agency have engaged in sloppy, ill-informed decision-making.

The Commissioner does not agree that requiring each member of an advisory committee or Board to write an individual opinion is necessary to assure a sound or reasoned decision. It is accepted practice that all members of collegial bodies need not routinely write separate opinions. No different rule would seem to be appropriate in the case of FDA panels. Parties who believe that a panel has reached an unsound result may address their contentions to the Commissioner within the context of an administrative appeal. The Commissioner notes that the regulations assure any Board member or advisory committee member the right to issue a separate opinion.

11. One comment stated that § 2.204(e) should be revised to reflect that § 2.5(j) places certain restrictions on the disclosure of information submitted to a Board.

The Commissioner agrees, and the reference in § 2.204(e) has been changed from § 2.207(c) to § 2.208. This incorrect reference has also been changed in § 2.204(b).

CHANGES IN PROPOSED REGULATIONS

12. Certain of the regulations in Subpart C contain references to other sections of the proposed procedural regulations that have not yet been published in final form. For the purpose of maintaining the substantive integrity of Subpart C as adopted, all referenced sections and subparts of the proposed procedural regulations not adopted in the final form are being adopted as proposed as interim procedures. Should any of these cross-referenced sections be omitted or renumbered when other subparts are finally published, or cease to be germane, appropriate modifications in the provisions of Subpart C will be made at that time.

13. Language has been added in § 2.203(a) to make clear that requirements relating to separation of functions and ex parte communications apply to any members of the Office of the Chief Counsel of FDA who may be advising the bureau responsible for a matter pending before a Board. On many matters that will come before a Board, no attorney from the Office of the Chief Counsel will have had any occasion to consult with or advise the bureau involved. In some instances, however, a Board will be convened after a formal evidentiary hearing has originally been scheduled. In most such instances one or more attorneys will have been designated to advise the bureau responsible for the matter. Any attorney so assigned will not later be free to advise the Board, or to consult with the Commissioner in the matter.

14. Language has been added in § 2.206(h) to make clear that advice provided by the Chief Counsel of FDA to a Board on any matter of procedure or any question of legal authority—the matters on which the Chief Counsel is most likely to be consulted by the Board—shall be transmitted in writing and made a part of the public record of the proceeding or, if presented orally, shall be presented in open session and transcribed. The purpose of this change is to forestall accusations that the Chief Council has improperly influenced the deliberations of a Board. This does not mean that the Chief Counsel may not, upon request, discuss with a Board the scope of the agency's legal authority respecting the matters the Board is considering. But ensuring that such advice is part of the public record will enhance confidence in the Board's deliberations and lay to rest unwarranted speculation about what advice was given.

The Commissioner previously reviewed the potential environmental impact of the proposed Subpart C and concluded that the proposed regulations would not significantly affect the quality of the human environment. No changes have been made in the proposed regulations that would alter this conclusion. The Commissioner also carefully considered the inflation impact of the regulations as proposed and concluded that they are not likely to have an inflation impact of any kind.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (sec. 201 et seq., 52 Stat. 1040; 21 U.S.C. 321 et seq.), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241; 42 U.S.C. 257a), the Controlled Substances Act (sec. 301 et seq., 84 Stat. 1253; 21 U.S.C. 821 et seq.), the Federal Meat Inspection Act (sec. 409(b), 81 Stat. 600; 21 U.S.C. 679(b)), the Poultry Products Inspection Act (sec. 24(b), 82 Stat. 807; 21 U.S.C. 467f(b)), the Egg Products Inspection Act (sec. 2 et seq., 84 Stat. 1620; 21 U.S.C. 1031 et seq.), the Federal Import Milk Act (44 Stat. 1101; 21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Caustic Poison Act (44 Stat. 1406; 15 U.S.C. 401–411 notes), the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C. 1451 et seq.), and all other statutory authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended by revising the part heading as set forth above and by adding new Subpart C to read as follows:

Subpart C—Public Hearing Before a Public Board of Inquiry

Sec.
2.200 Scope of subpart.
2.201 Notice of a public hearing before a Public Board of Inquiry.
2.202 Members of a Public Board of Inquiry.
2.203 Separation of functions; exparte communications; administrative support.
2.204 Submissions to a Public Board of Inquiry.
2.205 Disclosure of data and information by the participants.
2.206 Proceedings of a Public Board of Inquiry.
2.207 Administrative record of a Public Board of Inquiry.
2.208 Examination of administrative record.
2.209 Record for administrative decision.

AUTHORITY: Sec. 201 et seq., 52 Stat. 1040; 21 U.S.C. 321 et seq.; sec. 1 et seq., 58 Stat. 682, as amended; 42 U.S.C. 201 et seq.; sec. 4, 84 Stat. 1241; 42 U.S.C. 257a; sec. 301 et seq., 84 Stat. 1253; 21 U.S.C. 821 et seq.; sec. 409(b), 81 Stat. 600; 21 U.S.C. 679(b); sec. 24(b), 82 Stat. 807; 21 U.S.C. 467f(b); sec. 2 et seq., 84 Stat. 1620; 21 U.S.C. 1031 et seq.; 44 Stat. 1101; 21 U.S.C. 141 et seq.; 21 U.S.C. 41 et seq.; 44 Stat. 1406; 15 U.S.C. 401–411 notes; 80 Stat. 1296; 15 U.S.C. 1451 et seq., and all other statutory authority delegated to the Commissioner (21 CFR 2.120).

Subpart C—Public Hearing Before a Public Board of Inquiry

§ 2.200 Scope of subpart.

Subpart C governs the practices and procedures applicable whenever:

(a) The Commissioner concludes, in his discretion, that it is in the public interest to hold a public hearing before a Public Board of Inquiry, hereinafter referred to as a "Board," with respect to any matter, or class of matters, of importance pending before the Food and Drug Administration.

(b) Pursuant to specific provisions in other sections of this chapter, a matter pending before the Food and Drug Administration is subject to a public hearing before a Board.

(c) A person who has a right to an opportunity for a formal evidentiary public hearing under Subpart B of this Part waives that opportunity and in lieu thereof requests pursuant to § 2.117 the establishment of a Board to act as an administrative law tribunal with respect to the matters involved, and the Commissioner, in his discretion, accepts this request.

§ 2.201 Notice of a public hearing before a Public Board of Inquiry.

If the Commissioner determines that a Board should be established to conduct a public hearing on any matter, he shall publish in the FEDERAL REGISTER a notice of hearing setting forth the following information:

(a) If the hearing is pursuant to § 2.200 (a) or (b), all applicable information described in § 2.117(e).

(1) If any written document is to be the subject matter of the hearing, it shall be published as part of the notice, or reference shall be made to it if it has already been published in the FEDERAL

REGISTER, or the notice shall state that the document is available from the Hearing clerk or an agency employee designated in the notice.

(2) For purposes of any hearing pursuant to § 2.200 (a) or (b), all participants who file a notice of appearance pursuant to § 2.117(e)(6)(ii) shall be deemed to be parties and shall be entitled to participate in selection of the Board pursuant to § 2.203(b).

(b) If the hearing is in lieu of a formal evidentiary hearing as provided in § 2.200(c), all of the information described in § 2.117(e).

§ 2.202 Members of a Public Board of Inquiry.

(a) All members of a Board shall have medical, technical, scientific, or other qualifications relevant to the issues to be considered at the hearing, shall be subject to the conflict of interest rules applicable to special government employees, and shall be free from bias or prejudice with respect to the issues involved. A member of a Board may be a full-time or part-time Federal government employee or may serve on a Food and Drug Administration advisory committee but, except with the agreement of all parties, shall not currently be a full-time or part-time employee of the Food and Drug Administration or otherwise act as a special government employee of the Food and Drug Administration.

(b) The director of the bureau of the Food and Drug Administration responsible for the matter which is the subject of a public hearing before a Board, the other parties to the proceeding, and any person whose petition is the subject of the hearing, shall, within 30 days after publication of the notice of hearing in the FEDERAL REGISTER, each submit to the Hearing Clerk the names and full curricula vitae of five nominees for members of the Board. Nominations shall state that the nominee is aware of the nomination, is interested in becoming a member of the Board, and appears to have no conflict of interest.

(1) Any two or more persons entitled to submit nominees may in consultation with each other agree upon a joint list of five qualified nominees.

(2) In addition to being filed with the Hearing Clerk, the lists of nominees and comments thereon shall be submitted to the persons who are entitled to submit a list of nominees pursuant to this paragraph but not to all participants. They shall be held in confidence by the Hearing Clerk as part of the administrative record of the proceeding and shall not be available for public disclosure, and shall similarly be held in confidence by all persons who submit or receive them. This portion of the administrative record shall remain confidential but shall be available for judicial review in the event that it becomes relevant to any issue before a court.

(3) Within 10 days after receipt of such names of nominees, such persons may submit comments to the Hearing Clerk on whether the nominees of the other persons meet the criteria established in paragraph (a) of this section.

(c) After reviewing the lists of nominees and any comments thereon, the Commissioner shall choose three qualified persons as members of a Board. One member shall be chosen from the lists of nominees submitted by the director of the bureau responsible for the matter and by any person whose petition is the subject of the hearing. The second member shall be chosen from the lists of nominees submitted by the other parties. The Commissioner shall then choose the third member from any source, who shall be the Chairman of the Board.

(1) If the Commissioner is unable to find a qualified person with no conflict of interest from among a list of nominees submitted, or if additional information is needed, the Commissioner shall request once from the party involved the submission of such additional nominees or information as is necessary to choose a qualified member of the Board nominated by that person.

(2) If a person fails to submit a list of nominees as required by paragraph (b) of this section, the Commissioner may choose a qualified person in lieu of a person nominated by that person without further consultation with that person.

(3) The Commissioner shall announce the members of a Board by filing a memorandum in the record of the proceeding and sending a copy to each participant who has filed a notice of appearance.

(d) In lieu of the procedure for selection of the members of a Board specified in paragraphs (b) and (c) of this section, the director of the bureau, the other party or parties to the proceeding, and any person whose petition is the subject of the hearing, may, with the approval of the Commissioner, agree that any standing advisory committee listed in § 2.330 shall constitute the Board for a particular proceeding, or that another procedure shall be used for selection of the members of the Board, or that the Board shall consist of a larger number of members.

(e) The members of a Board shall serve as consultants to the Commissioner and shall be special government employees or government employees. A Board shall function as an administrative law tribunal in the proceeding and is not an advisory committee subject to the requirements of the Federal Advisory Committee Act or Subpart D of this Part.

(f) The chairman of a Board shall have the authority of a presiding officer set out in § 2.142.

§ 2.203 Separation of functions; ex parte communications; administrative support.

(a) All proceedings of a Board shall be subject to the provisions of § 2.13, relating to separation of functions and ex parte communications. Representatives of the participants in any proceeding before a Board, including any members of the Office of the Chief Counsel of the Food and Drug Administration assigned to advise the bureau responsible for the matter, shall have no conact with the members of the Board, except as participants in such proceeding, and shall not participate in the deliberations of the Board.

(b) Administrative support for a Board shall be provided only by the office of the Commissioner and the Office of the Chief Counsel for the Food and Drug Administration.

§ 2.204 Submissions to a Public Board of Inquiry.

(a) All submissions relating to a hearing before a Board shall be filed with the Hearing Clerk pursuant to § 2.5.

(b) A copy of any such submission shall be sent by the person making the submission to each participant in the proceeding, except as provided in §§ 2.202(b)(3) and 2.208 and except that submissions of documentary data and information may but are not required to be sent to each participant. Any transmittal letter, summary, statement of position, certification pursuant to paragraph (d) of this section, or similar document accompanying a submission of documentary data and information shall be sent to each participant pursuant to this paragraph.

(c) Any such submission shall be sent as required by paragraph (b) of this section by mailing it to the address shown in the notice of appearance or by personal delivery.

(d) All submissions pursuant to this section shall be accompanied by a signed certification stating the extent to which the submission has been served on each participant, or is exempt from such service, pursuant to paragraph (b) of this section.

(e) No written submission or other portion of the administrative record shall be held in confidence, except as provided in §§ 2.202(b)(3) and 2.208.

(f) Any participant who believes that compliance with the requirements of this section constitutes an unreasonable financial burden may submit to the Commissioner a petition to participate in forma pauperis.

(1) Such petition shall be pursuant to § 2.7, except that the heading shall be "REQUEST TO PARTICIPATE IN FORMA PAUPERIS, DOCKET NO. ------." Pursuant to the guidelines established in § 4.43 (b) and (c) of this chapter, such petition shall demonstrate that either (i) the person is indigent and his participation has a strong public interest justification, or (ii) such participation is in the public interest because it can be considered primarily as benefiting the general public.

(2) If the Commissioner grants such petition, the participant shall be permitted to file only one copy of each submission with the Hearing Clerk, and it shall be the responsibility of the Hearing Clerk to make sufficient additional copies for the administrative record and to serve a copy upon each other participant.

§ 2.205 Disclosure of data and information by the participants.

(a) Before the notice of hearing is published pursuant to § 2.201, the director of the bureau responsible for the matters involved in the hearing shall submit to the Hearing Clerk:

(1) The relevant portions of the existing administrative record of the proceeding. Those portions of the administrative record of the proceeding which are not relevant to the issues to be considered at the public hearing shall not be submitted to the Hearing Clerk or placed on public display and shall not be part of the administrative record of the proceeding.

(2) A list of all persons whose views will be presented orally or in writing at the hearing.

(3) All documents in his files containing factual data and information, whether favorable or unfavorable to his position, which relate to the issues involved in the hearing.

(4) All other documentary data and information on which he relies.

(5) A signed statement that, to the best of his knowledge and belief, the submission complies with the requirements of this section.

(b) Within the time prescribed in the notice of hearing published pursuant to § 2.201, each participant shall submit to the Hearing Clerk all data and information specified in paragraph (a) (2) through (5) of this section, and any objections with respect to the completeness of the administrative record filed pursuant to paragraph (a)(1) of this section.

(c) The submissions required by paragraphs (a) and (b) of this section may be supplemented later in the proceeding, with the approval of the Board, upon a showing that the views of the persons or the material contained in the supplement were not known or reasonably available when the initial submission was made or that the relevance of the views of the persons or the material contained in the supplement could not reasonably have been foreseen.

(d) The failure to comply with the provisions of this section in the case of a participant shall constitute a waiver of the right to participate further in the hearing and in the case of a party shall constitute a waiver of the right to a hearing.

(e) The Chairman of the Board shall rule on questions relating to this section. Any participant dissatisfied with any such ruling may petition the Commissioner for interlocutory review of that ruling.

§ 2.206 Proceedings of a Public Board of Inquiry.

(a) The purpose of a Board is to review medical, scientific, and technical issues fairly and expeditiously in order to reach a reasonable decision that is sound from a medical, scientific, and technical standpoint. The proceedings of a Board shall be conducted in the manner of a scientific inquiry rather than as a legal trial.

(b) Prior to the first hearing of a Board, all participants in the hearing shall have submitted to the Hearing Clerk the data and information required to be disclosed pursuant to § 2.205, subject to the sanctions specified in § 2.205(d).

(c) The Chairman of a Board shall call the first hearing of the Board at a reasonable time subsequent to receipt of the data and information specified in paragraph (b) of this section. Notice of the time and location of such hearing shall be published in the FEDERAL REGISTER at least 15 days in advance and the hearing shall be open to the public. The director of the bureau responsible for the matter, the other parties, and all other participants shall have an opportunity at the first hearing to make an oral presentation of the data, information, and views which in their opinion are pertinent to resolution of the issues being considered by a Board. The Chairman shall determine the order in which these presentations shall be made. Each initial presentation shall be made without interruption from other participants, but members of the Board may ask any questions that they wish. At the conclusion of each presentation, each of the other participants may briefly state questions and criticism of the presentation and may request that the Board conduct further questioning with respect to specified matters. The Chairman and members of the Board may then ask further questions, and the Chairman may permit any other participant in the proceeding to ask questions if he determines this will facilitate resolution of the issues.

(d) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but other participants may comment upon or rebut all such data, information, and views. No participant may interrupt the presentation of another participant for any reason.

(e) Within the time specified by a Board after its first hearing is concluded, each participant in the proceeding may submit in writing such rebuttal data, information, and views as he believes relevant to the issues, in accordance with the requirements of § 2.206. The Chairman of the Board shall thereafter schedule a second hearing if requested and justified by any participant. A second hearing, and any subsequent hearing, shall be called only if the Chairman concludes that it is necessary for the full and fair presentation of information that cannot otherwise adequately be considered and for the proper resolution of the issues involved. Notice of the time and location of any such subsequent hearings shall be published in the FEDERAL REGISTER at least 15 days in advance of the date of such hearing and the hearings shall be open to the public.

(f) A Board may consult with any person who it concludes may have data, information, or views relevant to resolution of the issues involved.

(1) Such consultation shall occur only at an announced hearing of a Board, and all participants shall have the right to be present and to suggest or, with the permission of the Chairman, conduct questioning of such consultant and to present rebuttal data, information, and views, as provided in paragraphs (c) and (d) of this section, except that written statements may be submitted to the Board with the consent of all participants.

(2) Any participant may submit to the Board a request that it consult with a specific person who may have data, information, or views relevant to the resolution of the issues. Such requests shall state the reasons why the person named should be consulted and why the views of that person cannot reasonably be furnished to the Board by any means other than having the Food and Drug Administration arrange for his appearance at a hearing of the Board. The Board may, in its discretion, grant or deny such a request.

(g) All hearings of a Board at which data, information, and views are presented shall be transcribed. All such hearings shall be open to the public, except that the presentation of data and information which are prohibited from public disclosure pursuant to the provisions of § 2.5(j)(3) shall be closed to all persons except the persons making and participating in the presentation and Federal Government Executive Branch employees and special government employees. At least a majority of the members of the Board shall be present at every hearing. The executive sessions of a Board, during which a Board deliberates on the issues, shall be closed and shall not be transcribed. The report of the Board shall be voted upon by all members of the Board.

(h) All legal questions shall be referred to the Chief Counsel for the Food and Drug Administration for resolution. Any advice on any matter of procedure or any question of legal authority provided by the Chief Counsel shall be transmitted in writing and made a part of the record or presented in open session and transcribed.

(i) After the conclusion of all public hearings a Board shall announce that the record is closed with respect to the gathering of data and information. The Board shall provide an opportunity for all participants to submit a written statement of their positions, with proposed findings and conclusions, and may, in its discretion, provide an opportunity for participants to summarize their positions orally to assist the Board in its deliberations on the issues involved.

(j) At the conclusion of its deliberations, a Board shall prepare its decision on all of the issues, which shall include specific findings and references supporting and explaining its conclusions, and a detailed statement of the reasoning on which the conclusions are based. Any member of the Board may file a separate report stating additional or dissenting views.

§ 2.207 Administrative record of a Public Board of Inquiry.

(a) The administrative record of a hearing before a Board shall consist of the following:

(1) All relevant FEDERAL REGISTER notices.

(2) All written submissions pursuant to § 2.204.

(3) The transcripts of all hearings of the Board.

(4) The recommended or initial decision of the Board.

(b) The record of the administrative proceeding shall be closed:

(1) With respect to the gathering of information and data, at the time specified in § 2.206(i).

(2) With respect to pleadings, at the time specified in § 2.206(i) for the filing of a written statement of position with proposed findings and conclusions.

(c) The Board may, in its discretion, reopen the record to receive further evidence at any time prior to the filing of a recommended or initial decision.

§ 2.208 Examination of administrative record.

(a) The availability for public examination and copying of each document which is a part of the administrative record of the hearing shall be governed by the provisions of § 2.5(j). Each document which is available for public examination or copying shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office.

(b) Lists of nominees and comments thereon submitted pursuant to § 2.202 (b)(3) shall be subject to the provisions of § 2.5(j)(3).

§ 2.209 Record for administrative decision.

The administrative record of the hearing specified in § 2.207(a) shall constitute the exclusive record for decision.

Effective date. These regulations shall be effective July 28, 1976.

Dated: June 18, 1976.

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

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MONDAY, JUNE 28, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

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OCEAN DUMPING

Proposed Revision of Regulations and Criteria

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 220 Through 229]

[FRL 563-2]

OCEAN DUMPING

Proposed Revision of Regulations and Criteria

The Environmental Protection Agency today publishes proposed revisions of the regulations and criteria with respect to the transportation of wastes for the purpose of ocean dumping. Under Title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") the Agency on October 15, 1973 (38 FR 28610 et seq.) published regulations setting forth the procedures to be followed, and the criteria to be applied, in reviewing applications to dispose of materials in ocean waters. These rules now appear at 40 CFR Parts 220–227. In addition, the October 15 notice sets forth substantive criteria to be applied in evaluating permits to discharge materials through ocean outfalls, pursuant to sections 402 and 403(c) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1342, 1343. The regulations proposed today would, if they become final, delete all reference to section 403 (c) ocean outfall criteria and make Parts 220–227 (with the addition of Parts 228 and 229) solely addressed to ocean dumping and implementation of the Act. In the near future, the Agency will propose revisions to the ocean outfall criteria presently appearing in 40 CFR Part 227.

The proposed revisions announced today affect both the procedures to be followed in reviewing applications for ocean dumping and the substantive criteria to be applied in evaluating those applications. The Agency believes that changes in the present regulations are appropriate for several reasons:

Operating experience of EPA pointed to several ways in which the regulations required modification. There is a need to specify in more detail the considerations which go into a determination of whether a permit will be issued. The present regulations do not adequately address the regulation of ocean dumping sites. Also, some people consider the present regulations pertaining to the disposal of dredged material inadequate.

A petition for additional rulemaking by the National Wildlife Federation was received in April of 1974 and pointed out several areas in which the present regu-completely satisfy the Act, the Convention on the Prevention of Marine Pollulations require changes if they are to tion by Dumping of Wastes and Other Matter open for signature December 29, 1972, at London (hereafter, "Convention"), and the Amendments to the Act, in light of the Convention[1], which were brought about by Pub. L. 93-254 (March 22, 1974).

In addition to the petition from the National Wildlife Federation, an individual has requested that the emergency permit provisions contained in the regulations be modified to require more adequate public notice and opportunity for hearing prior to the issuance of those permits. EPA has thoroughly revised and expanded the ocean dumping regulations and criteria to allow for greater public participation in the program.

The Agency has held several major hearings on applications to dispose of materials; the experiences of these hearings and the Regional Administrators' experiences in reviewing applications have prompted several suggestions as to ways in which the present regulations nad criteria can be improved to more adequately address the implementation of the Act and Convention, and to address the real world problems encountered by the Regional Administrators.

The criteria have been modified to reflect recent advances in scientific knowledge, but the technical basis for the regulatory program remains the same, and there is no change in EPA's intent to eliminate ocean dumping of unacceptable materials as rapidly as possible.

It is not possible to note in this preamble all the places in the regulations in which changes have been made; many modifications are minor and will not affect the day-to-day operation of the program. However, the major substantive changes have been noted below. It must be emphasized that the regulations proposed today will when promulgated replace seven existing Parts of Title 40 CFR, will add Part 228 and amend Part 229. While the regulations appear to be long and complicated the Agency has attempted to follow a logical pattern which will make their use more convenient than one might assume at first inspection. It also must be noted that the regulations proposed today will constitute the entire set of tools one needs to implement the Act and the Convention.

Summary of Proposed Changes

Part 220. There has been confusion over the relationship of the Federal Water Pollution Control Act and the Act, and between the Act and the Convention. Sections 220.1 and 220.2 have been expanded to state with more precision the applicability of the various laws and regulations implementing those laws. As stated before, the proposed modifications will delete any mention of ocean outfalls to the extent that they are covered under the Federal Water Pollution Control Act. Separate regulations are in preparation which will cover ocean outfalls. The prohibited acts of § 220.1(a) and the exclusions of subsection (c) are essentially the same as the language used in Sections 2, 3, and 101 of the Act, 33 U.S.C. 1401, 1402, and 1411. Likewise, the definitions and the categories of permits presented in Part 220 are almost identical to the existing regulations or to the language used in the Act itself.

It should be pointed out that in § 220.3 (d) the Agency has placed a cutoff of April 23, 1978, for the issuance of interim permits except for the dumping of wastes from sewage treatment works of municipalities presently under interim permits when the applicant has make a showing of good faith effort to comply with requirements of a special permit, and with respect to industrial plants with treatment facilities under construction. Attention is also directed to the limitation in that subsection that prohibits the issuance of an interim permit to a facility which has not previously dumped wastes in the ocean. In view of the greatly expanding capacity of publicly owned treatment works and other industrial treatment facilities which may generate substantial quantities of sludge, this section may have impact on decisions to dispose of residual wastes. Many of the factual assumptions on which the Agency relied in establishing this prohibition on new interim dumping are presented in "Decision to the Administrator, Ocean Disposal Permit No. PA 010", September 25, 1975. That decision involved the appeal by the City of Philadelphia of an order to cease dumping sewage sludge.

Section 220.3(f) has been added to clearly state that incineration of waste at sea is covered by the Act and that only research or interim permits will be issued to operators of at-sea incineration vessels until more specific regulations for such vessels are developed. Since the Agency has been following this policy the addition of this statement in the formal regulations does not constitute a major change in Agency operations.

Part 221. EPA has found that there is as much time and effort required to process applications for permit renewals as for the initial application, and, therefore, the reduced application fee for permit renewal has been eliminated.

Part 222. Section 222.3 amends the requirements with respect to the contents of the public notice, to include in the notice an explanation of the factors considered in reaching the tentative determination on the permit application. Separate notification provisions are established for different categories of permits. For special, interim, and research permits notice will be provided by newspaper publication; for emergency permits special procedures have been developed in response to the petitions from Ms. Jan Blair and the National Wildlife Federation. These procedures allow for appropriate notice within the time constraints that often are involved when a true emergency exists. Section 222.3 provides for the distribution of copies of the notice to agencies and persons, including all states within 500 miles of the proposed dumping site. These changes have been made in response to numerous requests for a greater dissemination of public notices. This change would merely formalize the procedures which the Agency is now following.

[1] The Convention became effective, according to Article XIX(1), on August 30, 1975, when the fifteenth party acceded to its terms.

Sections 222.4 through 222.12 establish a new hearing procedure. The Agency will now allow requests for adjudicatory hearings and may convene such hearings when the issues raised present substantial questions of public interest or when the Regional Administrator determines that a public hearing of this type is appropriate to resolve outstanding issues. The Agency has found that on several major disputes involving ocean dumping permits it has been useful to conduct adjudicatory hearings in an effort to reconcile conflicting statements of fact. The proposed procedural regulations will codify many of the ad hoc procedures which EPA has used in these adjudicatory hearings.

Part 223. In § 223.2 the reasons which can be used for modification, revocation or suspension of a permit have been amended to include a finding of unacceptable adverse environmental impact according to the procedures set forth in Part 228, which is new. In other words, the review of permit issuance will be conducted not simply on the basis of an analysis of the constituents of the waste and the degree to which these meet or violate the criteria of Part 227, but also they will be evaluated in light of the total environmental effect of the dumping of wastes at a particular site.

Part 224. The reporting requirements are essentially unchanged. However, no longer will an applicant for renewal of a special permit be allowed to file a delayed report. This change has been made on the recommendation of the National Wildlife Federation. EPA agrees that to delay the filin gof this important report is not consistent with the spirit of the Act.

Part 225. Under section 103 of the Act, 33 U.S.C. 1413, the Agency plays a major role in the determination by the United States Army Corps of Engineers ("Corps") whether to issue a permit for the ocean disposal of dredged material and whether to concur with the proposal by the Corps itself to proceed with such disposal activities. Part 225 has been rewritten to clarify the procedures EPA will use in evaluating requests to dispose of dredged material in ocean waters. It must be noted that the role the Agency plays in this review is similar to but not identical with the role the Agency plays in review of permits to dispose of dredged material in fresh water under Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344. The public is invited to comment on Part 225; specifically the Agency is concerned that the procedures outlined in this part comply with the intent of section 103 of the Act and yet not be so cumbersome as to make the provisions unworkable.

Part 226. The two sections dealing with the assessment of civil penalties for violation of the Act have been rewritten to add substantial detail to the present Sections 226.1 through 226.4. The Regional Administrators have recommended that the procedures to be followed in the enforcement actions be spelled out in substantially more detail to end some of the confusion that has surrounded use of the present § 226.2. The reader should note that the rules of procedure set forth in Part 222 are substantially incorporated in Part 226.

Part 227. This is the heart of the ocean dumping regulations and contains most of the substantive modifications that have been made to the existing regulations. The criteria of Part 227 are drafted in light of section 102 of the Act and the requirements of the Convention, especially Article IV and the Annexes to that Convention. One of the major criticisms of the existing criteria which has been voiced by the National Wildlife Federation and other observers of the Agency operations under the existing regulations is that the criteria do not clearly state how each of the statutory and regulatory criteria will be applied. Subpart A of the revised criteria states the terms of reference which the Regional Administrator or Administrator will use for making a final determination on a permit application. Each of the Subparts B, C, D, and E addresses a separate consideration which is required by the statute in section 102. No subpart in and of itself is dispositive of the issue, which the Agency believes is consistent with the broad balancing required by the statute. Subpart A replaces § 227.1 in the existing regulations.

Subpart B replaces §§ 227.2 through 227.5 and portions of § 227.6 in the existing regulations. This subpart sets specific environmental impact limits and conditions on the dumping of materials in ocean waters.

Section 227.4 states what statutory findings will be assumed if the environmental criteria of Subpart B are satisfied. Section 227.5 lists the materials which will not be allowed to be disposed of in the ocean under any circumstances; the language of this section to a great extent parallels the language in Annex I of the Convention. Section 227.6 lists additional items that are included in Annex I of the Convention and provides that it is impermissible to dispose of these materials as other than trace contaminants. Also, subsection B provides that above certain numerical limits waste will not comply with the requirements for a special permit. Section 227.6 has perhaps received more attention than any other aspect of the ocean dumping regulations. The Agency has found that defining a trace contaminant in numerical terms is scientifically impossible.

Some scientists believe that a trace contaminant is defined in terms of a certain level over background concentrations. Other scientists believe that the definition of a trace contaminant implies some level slightly above the analytical threshold. To many scientists these are unsound alternatives: the first has little to do with environmental harm; the second merely indicates that the definition will change as developing analytical arts proceed. After several workshops attended by many of the recognized experts in the field, EPA decided not to attempt to define trace contaminant. Instead, EPA has devoted substantial resources to determination of those levels of mercury, cadmium, and other substances which may prove harmful to the environment. The Draft Environmental Impact Statement presents a discussion of the factors and the data considered by the Agency in arriving at the numerical limitations in subsection B of § 227.6. It must be emphasized that although only mercury and cadmium and compounds containing those elements have explicit numerical limitations in the criteria, the other requirements pertaining to organohalogens, oils and greases, and similar highly toxic substances can be translated into numerical terms when the narrative considerations set forth in § 227.6 are followed. The determination of acceptable levels of overall toxicity must involve consideration of the mixing area and the dispersion rate, and for these important elements the applicant is referred to the Definition section of Subpart G of Part 227.

The criteria for evaluating disposal of dredged materials in ocean waters have undergone substantial revision, much of it in response to allegations raised in National Wildlife Federation v. Train, et al. Civil Action No. 75–1927 (United States District Court for the District of Columbia). That action challenges the present dredged material criteria. Section 227.1(b) states that only certain portions of Part 227 apply to the consideration of dredged material disposal. The key to determining whether dredged material complies with the EPA criteria is § 227.13, which is a substantial revision of the regulations presently pertaining to dredged materials.

Dredged material which is taken from high current or wave energy areas such as streams with large bedloads or coastal areas with shifting bars and channels is considered acceptable under these proposed criteria. EPA feels that it is not necessary for the public and the governmental agencies to expend substantial resources in considering the pollution potential of naturally occurring and uncontaminated sedimentary material. This is not to say, of course, that the method by which the material is disposed and the site which is used for disposal are not important. For materials which are not clearly environmentally acceptable and which must go through further evaluation, EPA has required that the applicant employ an elutriate test, which is an analytical tool designed to separate from the sediment those pollutants which may leave the sediment in actual dumping operations. EPA has greatly expanded the substances which must be examined during the elutriate test, consistent with the requirements of the Convention and with the demands placed on dumpers of other materials. Thus, in subsection (c) reference is made to the list of constituents in paragraph A of § 227.6.

The reader should also note that a substantial change has been made in

that if elutriate concentrations, after allowance is made for dilution, do exceed limiting permissible concentrations as defined in § 227.27(a)(3), the material will not be deemed environmentally acceptable. This section effectively allows EPA or the Corps of Engineers to require the applicant to conduct a bioassay experiment with the material which is proposed to be disposed of in the ocean and to make the calculations with respect to mixing that is required of other ocean disposal applicants. The public is especially invited to comment on the validity of this procedure in light of the difficulties that have been encountered on conducting such experiments with dredged material.

In the proposed revisions, the terms "polluted" and "unpolluted" are no longer used. These terms were originally used to compare sediments taken near sewage or industrial waste outfalls with those which were apparently not affected by waste discharges. The original differentiation was highly subjective and did not relate directly to the criteria of most concern in ocean disposal, namely, the presence or absence of toxic trace metals or other persistent materials which may be released to the marine environment in such a manner as to cause an environmental hazard. The proposed procedures for determining the environmental acceptability of dredged material in terms of compliance with appropriate water quality criteria provide a more effective regulatory approach than the existing arbitrary classification of "polluted" vs. "unpolluted."

Section 227.13 should be read in connection with the regulations pertaining to the disposal of dredged materials in inland waters, 33 CFR 209.120 and 40 CFR Part 230 (40 FR 41292, September 5, 1975), which regulations were published under section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Permits for the disposal of dredged materials in the territorial seas, i.e., the waters outside the baseline but not more than three miles from shore will be issued, if at all, under the Ocean Dumping Act rather than under Section 404. The Agency has taken this position because, although both Section 103 of th Oceean Dumping Act and Section 404 of the Federal Water Pollution Control Act Amendments of 1972 purport to regulate disposal of dredged materials in territorial seas, the Ocean Dumping Act, in Section 103, 33 U.S.C. 1418, states that the law is to be exclusive with respect to that activity. See, "Federal Environmental Law." (Dolgin and Guilbert, Eds. 1974) at 655.

Paragraph (d) of § 227.13 is an attempt to provide the Regional Administrator with the tools he may need to evaluate further the proposed dredged material disposal in light of the considerations which have been set forth in the Convention nad in Section 103 of the Act.

One of the major criticisms of the existing regulations has been the alleged inadequate attention to the demonstration of the need for dumping. Subpart C attempts to remedy this alleged defect in language which is self explanatory. The Agency anticipates that the Regional Administrators will place greater reliance on demonstrating by the applicant that alternatives to ocean disposal are infeasible or are less environmentally acceptable. It should be noted that even if an applicant for an ocean disposal permit complies with other criteria, EPA may deny a permit if there is no need for ocean dumping.

Subparts D and E also have no counterpart in the existing regulations. These subparts attempt to elaborate on the statutory criteria of section 102 of the Act. The criteria are stated in narrative form because the Agency found that it was impossible to attach numerical values to such an amorphous concept as aesthetic effects. Nevertheless, both the applicant and the Regional Administrator will be required to thoroughly evaluate these important considerations and to address them both, in the application and in the decision to grant or deny the permit.

Most permits which have been issued and which will be issued under the Act, will be interim permits. These permits are valid for not more than one year and require substantial efforts by the permit recipient to bring the waste within the limitations required of a special permit or to take such measures as are necessary to cease the ocean dumping. The Agency has found that the environmental assessments and required plans to eliminate or bring waste into compliance have been an effective tool into prodding ocean dumpers into more acceptable alternatives. The basic thrust of present § 227.4 is maintained in the new Subpart F.

The reader is asked to give special attention to the definitions contained in Subpart G, which in many respects are the most important elements in determining whether a waste complies with the requirements of a special permit. Several definitions have been changed: Appropriate sensitive marine organisms are now defined to include organisms of at least three trophic levels, from among those species documented in the scientific literature as being reliable test organisms for the anticipated impact on the ecosystem at the particular disposal site. Bioassays will be run for a minimum of 96 hours at conditions appropriate for the environmental stress at the disposal site. For phytoplankton it may be desirable to run bioassays for shorter periods of time, and provision is made for this option in the new § 227.26(b).

During the development of these criteria several persons suggested that only organisms indigenous to the dump site be used in the bioassays. The Agency feels that it is impracticable to use only those organisms because not all marine organisms can be maintained in a healthy state under laboratory conditions. Also, it is necessary to maintain the control organisms with very low mortality for at least 96 hours to complete the bioassays. Standard practice invalidates a bioassay if more than 5 percent of the control organisms die. However, enough representative species are amenable to laboratory culture so that sensitive species appropriate for general geographical regions may be selected.

The zone of initial mixing has been limited to include only that volume of receiving water into which a waste will disperse within four hours after dumping. The means by which the limits of the mixing zone may be estimated have been broadened to include the application of field data and verified mathematical models where such information is actual state of the art in hydrodynamic theory and practice. Further analyses of the tole of the mixing zone in determining the acceptability of waste may be found in the Draft Environmental Impact Statement.

Many of the problems which have been encountered in assessing the environmental harms from ocean dumping, and the technical validity of the approaches taken in Parts 227 and 228, are reviewed in "Disposal in the Marine Environment, An Oceanographic Assessment," The National Research Council, National Academy of Sciences, Washington, D.C., 1976. Copies are available from the Printing and Publishing Office, National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418.

Part 228. This part establishes criteria for the management of ocean disposal sites and presents criteria for the initial selection of sites. It also presents factors which must be considered with respect to the determination of the permissible levels of disposal of materials at a particular site. This part has no counterpart in the existing regulations.

Comments on the existing regulations expressed concern that the variability of the marine environment and our lack of knowledge concerning it was such that permit issuance should not be based solely on testing of the waste but should also be based on consideration of the specific marine environment into which the materials are placed. That is, EPA should attempt to evaluate the total stress on the environment at the disposal site rather than concentrate its efforts solely on individual permits.

Part 228 begins by defining key terms used in this part and then sets forth procedures to be used in the designation of the disposal sites for each type of permit (§§ 228.3 and 228.4). There follows a statement of the general considerations which will govern the selection of ocean disposal sites by EPA (§ 228.5). This in turn is followed by more specific listing of the criteria to be used in the selection of sites (§ 228.6).

Sections 228.7 through 228.9 place limitations on the times and rates of disposal of materials at the sites and establish an appropriate monitoring program for each site. The general requirements for the monitoring program are stated; the details in each case are left to the discretion of the permit issuing authority, which in most cases will be the Regional Administrator.

Sections 228.10 through 228.12. These sections establish the criteria which EPA will use for evaluating impact on a disposal site and for altering use of a site. The criteria for evaluating disposal impact on more specific statements of appropriate criteria of section 102(a) of the Act. These criteria deal with ecological impact in general, and specific impacts on alternate uses of the oceans, marine resources, and recreational and esthetic values.

These criteria are presented as two Impact Categories, each of which is differentiated from the other by quantifiable measures of impact obtainable from data collected from the disposal site and other parts of the marine environment. The detailed requirements for surveys to obtain the necessary data are contained in § 228.13.

The survey requirements presented in § 228.13 were developed jointly by EPA and NOAA, with valuable contributions provided by the National Wildlife Federation, as well as a number of private individuals. The data collected on particular sites may be modified slightly from those listed in § 228.13 as dictated by specific conditions at a site or characteristics of wastes dumped at a site, but the structure of baseline and trend assessment surveys will be based on the requirements of § 228.13. Such surveys are not intended to cover all possible ecological features of a site, but to collect, on a consistent reproducible basis, the data necessary to detect impacts.

Impact Category I reflects the situation in which there is an identifiable impact on the biota at the site, but it is not the type of impact that has a measurable effect on another use of the marine environment. With this level of impact, EPA recognizes that there is some impact on the biota that may presage some form of significant long-range impact and regards this level of impact as being "unreasonable degradation."

At the level of Impact Category II, it may be possible to see some changes in chemical characteristics in water and sediments at and near the site, but there are no detectable changes in the biota.

The provisions of § 228.11 identify the actions which will be taken when each level of impact is observed. The Act states that the Administrator of EPA may issue permits for ocean dumping when he determines that unreasonable degradation of the marine environment will not occur. By the provisions incorporated in § 228.11, EPA will determine that unreasonable degradation will occur at Impact Category I, but that impacts at the level of Impact Category II are acceptable.

The basic rationale for the impact classification system is that, some changes in the composition of water and sediments may be tolerated, but any significant sign of damage to any of the biota may be a forerunner of adverse changes affecting the entire ecosystem and steps should be taken to reduce waste loadings to levels at which no changes in the biota are detectable. Wastes discharged in compliance with Part 227 are not expected to have an unacceptable adverse effect on marine biota. Management of each site in compliance with the criteria of this Part 228 will provide an additional safeguard to the environment from any cumulative effects of dumping.

Section 228.12 lists the interim ocean disposal sites available for the disposal of municipal or industrial wastes. This list has been revised from that previously published to reflect changes made during permit operations, and to correct some technical errors in the initial list. All the sites are designated as interim because the Administrator has determined to conduct environmental impact studies and to prepare environmental impact statements prior to the designation of any site as a final ocean dumping site. See 39 FR 37419 (October 21, 1974). Many persons have commented that the Agency has left ocean disposal sites designated as interim for several years and that the interim character of the sites is losing its validity. EPA is aware that there is a need to conclude the environmental assessment process and determine whether a location will or will not be designated. However, it has found that one of the major obstacles to preparation of environmental impact statements is the collection of adequate and reliable baseline information. The sophistication and time required to assemble an adequate data base is considerable, and the assessment of the data is a major scientific undertaking. The Agency hopes to complete environmental impact statements on at least three interim sites in the near future. Ocean disposal sites for the use of persons wishing to discharge dredged material are not designated in this proposed rulemaking.

The United States Coast Guard has suggested to the Agency that all ocean dumping sites other than those to be used for dredged material and for material permitted to be discharged under general permits, be reoriented to coincide with LORAN-C time delay line grid. Most of the present sites are generally rectangular in shape; some are circular. Reorientation would make the sites oblique-angled parallelograms with each side coinciding with a single LORAN-C time delay line of position. Oblique-angles would not exceed 75 degrees for any of the sites under consideration.

The proposed reorientation would simplify the navigational calculations which the person who is ocean dumping must perform to insure that he remains within the boundaries of the site, and will facilitate more accurate surveillance. The problems associated with accurate conversion of LORAN information to latitude-longitude, and the inverse conversion, can be eliminated for both the person dumping the waste and any surveillance craft.

An additional benefit which will be realized by the proposed reorientation will be the simplification of the design of electronic equipment to provide surveillance of dumping operations. The Ocean Dumping Surveillance System (ODSS) being evaluated by the Coast Guard is designed to insure that dumping is conducted in the designated site. It will accomplish this by recording the vessel's position at frequent time intervals, using LORAN-C data, along with the status of the vessel's dumping mechanism. Computer processing of the recorded data will allow reconstruction of the vessel's activities. Reorientation of the sites would simplify the ODSS by eliminating the need for a micro-processor circuit to define the dump site boundaries. This decreased complexity will result in a less costly system and, more importantly, one of increased reliability.

Geographic coordinates of the reoriented sites are presented together with coordinates of the present sites. The reoriented sites retain wherever practicable the center point and size of the existing sites. Minor changes to the proposed geographic coordinates of some reoriented sites may be required as additional processing is conducted to define the exact geographic coordinates vis-a-vis the time delay lines. Changes are not expected to exceed 200 yards which, in most cases, is much less than the vessel's normal navigational error. The public is invited to comment on the proposed reorientation of the dump sites.

Section 228.13. The ability to accurately assess the environmental effects of ocean disposal is dependent upon the generation of accurate environmental data. As noted above, EPA and the other agencies involved in marine environmental studies have found it difficult to detect subtle environmental changes in an open ocean environment. The Agency has also found that much of the data submitted by persons who are dumping wastes at sea is less than adequate. In the hope that the caliber of information supplied to the Agency in this area can be improved the Agency today publishes guidelines for ocean disposal site baseline and trend assessment surveys in § 228.13.

The survey requirements presented in this Section were developed jointly by EPA and NOAA, with valuable contribution provided by the National Wildlife Federation representatives, as well as by a number of private individuals and scientists. The Agency hopes that the guidelines will encourage persons interested in marine surveys on the effects of ocean disposal to follow a fairly standard assessment practice. The guidelines in § 228.13 are not meant to be overly rigid; the types of data collected on particular sites may be modified slightly from those listed in the guidelines as dictated by specific needs. The trend assessment surveys to a large extent will be used to collect and review the data necessary to detect the impacts as described in the impact categories of §§ 228.10 through 228.12. The reader is invited to study the publication "Disposal in the Marine Environment", supra, especially Chapters 5 and 6 for an analysis of the problems involved in site selection and site monitoring.

Part 229. This part contains one proposed general permit covering the disposal of clean wrecks and hulks, and one general permit covering the transport and disposal of target vessels and bodies at sea. Because the transport and disposal of vessel hulks occurs quite often, especially in busy commercial port areas, the public is invited to direct its attention to the proposed conditions imposed on this type of activity. It must be remembered that under a general permit the person who wishes to dispose of material is not required to obtain a special or interim disposal permit and is not required to undergo a formal public hearing. The Agency has attempted to consider and incorporate the suggestions of the United States Army Corps of Engineers and the United States Coast Guard in drafting the proposed amendment to Part 229.

ENVIRONMENTAL AND INFLATIONARY IMPACT STATEMENTS

Although the Agency is not required by law to prepare an environmental impact statement in connection with revision of the regulations and criteria pertaining to ocean disposal, it has chosen to prepare such a statement with respect to the proposed revision to Part 227. See 39 FR 37419 (October 21, 1974). A draft environmental statement has been prepared and is available for inspection in the office noted in the last paragraph of this preamble. In addition, there are a limited number of the draft statements available to persons who have an interest in reviewing that document. Requests for copies should be sent to the address noted below.

Executive Order 11821 (November 27, 1974) requires that major prcposals for legislation and promulgation of regulations and rules by agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated; OMB Circular A–107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The Administrator has directed that EPA regulatory actions will require certification when they are likely to result in: (1) Capital investment exceeding $100,000,000; (2) annualized costs exceeding $50,000,000; (3) total additional costs of production of any major project exceeding 5 percent of selling price; or (4) increase in net national energy consumption by the equivalent of 25,000 barrels of oil per day. None of these limiting criteria is exceeded by the proposed revisions announced today and, therefore, an inflationary impact statement has not been prepared.

The Agency will consider all written comments on these proposed revisions to criteria and regulations when the comments are received on or before August 27, 1976. At the close of the public comment period, EPA may hold one or more public hearings to review the comments received, if there is sufficient public interest. Comments should be provided in triplicate and addressed to Mr. T. A. Wastler, Chief, Marine Protection, Branch, Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

(33 U.S.C. 1421 and 1418.)

Dated: June 18, 1976.

RUSSELL E. TRAIN,
Administrator.

Subchapter H of Chapter I of Title 40 is hereby proposed to be amended to read as follows:

1. The table of contents for Subpart H is revised to read as follows:

SUBCHAPTER H—OCEAN DUMPING

Part
220 General.
221 Applications for ocean dumping permits under section 102 of the act.
222 Action on ocean dumping permit applications undeer seection 102 of the act.
223 Contents, modifications, revocation and suspension of ocean dumping permits under section 102 of the act.
224 Records and reports required of ocean dumping permittees under sction 102 of the act.
225 Corps of engineers dredged material permits.
226 Enforcement of the act.
227 Criteria for the evaluation of permit applications for ocean dumping of materials.
228 Criteria for the management of disposal sites for ocean dumping.
229 General permits.

2. Part 220 is revised to read as follows:

PART 220—GENERAL

Sec.
220.1 Purpose and scope.
220.2 Definitions.
220.3 Categories of permits.
220.4 Authorities to issue permits.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 220.1 Purpose and scope.

(a) *General.* This Subchapter H establishes procedures and criteria for the issuance of permits by EPA pursuant to section 102 of the Act. This Subchapter H also establishes the criteria to be applied by the Corps of Engineers in its review of activities involving the transportation of dredged material for the purpose of dumping it in ocean waters pursuant to section 103 of the Act. Except as may be authorized by a permit issued pursuant to this Subchapter H, or pursuant to section 103 of the Act, and subject to other applicable regulations promulgated pursuant to section 108 of the Act:

(1) No person shall transport from the United States any material for the purpose of dumping it into ocean waters;

(2) In the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport from any location any material for the purpose of dumping it into ocean waters; and

(3) No person shall dump any material transported from a location outside the United States:

(i) Into the territorial sea of the United States; or

(ii) Into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

(b) *Relationship to international agreements.* In accordance with section 102(a) of the Act, the regulations and criteria included in this Subchapter H apply the standards and criteria binding upon the United States under the "Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter" to the extent that application of such standards and criteria do not relax the requirements of the Act.

(c) *Exclusions.* (1) *Fish wastes.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the transportation for the purpose of dumping or the dumping in ocean waters of fish wastes unless such dumping occurs in:

(i) Harbors or other protected or enclosed coastal waters; or

(ii) Any other location where the Administrator finds that such dumping may reasonably be anticipated to endanger health, the environment or ecological systems.

(2) *Fisheries resources.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the placement or deposit of oyster shells or other materials for the purpose of developing, maintaining or harvesting fisheries resources; provided, such placement or deposit is regulated under or is a part of an authorized State or Federal program certified to EPA by the agency authorized to enforce the regulation, or to administer the program, as the case may be; and provided further, that the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the U.S. Army Corps of Engineers concur in such placement or deposit as it may affect their responsibilities and such concurrence is veidenced by letters of concurrence from these agencies.

(3) *Vessel propulsion and fixed structures.* This Subchapter H does not apply to, and no permit hereunder shall be required for:

(i) Routine discharges of effluent incidental to the propulsion of vessels or the operation of motor-driven equipment on vessels; or

(ii) Construction of any fixed structure or artificial island, or the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal when such construction or such placement is otherwise regulated by Federal or State law or made pursuant to an authorized Federal or State program certified to EPA by the agency authorized to enforce the regulations or to administer the program, as the case may be.

(4) *Emergency to safeguard life at sea.* This Subchapter H does not apply to, and no permit hereunder shall be required for, the dumping of material into ocean waters from a vessel or aircraft in an emergency to safeguard life at sea to the extent that the person owning or operating such vessel or aircraft files timely reports required by § 224.2(b).

§ 220.2 Definitions.

As used in this Subchapter H:

(a) "Act" means the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401);

(b) "FWPCA" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251);

(c) "Ocean" or "ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639); this definition includes the waters of the territorial sea, the contigous zone and the oceans as defined in section 502 of the FWPCA.

(d) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, industrial, municipal, agricultural, and other waste, but such term does not mean sewage from vessels within the meaning of section 312 of the FWPCA. Oil within the meaning of section 311 of the FWPCA shall constitute "material" for purposes of this Subchapter H only to the extent that it is taken on board a vessel or aircraft for the primary purpose of dumping.

(e) "Dumping" means a disposition of material: Provided, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the FWPCA, under the provisions of section 13 of the River and Harbor Act of 1899, as amended (33 U.S.C. 407), or under the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: Provided further, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: And provided further, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(f) "Sewage Treatment Works" means municipal or domestic waste treatment facilities of any type which are publicly owned or regulated to the extent that feasible compliance schedules are determined by the availability of funding provided by Federal, State, or local governments.

(g) "Criteria" means the criteria set forth in Part 227 of this Subchapter H.

(h) "Dredged Material Permit" means a permit issued by the Corps of Engineers under section 103 of the Act (see 33 CFR 209.120) and any Federal projects reviewed under Section 103(e) of the Act (see 33 CFR 209.145).

(i) Unless the context otherwise requires, all other terms shall have the meanings assigned to them by the Act.

§ 220.3 Categories of permits.

This § 220.3 provides for the issuance of general, special, emergency, interim and research permits for ocean dumping under section 102 of the Act.

(a) *General permits.* General permits may be issued for the dumping of certain materials which will have a minimal adverse environmental impact and are generally disposed of in small quantities, or for specific classes of materials that must be disposed of in emergency situations. General permits may be issued on application of an interested person in accordance with the procedures of Part 221 or may be issued without such application whenever the Administrator determines that issuance of a general permit is necessary or appropriate.

(b) *Special permits.* Special permits may be issued for the dumping of materials which satisfy the Criteria and shall specify an expiration date no later than three years from the date of issue.

(c) *Emergency permits.* For any of the materials listed in § 227.6, except as trace contaminants, after consultation with the Department of State with respect to the need to consult with parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes or Other Matter that are likely to be affected by the dumping, emergency permits may be issued to dump such materials where there is demonstrated to exist an emergency requiring the dumping of such materials, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, "emergency" refers to situations requiring action with a marked degree of urgency, but is not limited in its application to circumstances requiring immediate action. Emergency permits may be issued for other materials, except those prohibited by Section 227.5, without consultation with the Department of State when the Administrator determines that there exists an emergency requiring the dumping of such materials which poses an unacceptable risk to human health and admits of no other feasible solution.

(d) *Interim permits.* Prior to April 23, 1978, interim permits may be issued under certain conditions in accordance with Subpart A of Part 227 to dump materials which are not in compliance with the environmental impact criteria of Subpart B of Part 227, or which are otherwise unacceptable for ocean dumping as determined in accordance with the criteria of Subparts D or E of Part 227 or for which an ocean disposal site has not been designated on other than an interim basis pursuant to Part 228 of this Subchapter H; provided, however, no permit may be issued for the ocean dumping of any materials listed in Section 227.5, or for any of the materials listed in Section 227.6, except as trace contaminants; provided further that the compliance date of April 23, 1978, does not apply to:

(1) The dumping of wastes from sewage treatment works when the Regional Administrator determines that the applicant has exercised his best efforts to comply with all requirements of a special permit; or

(2) The dumping of any other wastes by existing dumpers when the Regional Administrator determines that the dumper has attempted in good faith to comply with the date of April 23, 1978, and has a treatment facility under construction on a schedule adequate to permit phasing out of ocean dumping or compliance with the criteria of Subpart B by April 23, 1981, at the latest.

No interim permit will be granted for the dumping of waste from a facility which has not previously dumped wastes in the ocean (except when the facility is operated by a municipality now dumping such wastes), from a new facility, or from the expansion or modification of an existing facility, after the effective date of these regulations. No interim permit will be issued for the dumping of any material in the ocean for which an interim permit had previously been issued unless the applicant demonstrates that he has exercised his best efforts to comply with all provisions of the previously issued permits.

(e) *Research permits.* Research permits may be issued for the dumping of any materials, other than materials specified in § 227.5 or for any of the materials listed in § 227.6 except as trace contaminants, unless subject to the exclusion of paragraph (e) of § 227.6, into the ocean as part of a research project when it is determined that the scientific merit of the proposed project outweighs the potential environmental or other damage that may result from the dumping. Research permits shall specify an expiration date no later than 18 months from the date of issue.

(f) *Permits for incineration at sea.* Permits for incineration of wastes at sea will be issued only as research permits or as interim permits until specific criteria to regulate this type of disposal are promulgated, except in those cases where studies on the waste, the incineration method and vessel, and the site have been conducted and the site has been designated for incineration at sea in accordance with the procedures of § 228.4. In all other respects the requirements of Parts 220–228 apply.

§ 220.4 Authorities to issue permits.

(a) *Determination by Administrator.* The Administrator, or such other EPA employee as he may from time to time designate in writing, shall issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities and take any and all other actions necessary or proper and permitted by law with respect to general, special, emergency, interim, or research permits.

(b) *Authority delegated to Regional Administrators.* Regional Administrators, or such other EPA employees as they may from time to time designate in writing, are delegated the authority to issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities, and take any and all other actions necessary or proper and permitted by law with respect to special and interim permits for:

(1) The dumping of material in those portions of the territorial sea which are subject to the jurisdiction of any State within their respective Regions, and in those portions of the contiguous zone immediately adjacent to such parts of the territorial sea; and in the oceans with respect to approved waste disposal sites designated pursuant to Part 228 of this Subchapter H, and

(2) Where transportation for dumping is to originate in one Region and dumping is to occur at a location within another Region's jurisdiction conferred by order of the Administrator, the Region in which transportation is to originate shall be responsible for review of the application and shall prepare the technical evaluation of the need for dumping and alternatives to ocean dumping. The Region having jurisdiction over the proposed dump site shall take all other actions required by this Subchapter H with respect to the permit application, including without limitation, determining to issue or deny the permit, specifying the conditions to be imposed, and giving public notice. If both Regions do not concur in the disposition of the permit application, the Administrator will make the final decision on all issues with respect to the permit application, including without limitation, issuance or denial of the permit and the conditions to be imposed.

(c) *Review Corps Corps of Engineers Dredged Material Permits.* Regional Administrators have the authority to review, to approve or to disapprove or to propose conditions upon Dredged Material Permits for ocean dumping of dredged material at locations within the respective Regional jurisdictions. Regional jurisdiction to act under this paragraph (c) of § 220.4 is determined by the Administrator in accordance with § 228.4 (e).

3. Part 221 is revised to read as follows:

PART 221—APPLICATIONS FOR OCEAN DUMPING PERMITS UNDER SECTION 102 OF THE ACT

Sec.
221.1 Applications for permits.
221.2 Other information.
221.3 Applicant.
221.4 Adequacy of information in application.
221.5 Processing fees.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 221.1 Applications for permits.

Applications for general, special, emergency, interim and research permits under section 102 of the Act may be filed with the Administrator or the appropriate Regional Administrator, as the case may be, authorized by § 220.4 to act on the application. Applications shall be made by letter and shall contain, in addition to any other material which may be required, the following:

(a) Name and address of applicant;

(b) Name of the person or firm transporting the material for dumping, the name of the person(s) or firm(s) producing or processing all materials to be transported for dumping, and the name or other identification, and usual location, of the conveyance to be used in the transportation and dumping of the material to be dumped, including information on the transporting vessel's communications and navigation equipment;

(c) Adequate physical and chemical description of material to be dumped, including results of tests necessary to apply the Criteria, and the number, size, and physical configuration of any containers to be dumped;

(d) Quantity of material to be dumped;

(e) Proposed dates and times of disposal;

(f) Proposed dump site, and in the event such proposed dump site is not a dump site designated in this Subchapter H, detailed physical, chemical and biological information relating to the proposed dump site and sufficient to support its designation as a site according to the procedures of Part 228 of this Subchapter H;

(g) Proposed method of releasing the material at the dump site and means by which the disposal rate can be controlled and modified as required;

(h) Identification of the specific process or activity giving rise to the production of the material;

(i) Description of the manner in which the type of material proposed to be dumped has been previously disposed of by or on behalf of the person(s) or firm(s) producing such material;

(j) A statement of the need for the proposed dumping and a full evaluation of short and long term alternative means of disposal, treatment or recycle of the material. Means of disposal shall include without limitation, landfill, well injection, incineration, spread of material over open ground; biological, chemical or physical treatment; recovery and recycle of material within the plant or at other plants which may use the material, and storage. The statement shall also include an analysis of the availability of such alternatives; and

(k) An assessment of the anticipated environmental impact of the proposed dumping, including without limitation, the relative duration of the effect of the proposed dumping on the marine environment, navigation, living and nonliving marine resource exploitation, scientific study, recreation and other uses of the ocean.

§ 221.2 Other information.

In the event the Administrator, Regional Administrator, or a person designated by either to review permit applications, determines that additional information is needed in order to apply the Criteria, he shall so advise the applicant in writing. All additional information requested pursuant to this § 221.2 shall be deemed part of the application and for purposes of applying the time limitation of § 222.1, the application will not be considered complete until such information has been filed.

§ 221.3 Applicant.

Any person may apply for a permit under this Subchapter H even though the proposed dumping may be carried on by a permittee who is not the applicant; provided however, that the Administrator or the Regional Administrator, as the case may be, may, in his discretion, require that an application be filed by the person or firm producing or processing the material proposed to be dumped. Issuance of a permit will not excuse the permittee from any civil or criminal liability which may attach by virtue of his having transported or dumped materials in violation of the terms or conditions of a permit, notwithstanding that the permittee may not have been the applicant.

§ 221.4 Adequacy of information in application.

No permit issued under this Subchapter H will be valid for the transportation or dumping of any material which is not accurately and fully described in the application. No permittee shall be relieved of any liability which may arise as a result of the transportation or dumping of material which does not conform to information provided in the application solely by virtue of the fact that such information was furnished by an applicant other than the permittee.

§ 221.5 Processing fees.

(a) A processing fee of $1,000 will be charged in connection with each application for a permit for dumping in an existing dump site designated in this Subchapter H.

(b) A processing fee of an additional $3,000 will be charged in connection with each application for a permit for dumping in a dump site other than a dump site designated in this Subchapter H.

(c) Notwithstanding any other provision of this § 221.5, no agency or instrumentality of the United States or of a State or local government will be required to pay the processing fees specified in paragraphs (a) and (b) of this section.

4. 40 Part 222 is revised to read as follows:

PART 222—ACTION ON OCEAN DUMPING PERMIT APPLICATIONS UNDER SECTION 102 OF THE ACT

Sec.
222.1 General.
222.2 Tentative determinations.
222.3 Notice of applications.
222.4 Initiation of hearings.
222.5 Time and place of hearings.
222.6 Presiding Officer.
222.7 Conduct of public hearing.
222.8 Recommendations of Presiding Officer.
222.9 Issuance of permits.
222.10 Appeal to adjudicatory hearings.
222.11 Conduct of adjudicatory hearings.
222.12 Appeal to Administrator.

Authority: 33 U.S.C. 1421 and 1418.

§ 222.1 General.

Decisions as to the issuance, denial, or imposition of conditions on general, special, emergency, interim and research permits under section 102 of the Act will be made by application of the criteria of Parts 227 and 228. Final action on any application for a permit will, to the extent practicable, be taken within 180 days from the date a complete application is filed.

§ 222.2 Tentative determinations.

(a) Within 30 days of the receipt of his initial application, an applicant shall be issued notification of whether his application is complete and what, if any, additional information is required. No such notification shall be deemed to foreclose the Administrator or the Regional Administrator, as the case may be, from requiring additional information at any time pursuant to § 221.2.

(b) Within 30 days after receipt of a completed permit application, the Administrator or the Regional Administrator, as the case may be, shall publish notice of such application including a tentative determination with respect to issuance or denial of the permit. If such tentative determination is to issue the permit, the following additional tentative determinations will be made:

(1) Proposed time limitations, if any;

(2) Proposed rate of discharge from the barge or vessel transporting the waste;

(3) Proposed dumping site; and

(4) A brief description of any other proposed conditions determined to be appropriate for inclusion in the permit in question.

§ 222.3 Notice of applications.

(a) *Contents.* Notice of every complete application for a general, special, interim, emergency and research permit shall, in addition to any other material, include the following:

(1) A summary of the information included in the permit application;

(2) any tentative determinations made pursuant to paragraph (b) of § 222.2;

(3) a brief description of the procedures set forth in § 222.5 for requesting a public hearing on the application including specification of the date by which requests for a public hearing must be filed;

(4) A brief statement of the factors considered in reaching the tentative determination with respect to the permit and, in the case of a tentative determination to issue the permit, the reasons for the choice of the particular permit conditions selected; and

(5) The location at which interested persons may obtain further information on the proposed dumping, including copies of any relevant documents.

(b) *Publication.* (1) *Special, interim and research permits.* Notice of every complete application for special, interim and research permits shall be given by:

(i) Publication in a daily newspaper of general circulation in the State in closest proximity to the proposed dump site; and

(ii) Publication in a daily newspaper of general circulation in the city in which is located the office of the Administrator or the Regional Administrator, as the case may be, giving notice of the permit application.

(2) *General permits.* Notice of every complete application for a general permit or notice of action proposed to be taken by the Administrator to issue a general permit, without an application, shall be given by publication in the FEDERAL REGISTER.

(3) *Emergency permits.* Notice of every complete application for an emergency permit shall be given by publication in accordance with paragraphs (b)(1)(i) and (ii) of this section; *provided, however,* That no such notice and no tentative determination in accordance with § 222.2 shall be required in any case in which the Administrator determines:

(i) That an emergency, as defined in paragraph (c) of § 220.3 exists;

(ii) That the emergency poses an unacceptable risk relating to human health;

(iii) That the emergency admits of no other feasible solution; and

(iv) That the public interest requires the issuance of an emergency permit as soon as possible.

Notice of any determination made by the Administrator pursuant to paragraph (b)(3) of this section shall be given as soon as practicable after the issuance of the emergency permit by publication in accordance with paragraphs (b)(1)(i) and (ii) and with paragraphs (a), (c)–(i) of this section.

(c) *Copies of notice sent to specific persons.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed by the Administrator or the Regional Administrator, as the case may be, to any person, group or Federal, State or local agency upon request. Any such request may be a standing request for copies of such notices and shall be submitted in writing to the Administrator or to any Regional Administrator and shall relate to all or any class of permit applications which may be acted upon by the Administrtor or such Regional Administrator, as the case may be.

(d) *Copies of notice sent to States.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to the State water pollution control agency for each coastal State within 500 miles of the proposed dumping site.

(e) *Copies of notice sent to Corps of Engineers.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to the office of the appropriate District Engineer of the U.S. Army Corps of Engineers for purposes of section 106(c) of the Act (pertaining to navigation, harbor approaches, and artificial islands on the outer continental shelf).

(f) *Copies of notice sent to Coast Guard.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be sent to the appropriate district office of the U.S. Coast Guard for review and possible suggestion of additional conditions to be included in the permit to facilitate surveillance and enforcement.

(g) *Fish and Wildlife Coordination Act.* The Fish and Wildlife Coordination Act, Reorganization Plan No. 4 of 1970, and the Act require that the Administrator or the Regional Administrator, as the case may be, consult with appropriate regional officials of the Departments of Commerce and Interior, the Regional Director of the NMFS–NOAA, and the agency exercising administrative jurisdiction over the fish and wildlife resources of the States subject to any dumping prior to the issuance of a permit under this Subchapter H.

(h) *Copies of notice sent to Food and Drug Administration.* In addition to the publication of notice required by paragraph (b) of this section, copies of such notice will be mailed to Food and Drug Administration, Shellfish Sanitation Branch (HF–417), 200 C Street SW., Washington, D.C. 20204.

(i) *Failure to give certain notices.* Failure to send copies of any public notice in accordance with paragraphs (c) through (h) of this section shall not invalidate any notice given pursuant to this section nor shall such failure invalidate any subsequent administrative proceeding.

(j) *Failure of consulted agency to respond.* Unless advice to the contrary is received from the appropriate Federal or State agency within 30 days of the date copies of any public notice were dispatched to such agency, such agency will be deemed to have no objection to the issuance of the permit identified in the public notice.

§ 222.4 Initiation of hearings.

(a) In the case of any permit application for which public notice in advance of permit issuance is required in accordance with paragraph (b) of § 222.3, any person may, within 30 days of the date on which all provisions of paragraph (b) of § 222.3 have been complied with, request a public hearing to consider the issuance or denial of, or the conditions to be imposed upon, such permit. Any such request for a public hearing shall be in writing, shall identify the person requesting the hearing, shall state with particularity any objections to the issuance or denial of, or to the conditions to

be imposed upon, the proposed permit, and shall state the issues which are proposed to be raised by such person for consideration at a hearing.

(b) Whenever (1) a written request satisfying the requirements of paragraph (a) of this section has been received and the Administrator or Regional Administrator, as the case may be, determines that such request presents substantial issues of public interest, or (2) the Administrator or Regional Administrator, as the case may be, determines in his discretion that a public hearing is necessary or appropriate, the Administrator or the Regional Administrator, as the case may be, will set a time and place for a public hearing in accordance with § 222.5, and will give notice of such hearing by publication in accordance with § 222.3.

(c) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (a) of this section does not comply with the requirements of such paragraph (a) or that such request does not present substantial issues of public interest, he shall advise, in writing, the person requesting the hearing of his determination.

§ 222.5 Time and place of hearings.

Hearings shall be held in the State in closest proximity to the proposed dump site, whenever practicable, and shall be set for the earliest practicable date no less than 30 days after the receipt of an appropriate request for a hearing or a determination by the Administrator or the Regional Administrator, as the case may be, to hold such a hearing without such a request.

§ 222.6 Presiding Officer.

A hearing convened pursuant to this Subchapter H shall be conducted by a Presiding Officer. The Administrator or Regional Administrator, as the case may be, may designate a Presiding Officer. For adjudicatory hearings held pursuant to § 222.11, the Presiding Officer shall be an EPA employee who has had no prior connection with the permit application in question, including without limitation, the performance of investigative or prosecuting functions or any other functions, and who is not employed in the enforcement division or any regional enforcement office.

§ 222.7 Conduct of public hearing.

The Presiding Officer shall be responsible for the expeditious conduct of the hearing. The hearing shall be an informal public hearing, not an adversary proceeding, and shall be conducted so as to allow the presentation of public comments. When the Presiding Officer determines that it is necessary or appropriate, he shall cause a suitable record, which may include a verbatim transcript, of the proceedings to be made. Any person may appear at a public hearing convened pursuant to § 222.5 whether or not he requested the hearing, and may be represented by counsel or any other authorized representative. The Presiding Officer is authorized to set forth reasonable restrictions on the nature or amount of documentary material or testimony presented at a public hearing, giving due regard to the relevancy of any such information, and to the avoidance of undue repetitiveness of information presented.

§ 222.8 Recommendations of Presiding Officer.

Within 30 days following the adjournment of a public hearing convened pursuant to § 222.5, or within such additional period as the Administrator or the Regional Administrator, as the case may be, may grant to the Presiding Officer for good cause shown, and after full consideration of the comments received at the hearing, the Presiding Officer will prepare and forward to the Administrator or to the Regional Administrator, as the case may be, written recommendations relating to the issuance or denial of, or conditions to be imposed upon, the proposed permit and the record of the hearing, if any. Such recommendations shall contain a brief statement of the basis for the recommendations. Copies of the Presiding Officer's recommendations shall be provided to any interested person on request, without charge. Copies of the record will be provided in accordance with 40 CFR 2.

§ 222.9 Issuance of permits.

(a) Within 30 days following receipt of the Presiding Officer's recommendations or, where no hearing has been held, following the close of the 30-day period for requesting a hearing as provided in § 222.4, the Administrator or the Regional Administrator, as the case may be, shall make a determination with respect to the issuance, denial, or imposition of conditions on, any permit applied for under this Subchapter H and shall give notice to the applicant and to all persons who registered their attendance at the hearing by providing their name and mailing address, if any, by mailing a letter stating the determination and stating therefor in terms of the Criteria.

(b) Any determination to issue or deny any permit after a hearing held pursuant to § 222.7 shall take effect no sooner than:

(1) 10 days after notice of such determination is given if no request for an adjudicatory hearing is filed in accordance with § 222.10(a) and the Administrator or the Regional Administrator, as the case may be, determines not to hold such a hearing; or

(2) 20 days after notice of such determination is given if a request for an adjudicatory hearing is filed in accordance with § 222.10(a) and the Administrator or the Regional Administrator, as the case may be, denies such request in accordance with § 222.10(c); or

(3) The date on which a final determination has been made following an adjudicatory hearing held pursuant to § 222.11.

§ 222.10 Appeal to adjudicatory hearing.

(a) Within 10 days following the dispatch of notice of the issuance or denial of any permit pursuant to § 222.9 after a hearing held pursuant to § 222.7, any interested person who participated in such hearing may request that an adjudicatory hearing be held pursuant to § 222.11 for the purpose of reviewing such determination, or any part thereof. Any such request for an adjudicatory hearing shall be filed with the Administrator or the Regional Administrator, as the case may be, and shall be in writing, shall identify the person requesting the adjudicatory hearing and shall state with particularity the objections to the determination, the basis therefor and the modification requested.

(b) Whenever (1) a written request satisfying the requirements of paragraph (a) of this section has been received and the Administrator or Regional Administrator, as the case may be, determines that such request presents substantial issues of public interest, or (2) the Administrator or Regional Administrator, as the case may be, determines in his discretion that an adjudicatory hearing is necessary or appropriate, the Administrator or the Regional Administrator, as the case may be, will set a time and place for an adjudicatory hearing in accordance with § 222.5, and will give notice of such hearing by publication in accordance with § 222.3.

(c) In any case where determination has been made under § 222.9 to reissue a currently valid permit, but such reissuance is contested in a request for an adjudicatory hearing, the Administrator or the Regional Administrator, as the case may be, in his discretion may extend the duration of such currently valid permit until a final determination has been made pursuant to § 222.11 or 222.12.

(d) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (a) of this section does not comply with the requirements of such paragraph (a) or that such request does not present substantial issues of public interest, he shall advise, in writing, the person requesting the adjudicatory hearing of his determination.

(e) Any person requesting an adjudicatory hearing or requesting admission as a party to an adjudicatory hearing shall state in his written request, and shall be filing such request consent, that he and his employees and agents shall submit themselves to direct and cross-examination at any such hearing and to the taking of an oath administered by the Presiding Officer.

§ 222.11 Conduct of adjudicatory hearings.

(a) *Parties.* Any interested person may at any time prior to the commencement of the hearing submit to the Presiding Officer a request to be admitted as a party. Such request shall be in writing and shall set forth the information which would be required to be submitted by such person if he were requesting an adjudicatory hearing. Any such request to be admitted as a party which satisfies the requirements of this paragraph shall be granted and all parties shall be in-

formed at the commencement of the adjudicatory hearing of the parties involved. Any party may be represented by counsel or other authorized representative.

(b) *Filing and service.* (1) An original and two (2) copies of all documents or papers required or permitted to be filed shall be filed with the Presiding Officer.

(2) Copies of all documents and papers filed with the Presiding Officer shall be served upon all other parties to the adjudicatory hearing.

(c) *Consolidation.* The Administrator, or the Regional Administrator in the case of a hearing arising within his Region and for which he has been delegated authority hereunder, may, in his discretion, order consolidation of any adjudicatory hearings held pursuant to this section whenever he determines that consolidation will expedite or simplify the consideration of the issues presented. The Administrator may, in his discretion, order consolidation and designate one Region to be responsible for the conduct of any hearings held pursuant to this section which arise in different Regions whenever he determines that consolidation will expedite or simplify the consideration of the issues presented.

(d) *Pre-hearing conference.* The Presiding Officer may hold one or more pre-hearing conferences and may issue a pre-hearing order which may include without limitation, requirements with respect to any or all of the following:

(1) Stipulations and admissions;

(2) Disputed issues of fact;

(3) Disputed issues of law;

(4) Admissibility of any evidence;

(5) Hearing procedures including submission of oral or written direct testimony, conduct of cross-examination, and the opportunity for oral arguments;

(6) Pre-hearing discovery; and

(7) Any other matter which may expedite the hearing or aid in disposition of any issues raised therein.

(e) *Adjudicatory hearing procedures.* (1) The burden of proof and of going forward with the evidence shall:

(i) In the case of any adjudicatory hearing held pursuant to § 222.10, be on the applicant; and

(ii) In the case of any adjudicatory hearing held pursuant to § 223.2 or pursuant to Part 226, be on the Environmental Protection Agency.

(2) The Presiding Officer shall have the duty to conduct a fair and impartial hearing, to take action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. He shall have all powers necessary or appropriate to that end, including without limitation, the following:

(i) To administer oaths and affirmations;

(ii) To rule upon offers of proof and receive evidence;

(iii) To regulate the course of the hearing and the conduct of the parties and their counsel;

(iv) To consider and rule upon all procedural and other motions appropriate to the proceedings, and

(v) To take any action authorized by these regulations and in conformance with law.

(3) Parties shall have the right to cross-examine a witness who appears at an adjudicatory hearing to the extent that such cross-examination is necessary or appropriate for a full disclosure of the facts. In multiparty proceedings the Presiding Officer may limit cross-examination to one party on each side if he is satisfied that the cross-examination by one party will adequately protect the interests of other parties.

(4) When a party will not be unfairly prejudiced thereby, the Presiding Officer may order all or part of the evidence to be submitted in written form.

(5) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of cross-examination, and other procedural matters, shall be final and shall appear in the record.

(6) Interlocutory appeals may not be taken.

(7) Parties shall be presumed to have taken exception to an adverse ruling.

(8) The proceedings of all hearings shall be recorded by such means as the Presiding Officer may determine. The original transcript of the hearing shall be a part of the record and the sole official transcript. Copies of the transcript shall be available from the Environmental Protection Agency in accordance with 40 CFR 2.

(9) The rules of evidence shall not apply.

(f) *Decision after adjudicatory hearing.* (1) Within 30 days after the conclusion of the adjudicatory hearing, or within such additional period as the Administrator or the Regional Administrator, as the case may be, may grant to the Presiding Officer for good cause shown, the Presiding Officer shall submit to the Administrator or the Regional Administrator, as the case may be, proposed findings of fact and conclusions of law, his recommendation with respect to any and all issues raised at the hearing, and the record of the hearing. Such findings, conclusions and recommendations shall contain a brief statement of the basis for the recommendations. Copies of the Presiding Officer's proposed findings of fact, conclusions of law and recommendations shall be provided to all parties to the adjudicatory hearing on request, without charge.

(2) Within 20 days following submission of the Presiding Officer's proposed findings of fact, conclusions of law and recommendations, any party may submit written exceptions, no more than 20 pages in length, to such proposed findings, conclusions and recommendations and within 30 days following the submission of the Presiding Officer's proposed findings, conclusions and recommendations any party may file written comments, no more than 10 pages in length, on another party's exceptions. Within 45 days following the submission of the Presiding Officer's proposed findings, conclusions and recommendations, the Administrator or the Regional Administrator, as the case may be, shall make a determination with respect to all issues raised at such hearing and shall affirm, reverse or modify the previous or proposed determination, as the case may be. Notice of such determination shall set forth the determination for each such issue, shall briefly state the basis therefor and shall be given by mail to all parties to the adjudicatory hearing.

§ 222.12 Appeal to Administrator.

(a) Within 10 days following the determination of the Regional Administrator pursuant to paragraph (f) (2) of § 222.11, any party to an adjudicatory hearing held in accordance with § 222.11 may appeal such determination to the Administrator by filing a written notice of appeal, or the Administrator may, on his own initiative, review any prior determination.

(b) The notice of appeal shall be no more than 30 pages in length and shall contain:

(1) The name and address of the person filing the notice of appeal;

(2) A concise statement of the facts on which the person relies and appropriate citations to the record of the adjudicatory hearing;

(3) A concise statement of the legal basis on which the person relies;

(4) A concise statement setting forth the action which the person proposes that the Administrator take; and

(5) A certificate of service of the notice of appeal on all other parties to the adjudicatory hearing.

(c) The effective date of any determination made pursuant to paragraph (f) (2) of § 222.11 shall be stayed by the Administrator pending final determination by him pursuant to this § 222.12 upon the filing of a notice of appeal which satisfies the requirements of paragraph (b) of this section or upon initiation by the Administrator of review of any determination in the absence of such notice of appeal.

(d) Within 20 days following the filing of a notice of appeal in accordance with this section, any party to the adjudicatory hearing may file a written memorandum, no more than 15 pages in length, in response thereto.

(e) Within 45 days following the filing of a notice of appeal in accordance with this section, the Administrator shall render his final determination with respect to all issues raised in the appeal to the Administrator and shall affirm, reverse, or modify the previous determination and briefly state the basis for his determination.

(f) In accordance with 5 U.S.C. section 704, the filing of an appeal to the Administrator pursuant to this section shall be a prerequisite to judicial review of any determination to issue, deny or impose conditions upon any permit, or

to modify, revoke or suspend any permit, or to take any other enforcement action, under this subchapter H.

5. Part 223 is revised to read as follows:

PART 223—CONTENTS, MODIFICATION, REVOCATION AND SUSPENSION OF OCEAN DUMPING PERMITS UNDER SECTION 102 OF THE ACT

Sec.
223.1 Contents of permits.
223.2 Modification, revocation and suspension.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 223.1 Contents of permits.

(a) All special, interim, emergency and research permits shall be displayed on the vessel engaged in dumping, and shall include the following:

(1) Name of permittee;

(2) Means of conveyance and methods and procedures for release of the material to be dumped;

(3) The port through or from which such material will be transported for dumping;

(4) A description of relevant physical and chemical properties of the material to be dumped;

(5) The quantity of the material to be dumped expressed in tons;

(6) The disposal site;

(7) The times at which the permitted dumping may occur and the effective date and expiration date of the permit;

(8) Special provisions deemed necessary, after consultation with the Coast Guard, for monitoring or surveillance of the transportation or dumping;

(9) Such monitoring relevant to the assessment of the impact of permitted dumping activities on the marine environment at the disposal site as the Administrator or Regional Administrator, as the case may be, may determine to be necessary or appropriate; and

(10) Any other terms and conditions determined by the Administrator or the Regional Administrator, as the case may be, to be necessary or appropriate, including without limitation, requirements for the continued investigation or development of alternatives to ocean disposal.

(b) General permits shall contain such terms and conditions as the Administrator deems necessary or appropriate.

(c) Interim permits shall, in addition to the information required or permitted to be included in the permit pursuant to paragraph (a) of this section, include terms and conditions which satisfy the requirements of § 220.3(d), and § 227.8.

§ 223.2 Modification, revocation and suspension.

(a) *Modification, revocation and suspension.* Any permit issued under section 102 of the Act shall be subject to modification, revocation or suspension, in whole or in part, at any time by the Administrator or Regional Administrator, as the case may be, as a result of any of the following:

(1) Violation of any term or condition of the permit; or

(2) Misrepresentation, inaccuracy, or failure to disclose all relevant facts in the permit application; or

(3) A determination by the EPA management authority that the cumulative impact of the permittee's dumping activities or the aggregate impact of all dumping activities at the dump site designated in the permit be categorized as Impact Category I; or

(4) Changed circumstances concerning management of the disposal site; or

(5) Failure to keep the records, and to notify appropriate officials of dumping activities, as required by §§ 224.1 and 224.2.

(b) *Notice of modification, revocation or suspension.* The Administrator or the Regional Administrator, as the case may be, shall give notice of any modification, revocation or suspension pursuant to paragraph (a) of this section to the permittee by certified mail, return receipt requested, and to the public and appropriate Federal/State agencies in accordance with paragraphs (b) through (g) of § 222.3. Such notice shall state the modification, revocation or suspension and the reasons therefor.

(c) *Requests for hearings.* (1) Within 30 days after publication of notice of any modification, revocation or suspension pursuant to paragraph (b) of this section, a permittee or any other interested person may request an adjudicatory hearing on the issues raised by any such modification, revocation or suspension. Any such request shall be in writing, shall identify the person requesting the hearing, shall state with particularity such person's objections to the modification, revocation or suspension and shall state the issues which are proposed to be raised by such person for consideration at the hearing.

(2) Whenever (i) a written request satisfying the requirements of paragraph (c)(1) of this section has been received and the Administrator or Regional Administrator, as the case may be, determines that such request presents substantial issues of public interest, or (ii) the Administrator or Regional Administrator, as the case may be, determines in his discretion that an adjudicatory hearing is appropriate, the Administrator or the Regional Administrator, as the case may be, will set a time and place for an adjudicatory hearing in accordance with § 222.5, and will give notice of such hearing by publication in accordance with § 222.3.

(3) Any person requesting an adjudicatory hearing or requesting admission as a party shall state in his written request, and shall by filing such request consent, that he and his employees and agents shall submit themselves to cross-examination at any such hearing and to the taking of an oath administered by the Presiding Officer.

(4) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (c)(1) of this section does not comply with the requirements of such paragraph (c)(1) or that such request does not present substantial issues of public interest, he shall advise, in writing, the person requesting the hearing of his determination.

(d) *Conduct of hearing.* An adjudicatory hearing held pursuant to this section shall be conducted by a Presiding Officer and a determination rendered in accordance with § 222.11. Any determination made after such hearing by the Administrator or the Regional Administrator, as the case may be, may be appealed to the Administrator in accordance with and shall be subject to the provisions of § 222.12.

6. Part 224 is revised to read as follows:

PART 224—RECORDS AND REPORTS REQUIRED OF OCEAN DUMPING PERMITTEES UNDER SECTION 102 OF THE ACT

Sec.
224.1 Records of permittees.
224.2 Reports.

Authority: 33 U.S.C. 1421 and 1418.

§ 224.1 Records of permittees.

Each permittee named in a special, interim, emergency or research permit under section 102 of the Act and each person availing himself of the privilege confered by a general permit, shall maintain complete records of the following information, which will be available for inspection by the Administrator, Regional Administrator, the Commandant of the U.S. Coast Guard, or their respective designees:

(a) The physical and chemical characteristics of the material dumped pursuant to the permit;

(b) The precise times and locations of dumping;

(c) Any other information required as a condition of a permit by the Administrator or the Regional Administrators, as the case may be.

§ 224.2 Reports.

(a) *Periodic reports.* Information required to be recorded pursuant to § 224.1 shall be reported to the Administrator or the Regional Administrator, as the case may be, for the periods indicated within 30 days of the expiration of such periods:

(1) For each six-month period, if any, following the effective date of the permit;

(2) For any other period of less than six months ending on the expiration date of the permit; and

(3) As otherwise required in the conditions of the permit.

(b) *Reports of emergency dumping.* If material is dumped without a permit pursuant to paragraph (c)(5) of § 220.1, the owner or operator of the vessel or aircraft from which such dumping occurs shall as soon as feasible inform the Administrator, Regional Administrator, or the nearest Coast Guard district of the incident by radio, telephone, or telegraph and shall within 10 days file a written report with the Administrator or Regional Administrator containing

the information required under § 224.1 and a complete description of the circumstances under which the dumping occurred. Notification shall also be given to the Food and Drug Administration, Shellfish Sanitation Branch, Washington, D.C. 20204, as soon as possible.

7. Part 225 is revised to read as follows:

PART 225—CORPS OF ENGINEERS DREDGED MATERIAL PERMITS

Sec.
225.1 General.
225.2 Review of Dredged Material Permits.
225.3 Procedure for invoking economic impact.
225.4 Waiver by Administrator.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 225.1 General.

Applications and authorizations for Dredged Material Permits under section 103 of the Act for the transportation of dredge material for the purpose of dumping it in ocean waters will be evaluated by the U.S. Army Corps of Engineers in accordance with the Criteria set forth in Part 227 and processed in accordance with 33 CFR 209.120 with special attention to § 209.120(g)(17) and 33 CFR 209.145.

§ 225.2 Review of Dredged Material Permits.

(a) The District Engineer shall send a copy of the public notice to the appropriate Regional Administrator, and set forth in writing all of the following information:

(1) The location of the proposed disposal site and its physical boundaries;

(2) A statement as to whether the site has been designated for use by the Administrator pursuant to section 102(c) of the Act;

(3) If the proposed disposal site has not been designated by the Administrator, a statement of the basis for the proposed determination that no designated site is feasible and a description of the characteristics of the proposed disposal site necessary for its designation pursuant to Part 228 of this Subchapter H;

(4) The history of previous dredged material discharges authorized at the proposed disposal site;

(5) Existence and documented effects of other authorized dumpings that have been made in the dumping area (e.g., heavy metal background reading and organic carbon content);

(6) An estimate of the length of time during which disposal will continue at the proposed site;

(7) Characteristics and composition of the dredged material; and

(8) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement.

(b) The Regional Administrator will within 15 days of the date the public notice and other information required to be submitted by 225.2(a) are received by him, review the information submitted and request from the District Engineer any additional information he deems necessary or appropriate to evaluate the proposed dumping.

(c) Using the information submitted by the District Engineer, and any other information available to him, the Regional Administrator will within 15 days after receipt of all requested information and notice of intent to issue a permit by the District Engineer, make an independent evaluation of the proposed dumping in accordance with the Criteria and respond to the District Engineer pursuant to paragraphs (d) or (e) of this section. The Regional Administrator may request an extension of this 15 day period to 30 days from the District Engineer.

(d) When the Regional Administrator determines that the proposed dumping will comply with the Criteria, he will so inform the District Engineer in writing.

(e) When the Regional Administrator determines that the proposed dumping will not comply with the Criteria he shall so inform the District Engineer in writing within 15 days of receipt of notice of intent to issue the permit. In such cases, no Dredged Material Permit for such dumping shall be issued unless and until the Administrator grants a waiver of the Criteria pursuant to § 225.4.

§ 225.3 Procedure for invoking economic impact.

(a) When a District Engineer's determination to issue a Dredged Material Permit for the dumping of dredged material into ocean waters has been rejected by a Regional Administrator upon application of the Criteria, the District Engineer may determine whether, under section 103(d) of the Act, there is an economically feasible alternative method or site available other than the proposed dumping in ocean waters. If the District Engineer makes any such preliminary determination that there is no economically feasible alternative method or site available, he shall so advise the Regional Administrator setting forth his reasons for such determination and shall submit a report of such determination to the Chief of Engineers in accordance with 33 CFR 209.120 and 209.145.

(b) If the decision of the Chief of Engineers is that ocean dumping at the designated site is required because of the unavailability of feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator of the Criteria or of the critical site designation in accordance with § 225.4.

§ 225.4 Waiver by Administrator.

The Administrator shall grant the requested waiver unless within 30 days of his receipt of the notice, certificate and request in accordance with paragraph (b) of § 225.3 he determines in accordance with this section that the proposed dumping will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Notice of the Administrator's final determination under this section shall be given to the Secretary of the Army.

PART 226—ENFORCEMENT OF THE ACT

Sec.
226.1 Civil penalties.
226.2 Conduct of adjudicatory hearings.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 226.1 Civil penalties.

(a) In addition to the criminal penalties provided for in section 105(b) of the Act, the Administrator or the Regional Administrator, as the case may be, may assess a civil penalty of not more than $50,000 for each violation of the Act, of this Subchapter H, and for each violation of a permit issued under this Title.

(b) A separate violation shall be deemed to occur for each day of a continuing violation and for the dumping from each of several vessels or other sources.

(c) Subject to the proviso in paragraph (a) of this section upon receipt of information that any person has violated any provision of the Act or of this Subchapter H, the Administrator or the Regional Administrator, as the case may be, may initiate an action to assess a civil penalty for such violation by sending by certified mail, return receipt requested, to such person notice in writing setting forth the violation with which he is charged.

(d) In assessing any civil penalty under this Subchapter H the amount assessed shall be determined after consideration of the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

(e) Any person receiving notice of a violation issued in accordance with paragraph (c) of this section may within 30 days of the date of such notice request an adjudicatory hearing to consider whether a violation occurred and the appropriate penalty to be assessed. Any such request for an adjudicatory hearing shall be in writing, shall identify the person requesting the hearing, shall state with particularity any objections to the notice of violation or the civil penalty assessed and shall state the issues which are proposed to be raised by such person for consideration at the hearing.

(f) Whenever a written request for an adjudicatory hearing satisfying the requirements of paragraph (e) of this section has been received, the Administrator or the Regional Administrator, as the case may be, will set a time and place for an adjudicatory hearing in accordance with § 222.5 and will give notice by certified mail, return receipt requested, of such hearing to the person requesting the hearing.

(g) Any person requesting an adjudicatory hearing shall state in his written request, and shall by filing such request consent, that he and his employees

and agents shall submit themselves to cross-examination at any such hearing and to the taking of an oath administered by the Presiding Officer.

(h) In the event the Administrator or the Regional Administrator, as the case may be, determines that a request filed pursuant to paragraph (e) of this section does not comply with the requirements of such paragraph (e), he shall advise, in writing, the person requesting the hearing of his determination.

§ 226.2 Conduct of adjudicatory hearings.

An adjudicatory hearing held pursuant to this Part 226 shall be conducted by a Presiding Officer and a determination rendered in accordance with § 222.11. Any determination made after such hearing by the Administrator or the Regional Administrator, as the case may be, may be appealed to the Administrator in accordance with, and shall be subject to the provisions of § 222.12.

9. Part 227 is revised to read as follows:

PART 227—CRITERIA FOR THE EVALUATION OF PERMIT APPLICATIONS FOR OCEAN DUMPING OF MATERIALS

Subpart A—General

Sec.
227.1 Applicability.
227.2 Materials which satisfy the environmental impact criteria of Subpart B.
227.3 Materials which do not satisfy the environmental impact criteria of Subpart B.

Subpart B—Environmental Impact

227.4 Criteria for evaluating environmental impact.
227.5 Prohibited materials.
227.6 Constituents prohibited as other than trace contaminants.
227.7 Limits established for specific wastes or waste constituents.
227.8 Limitations on the disposal rates of toxic wastes.
227.9 Limitations on quantities of waste materials.
227.10 Hazards to fishing, navigation, shorelines or beaches.
227.11 Containerized wastes.
227.12 Insoluble wastes.
227.13 Dredged materials.

Subpart C—Need for Ocean Dumping

227.14 Criteria for evaluating the need for ocean dumping and alternatives to ocean dumping.
227.15 Factors considered.
227.16 Basis for determination of need for ocean dumping.

Subpart D—Impact of the Proposed Dumping on Esthetic, Recreational and Economic Values

227.17 Basis for determination.
227.18 Factors considered.
227.19 Assessment of impact.

Subpart E—Impact of the Proposed Dumping on Other Uses of the Ocean

227.20 Basis for determination.
227.21 Uses considered.
227.22 Assessment of impact.

Subpart F—Special Requirements for Interim Permits Under Section 102 of the Act

227.23 General requirement.
227.24 Contents of environmental assessment.
227.25 Contents of plans.
227.26 Implementation of plans.

Subpart G—Definitions

Sec.
227.27 Limiting permissible concentration (LPC).
227.28 Release zone.
227.29 Initial mixing.
227.30 High-level radioactive material.

AUTHORITY: 33 U.S.C. 1421 and 1418.

Subpart A—General

§ 227.1 Applicability.

(a) Section 102 of the Act requires that criteria for the issuance of ocean disposal permits be promulgated after consideration of the environmental effect of the proposed dumping operation, the need for ocean dumping, alternatives to ocean dumping, and the effect of the proposed action on esthetic, recreational and economic values and on other uses of the ocean. This Part 227 and Part 228 of this Subchapter H together constitute the criteria established pursuant to section 102 of the Act. The decision of the Administrator, Regional Administrator or the District Engineer, as the case may be, to issue or deny a permit and to impose specific conditions on any permit issued will be based on an evaluation of the permit application pursuant to the Criteria set forth in this Part 227 and upon the requirements for disposal site management pursuant to the criteria set forth in Part 228 of this Subchapter H.

(b) With respect to the criteria to be used in evaluating disposal of dredged materials, this section and Subparts C, D, E, and G apply in their entirety. To determine whether the proposed dumping of dredged material complies with Subpart B, only §§ 227.4, 227.5, 227.6 (a), (c) and (d) and § 227.13 apply. An applicant for a permit to dump dredged material must comply with all of Subparts C, D, E and applicable sections of B, to be deemed to have met the EPA criteria for dredged material dumping promulgated pursuant to section 102(a) of the Act. If, in any case, the Chief of Engineers finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site, the utilization of which would result in noncompliance with the criteria established pursuant to Subpart B relating to the effects of dumping or with the restrictions established pursuant to section 102(c) of the Act relating to critical areas, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator pursuant to Part 225.

(c) The Criteria of this Part 227 are established pursuant to Section 102 of the Act and apply to the evaluation of proposed dumping of materials under Title I of the Act. The Criteria of this Part 227 deal with the evaluation of proposed dumping of materials on a case-by-case basis from information supplied by the applicant or otherwise available to EPA or the Corps of Engineers concerning the characteristics of the waste and other considerations relating to the proposed dumping.

(d) Notwithstanding any other provisions of these Criteria, no permit will be issued when the dumping would result in a violation of applicable water quality standards.

§ 227.2 Materials which satisfy the environmental impact criteria of Subpart B.

(a) If the applicant satisfactorily demonstrates that the material proposed for ocean dumping satisfies the environmental impact criteria set forth in Subpart B, a permit for ocean dumping will be issued unless:

(1) There is no need for the dumping, or alternative means of disposal are available, as determined in accordance with the criteria set forth in Subpart C; or

(2) There are unacceptable adverse effects on esthetic, recreational or economic values as determined in accordance with the criteria set forth in Subpart D; or

(3) There are unacceptable adverse effects on other uses of the ocean as determined in accordance with the criteria set forth in Subpart E.

(b) If the material proposed for ocean dumping satisfies the environmental impact criteria set forth in Subpart B, but the Administrator or the Regional Administrator, as the case may be, determines that any one of the considerations set forth in paragraphs (a)(1), (2) or (3) of this section applies, he will deny the permit application; provided however, that he may issue an interim permit for ocean dumping pursuant to paragraph (d) of § 220.3 and Subpart F of this Part 227 when he determines that:

(1) The material proposed for ocean dumping does not contain any of the materials listed in § 227.5 or listed in § 227.6, except as trace contaminants; and

(2) In accordance with Subpart C there is a need to ocean dump the material and no alternatives are available to such dumping; and

(3) The need for the dumping and the unavailability of alternatives, as determined in accordance with Subpart C, are of greater significance to the public interest than the potential for adverse effect on esthetic, recreational or economic values, or on other uses of the ocean, as determined in accordance with Subparts D and E, respectively.

§ 227.3 Materials which do not satisfy the environmental impact criteria set forth in Subpart B.

If the material proposed for ocean dumping does not satisfy the environmental impact criteria of Subpart B, the Administrator or the Regional Administrator, as the case may be, will deny the permit application; provided however, that he may issue an interim permit pursuant to paragraph (d) of § 220.3 and Subpart F of this Part 227 when he determines that:

(a) The material proposed for dumping does not contain any of the materials listed in § 227.6 except as trace contaminants, or any of the materials listed in § 227.5;

(b) In accordance with Subpart C there is a need to ocean dump the material; and

(c) Any one of the following factors is of greater significance to the public interest than the potential for adverse impact on the marine environment, as determined in accordance with Subpart B:

(1) The need for the dumping, as determined in accordance with Subpart C; or

(2) The adverse effects of denial of the permit on recreational or economic values as determined in accordance with Subpart D; or

(3) The adverse effects of denial of the permit on other uses of the ocean, as determined in accordance with Subpart E.

Subpart B—Environmental Impact

§ 227.4 Criteria for evaluating environmental impact.

This Subpart B sets specific environmental impact prohibitions, limits, and conditions for the dumping of materials into ocean waters. If the applicable prohibitions, limits, and conditions are satisfied, it is the determination of EPA that the proposed disposal will not unduly degrade or endanger the marine environment and that the disposal will present:

(a) No unacceptable adverse effects on human health and no significant damage to the resources of the marine environment;

(b) No unacceptable adverse effect on the marine ecosystem;

(c) No unacceptable adverse persistent or permanent effects due to the dumping of the particular volumes or concentrations of these materials; and

(d) No unacceptable adverse effect on the ocean for other uses as a result of direct environmental impact.

§ 227.5 Prohibited materials.

The ocean dumping of the following materials will not be approved by EPA or the Corps of Engineers under any circumstances:

(a) High-level radioactivity wastes as defined in § 227.30;

(b) Materials in whatever form (including without limitation, solids, liquids, semi-liquids, gases or organisms) produced or used for radiological, chemical or biological warfare;

(c) Materials insufficiently described by the applicant in terms of their compositions and properties to permit application of the environmental impact criteria of this Subpart B;

(d) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean in such a manner that they may interfere materially with fishing, navigation, or other legitimate uses of the ocean.

§ 227.6 Constituents prohibited as other than trace contaminants.

(a) Subject to the exclusions of paragraphs (d) and (e) of this section, the ocean dumping, or transportation for dumping, of materials containing the following constituents as other than trace contaminants will not be approved by EPA:

(1) Organohalogen compounds;

(2) Mercury and mercury compounds;

(3) Cadmium and cadmium compounds;

(4) Oil of any kind or in any form, including but not limited to petroleum, oil sludge, oil refuse, crude oil, fuel oil, heavy diesel oil, lubricating oils, hydraulic fluids, and any mixtures containing these, transported for the primary purpose of dumping insofar as these are not regulated under the FWPCA;

(5) Known or suspected carcinogens.

(b) A material, other than dredged material, containing any of the constituents listed in paragraph (a) of this section may be dumped pursuant to a special permit when the following requirements are satisfied:

(1) Mercury and its compounds are present in any solid phase of a material in concentrations less than 0.75 mg/kg, and the total concentration of mercury in the liquid phase of a material is less than 1.5 mg/kg;

(2) Cadmium and its compounds are present in any solid phase of a material in concentrations less than 0.6 mg/kg, and the total concentration of cadmium in the liquid phase of a material is less than 3.0 mg/kg;

(3) The total concentration of any or all organohalogen constituents in the waste as transported for dumping without regard to allowance for initial mixing, is less than a concentration of such constituents known to be toxic to marine organisms. The determination of the toxicity value will be based on existing scientific data or developed by the use of bioassay methods conducted in accordance with approved EPA procedures.

(4) The total amounts of oils and greases as identified in paragraph (a) (4) of this section do not produce a visible surface sheen in an undisturbed water sample when added at a ratio of one part waste material to 100 parts of water.

(c) When the Administrator, Regional Administrator or District Engineer, as the case may be, has reasonable cause to believe that a material proposed for ocean dumping contains the compounds identified as carcinogens, mutagens, or teratogens, he may require special studies to be done prior to issuance of a permit to determine their impact on human health and/or marine ecosystems.

(d) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section when the applicant can demonstrate that such constituents are (1) present in the material only as chemical compounds or forms (e.g., inert insoluble solid materials) non-toxic to marine life and nonbioaccumulative in the marine environment, or (2) present in the material only as chemical compounds or forms which, within four hours after disposal, will be rendered non-toxic to marine life and non-bioaccumulative in the marine environment by chemical or biological degradation in the sea; provided they will not make edible marine organisms unpalatable; or will not endanger human health or that of domestic animals, fish, shellfish, and wildlife.

(e) The prohibition and limitations of this section do not apply to the constituents identified in paragraph (a) of this section for the granting of research permits if the substances are rapidly rendered harmless by physical, chemical or biological processes in the sea; provided they will not make edible marine organisms unpalatable and will not endanger human health or that of domestic animals.

§ 227.7 Limits established for specific wastes or waste constituents.

Materials containing the following constituents must meet the additional limitations specified in this section to be deemed acceptable for ocean dumping:

(a) Liquid waste constituents immiscible with or slightly soluble in seawater, such as benzene, xylene, carbon disulfide and toluene, may be dumped only when they are present in the waste in concentrations below their solubility limits in seawater;

(b) Radioactive materials, other than those prohibited by § 227.5, must be contained in accordance with the provisions of § 227.11 to prevent their direct dispersion or dilution in ocean waters;

(c) Wastes containing living organisms may not be dumped if the organisms present would

(1) Extend the range of biological pests, viruses, pathogenic microorganisms or other agents capable of infesting, infecting or extensively and permanently altering the normal populations of organisms;

(2) Degrate uninfected areas; or

(3) Introduce viable species not indigenous to an area.

(d) In the dumping of wastes of highly acidic or alkaline nature into the ocean, consideration shall be given to: (1) The effects of any change in acidity or alkalinity of the water at the disposal site; and (2) the potential for synergistic effects or for the formation of toxic compounds at or near the disposal site. Allowance may be made in the permit conditions for the capability of ocean waters to neutralize acid or alkaline wastes; provided, however, that dumping conditions must be such that the average total alkalinity or total acidity of the ocean water after allowance for initial mixing, as defined in § 227.29, may be changed, based on stoichiometric calculations, by no more than 10 percent during all dumping operations at a site.

(e) Wastes containing biodegradable constituents, or constituents which consume oxygen in any fashion, may be dumped in the ocean only under conditions in which the dissolved oxygen after allowance for initial mixing, as defined in § 227.29, will not be depressed by more than 25 percent below the normally anticipated ambient conditions in the disposal area at the time of dumping.

§ 227.8 Limitations on the disposal rates of toxic wastes.

No wastes will be deemed acceptable for ocean dumping unless such wastes can be dumped so as not to exceed the limiting permissible concentration as defined in § 227.27; provided that this does not apply to those wastes for which specific criteria are established in §§ 227.11 or 227.12. Total quantities of wastes dumped at a site may be limited as described in § 228.8.

§ 227.9 Limitations on quantities of waste materials.

Substances which may damage the ocean environment due to the quantities in which they are dumped, or which may seriously reduce amenities, may be dumped only when the quantities to be dumped at a single time and place are controlled to prevent damage to the environment or to amenities.

§ 227.10 Hazards to fishing, navigation, shorelines or beaches.

(a) Wastes which may present a serious obstacle to fishing or navigation may be dumped only at disposal sites and under conditions which will ensure no interference with fishing or navigation.

(b) Wastes which may present a hazard to shorelines or beaches may be dumped only at sites and under conditions which will insure no danger to shorelines or beaches.

§ 227.11 Containerized wastes.

(a) Wastes containerized solely for transport to the dumping site and expected to rupture or leak on impact or shortly thereafter must meet the appropriate requirements of §§ 227.6, 227.7, 227.8, 227.9 and 227.10.

(b) Other containerized wastes will be approved for dumping only under the following conditions:

(1) The materials to be disposed of decay, decompose or radiodecay to environmentally innocuous materials within the life expectancy of the containers and/or their inert matrix; and

(2) Materials to be dumped are present in such quantities and are of such nature that only short-term localized adverse effects will occur should the containers rupture at any time; and

(3) Containers are dumped at depths and locations where they will cause no threat to navigation, fishing, shorelines, or beaches.

§ 227.12 Insoluble wastes.

(a) Solid wastes consisting of natural minerals or materials compatible with the ocean environment may be generally approved for ocean dumping provided they are insoluble above the applicable trace or limiting permissible concentrations and are rapidly and completely settleable, and they are of a particle size and density that they would be deposited or rapidly dispersed without damage to benthic, demersal, or pelagic biota.

(b) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean as prohibited in § 227.5(d) may be dumped in the ocean only when they have been processed in such a fashion that they will sink to the bottom and remain in place.

§ 227.13 Dredged materials.

(a) Dredged materials are bottom sediments that have been dredged or excavated from the navigable waters of the United States, and their disposal into ocean waters is regulated by the U.S. Army Corps of Engineers using the criteria of applicable sections of Parts 227 and 228. Sediments normally contain constituents that exist in different chemical forms and are found in various concentrations in several locations within the sediments. The potential bioavailable fraction of a sediment is dissolved in the sediment interstitial water or in a loosely bound form that is present in the sediment. Evaluation of the significance of chemical-biological interactive effects resulting from the discharge of dredged material is extremely complex and demands procedures which are at the forefront of the current state-of-the-art. Changes in the concentration of dissolved chemical constituents affiliated with sediments may best be estimated by use of an elutriate test. To the extent permitted by the state-of-the-art, expected effects such as toxicity, stimulation, inhibition, or bioaccumulation may best be estimated by appropriate bioassays.

(b) Dredged material may be excluded from the evaluative procedures specified in paragraphs (c) and (d) of this section and considered environmentally acceptable for ocean dumping if any of the following conditions is determined to exist:

(1) Dredged material is composed predominantly of sand, gravel, or any other naturally occurring sedimentary material with particle sizes larger than silt, characteristic of and generally found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels;

(2) Dredged material is for beach nourishment or restoration and is composed predominantly of sand, gravel or shell with particle sizes compatible with material on receiving shores; or

(3) When: (i) The material proposed for dumping is substantially the same as the substrate at the proposed disposal site; and

(ii) The site from which the material proposed for dumping is to be taken is sufficiently removed from sources of pollution to provide reasonable assurance that such material has not been contaminated by such pollution; and

(iii) Adequate terms and conditions are imposed on the dumping of dredged material to provide reasonable assurance that the material proposed for dumping will not be moved by currents or otherwise in the manner that is damaging to the environment outside the disposal site.

(c) In order to predict the effect on water quality due to the release of contaminants from the sediment, an elutriate test may be used. The elutriate is the supernatant resulting from a vigorous 30-minute agitation of one part bottom sediment from the dredging site with four parts water (vol/vol) collected from the dredging site followed by one hour settling time and appropriate centrifugation and a 0.45u filtration. Major constituents to be analyzed in the elutriate are those deemed critical by the District Engineer, after evaluating and considering any comments received from the Regional Administrator, and considering known sources of discharges in the area. Consideration should also be given to the possible presence in the sediments of the specific constituents identified in § 227.6 (a) and significant amounts of arsenic, lead, copper, zinc, organosilicon compounds, cyanides, fluorides, pesticides and their by-products not covered in § 227.6, (a) and radioactive materials. Particular attention should be given to the possible presence of major constituents that could cause an unacceptable oxygen demand or adverse chemical-biological interactive effects and known characteristics of the extraction and disposal sites. The dredged material will be considered as environmentally acceptable for ocean dumping if elutriate concentrations, after allowance is made for dilution in accordance with § 227.29 and consideration of the volume and rate of the proposed dumping, do not exceed the limiting permissible concentration as defined in § 227.27.

(d) If such elutriate concentrations are found to exceed limiting permissible concentrations, the District Engineer may, after considering comment from the Regional Administrator, specify bioassays when such procedures will be of value in establishing dumping conditions or in determining if the dredged material is environmentally acceptable for ocean dumping. In addition, when the specific constituents listed in § 227.6(a) are present as other than trace contaminants the District Engineer will require the applicant to use such procedures to demonstrate that these constituents are (1) present in the wastes only as chemical compounds or forms (e.g., inert insoluble solid materials) non-toxic to marine life and non-bioaccumulative in the marine environment, or (2) present in the material only as chemical compounds or forms which, within four hours after disposal, will be rendered non-toxic to marine life and non-bioaccumulative in the marine environment by chemical or biological degradation in the sea; provided they will not make edible marine organisms unpalatable; or will not endanger human health or that of domestic animals, fish, shellfish, and wildlife. The procedure followed in the performance of any such bioassay will incorporate exposure times and concentrations determined from a knowledge of the proposed dumping rate and volume and of the hydrodynamics of the intended dumping area.

Subpart C—Need for Ocean Dumping

§ 227.14 Criteria for evaluating the need for ocean dumping and alternatives to ocean dumping.

This Subpart C states the basis on which an evaluation will be made of the

need for ocean dumping, and alternatives to ocean dumping. The nature of these factors does not permit the promulgation of specific quantitative criteria of each permit application. These factors will therefore be evaluated if applicable for each proposed dumping on an individual basis using the guidelines specified in this Subpart C.

§ 227.15 Factors considered.

The need for dumping will be determined by evaluation of the following factors:

(a) Degree of treatment feasible for the waste to be dumped, and whether or not the waste material has been or will be treated to this degree before dumping;

(b) Raw materials and manufacturing or other processes resulting in the waste, and whether or not these materials or processes are essential to the provision of the applicant's goods or services, or if other less polluting materials or processes could be used;

(c) The relative environmental impact and cost for ocean dumping as opposed to other feasible alternatives including but not limited to:

(1) Land fill;

(2) Well injection;

(3) Incineration;

(4) Spread of material over open ground;

(5) Recycling of material for reuse;

(6) Additional biological, chemical, or physical treatment of intermediate or final waste streams;

(7) Storage.

(d) Irreversible or irretrievable consequences of the use of alternatives to ocean dumping.

§ 227.16 Basis for determination of need for ocean dumping.

(a) A need for ocean dumping will be considered to have been demonstrated when a thorough evaluation of the factors listed in § 227.15 has been made by EPA, and the Administrator, Regional Administrator or District Engineer, as the case may be, has determined that the following conditions exist where applicable:

(1) There are no practicable improvements which can be made in process technology or in overall waste treatment to reduce the adverse impacts of the waste on the total environment;

(2) There are no practicable alternative locations and methods of disposal or recycling available, including without limitation, storage until treatment facilities are completed, which have less adverse environmental impact than ocean dumping.

(b) For purposes af paragraph (a) of this section, waste treatment or improvements in processes and alternative methods of disposal are practicable when they are available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity.

(c) The duration of permits issued under Subchapter H and other terms and conditions imposed in those permits shall be determined after taking into account the factors set forth in this section. Notwithstanding compliance with Subparts B, D, and E of this Part 227 permittees may, on the basis of the need for and alternatives to ocean dumping, be required to terminate all ocean dumping by a specified date, to phase out all ocean dumping over a specified period or periods, to continue research and development of alternative methods of disposal and make periodic reports of such research and development in order to provide additional information for periodic review of the need for and alternatives to ocean dumping, or to take such other action as the Administrator or the Regional Administrator, as the case may be, determines to be necessary or appropriate.

Subpart D—Impact of the Proposed Dumping on Esthetic, Recreational and Economic Values

§ 227.17 Basis for determination.

(a) The impact of dumping on esthetic recreational and economic values will be evaluated on an individual basis using the following considerations:

(1) Potential for affecting recreational use and values of ocean waters, inshore waters, beaches, or shorelines;

(2) Potential for affecting the recreational and commercial values of living marine resources.

(b) For all proposed dumping, full consideration will be given to such nonquantifiable aspects of esthetic, recreational and economic impact as:

(1) Responsible public concern for the consequences of the proposed dumping;

(2) Consequences of not authorizing the dumping including without limitation, the impact on esthetic, recreational and economic values with respect to the municipalities and industries involved.

§ 227.18 Factors considered.

The assessment of the potential for impacts on esthetic, recreational and economic values will be based on an evaluation of the appropriate characteristics of the material to be dumped, allowing for conservative rates of dilution, dispersion, and biochemical degradation during movement of the materials from a disposal site to an area of significant recreational or commercial value. The following specific factors will be considered in making such an assessment:

(a) Nature and extent of present recreational and commercial use of areas which might be affected by the proposed dumping;

(b) Existing water quality, and nature and extent of disposal activities, in the areas which might be affected by the proposed dumping;

(c) Applicable water quality standards;

(d) Visible characteristics of the materials (e.g., color, suspended particulates) which result in an unacceptable esthetic nuisance in recreational areas;

(e) Presence in the material of pathogenic organisms which may cause a public health hazard either directly or through contamination of fisheries or shellfisheries;

(f) Presence in the material of toxic chemical constituents released in volumes which may affect humans directly;

(g) Presence in the material of chemical constituents which may be bioaccumulated or persistent and may have an adverse effect on humans directly or through food chain interactions;

(h) Presence in the material or any constituents which might significantly affect living marine resources of recreational or commercial value.

§ 227.19 Assessment of impact.

An overall assessment of the proposed dumping will be made based on the effect on esthetic, recreational and economic values based on the factors set forth in this Subpart D, including where applicable, enhancement of these values, and the results of the assessment will be expressed, where possible, on a quantitative basis, such as percentage of a resource lost, reduction in user days of recreational areas, or dollars lost in commercial fishery profits.

Subpart E—Impact of the Proposed Dumping on Other Uses of the Ocean

§ 227.20 Basis for determination.

(a) Based on current state-of-the-art, consideration must be given to any possible long-range effects of even the most innocuous substances when dumped in the ocean on a continuing basis. Such a consideration is made in evaluating the relationship of each proposed disposal activity in relationship to its potential for long-range impact on other uses of the ocean.

(b) An evaluation will be made on an individual basis for each proposed dumping of material of the potential for effects on uses of the ocean for purposes other than material disposal. The factors to be considered in this evaluation include those stated in Subpart D, but the evaluation of this Subpart E will be based on the impact of the proposed dumping on specific uses of the ocean rather than on overall esthetic, recreational and economic values.

§ 227.21 Uses considered.

An appraisal will be made of the nature and extent of existing and potential uses of the disposal site itself and of any areas which might reasonably be expected to be affected by the proposed dumping, and a quantitative and qualitative evaluation made, where feasible, of the impact of the proposed dumping on each use. The uses considered shall include, but not be limited to:

(a) Commercial fishing in open ocean areas;

(b) Commercial fishing in coastal areas;

(c) Commercial fishing in estuarine areas;

(d) Recreational fishing in open ocean areas;

(e) Recreational fishing in coastal areas;

(f) Recreational fishing in estuarine areas;

(g) Recreational use of shorelines and beaches;
(h) Commercial navigation;
(i) Recreational navigation;
(j) Actual or anticipated exploitation of living marine resources;
(k) Actual or anticipated exploitation of non-living resources, including without limitation, sand and gravel places and other mineral deposits, oil and gas exploration and development and offshore marine terminal or other structure development; and
(l) Scientific research and study.

§ 227.22 Assessment of impact.

The assessment of impact on other uses of the ocean will consider both temporary and long-range effects within the state of the art, but particular emphasis will be placed on any irreversible or irretrievable commitment of resources that would result from the proposed dumping.

Subpart F—Special Requirements for Interim Permits Under Section 102 of the Act

§ 227.23 General requirement.

Each interim permit issued under section 102 of the Act will include a requirement for the development and implementation, as soon as practicable, of a plan which requires, at the discretion of the Administrator or Regional Administrator, as the case may be, either:
(a) Elimination of ocean disposal of the waste, or
(b) Bringing the waste into compliance with all the criteria for acceptable ocean disposal.

§ 227.24 Contents of environmental assessment.

A plan developed pursuant to this Subpart F must include an environmental assessment of the proposed action, including without limitation:
(a) Description of the proposed action;
(b) A thorough review of the actual need for dumping;
(c) Environmental impact of the proposed action;
(d) Adverse impacts which cannot be avoided should the proposal be implemented;
(e) Alternatives to the proposed action;
(f) Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity;
(g) Irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented; and
(h) A discussion of problems and objections raised by other Federal, State and local agencies and by interested persons in the review process.

§ 227.25 Contents of plans.

In addition to the environmental assessment required by § 227.24, a plan developed pursuant to this Subpart F must include a schedule for eliminating ocean dumping or bringing the wastes into compliance with the environmental impact criteria of Subpart B, including without limitation, the following:
(a) If the waste is treated to the degree necessary to bring it into compliance with the ocean dumping criteria, the applicant should provide a description of the treatment and a scheduled program for treatment and a subsequent analysis of treated material to prove the effectiveness of the process.
(b) If treatment cannot be effected by post-process techniques the applicant should, determining the offending constituents, examine his raw materials and his total process to determine the origin of the pollutant. If the offending constituents are found in the raw material the applicant should consider a new supplier and provide an analysis of the new material to prove compliance. Raw materials are to include all water used in the process. Water from municipal sources complying with drinking water standards is acceptable. Water from other sources such as private wells should be analyzed for contaminants. Water that has been used in the process should be considered for treatment and recycling as an additional source of process water.
(c) If offending constituents are a result of the process, the applicant should investigate and describe the source of the constituents. A report of this information will be submitted to EPA and the applicant will then submit a proposal describing possible alternatives to the existing process or processes and level of cost and effectiveness.
(d) If an acceptable alternative to ocean dumping or additional control technology is required, a schedule and documentation for implementation of the alternative or approved control process shall be submitted and shall include, without limitation:
(1) Engineering plan;
(2) Financing approval;
(3) Starting date for change;
(4) Completion date;
(5) Operation starting date.
(e) If an acceptable alternative does not exist at the time the application is submitted, the applicant will submit an acceptable in-house research program or employ a competent research institution to study the problem. The program of research must be approved by the Administrator or Regional Administrator, as the case may be, before the initiation of the research. The schedule and documentation for implementation of a research program will include, without limitation:
(1) Approaches;
(2) Experimental design;
(3) Starting date;
(4) Reporting intervals;
(5) Proposed completion date;
(6) Date for submission of final report.

§ 227.26 Implementation of plans.

Implementation of each phase of a plan shall be initiated as soon as it is approved by the Administrator or Regional Administrator, as the case may be.

Subpart G—Definitions

§ 227.27 Limiting permissible concentration (LPC).

(a) The limiting permissible concentration is:
(1) That concentration of a material or chemical constituent in the receiving water which, after reasonable allowance for initial mixing, as specified in § 227.29, will not exceed a toxicity threshold defined as 0.01 of a concentration shown to be toxic to appropriate sensitive marine organisms in a bioassay carried out in accordance with approved EPA procedures; or
(2) 0.01 of a concentration of a waste material or chemical constituent otherwise shown to be detrimental to the marine environment.
(3) With respect to dredged material, that concentration of a major constituent in the elutriate which, after allowance for initial mixing as provided in § 227.29, does not exceed applicable water quality criteria.
(b) "Appropriate sensitive marine organisms" shall mean at least one species representative of phytoplankton or zooplankton, crustacean or mollusk, and fish species chosen from among the most sensitive species documented in the scientific literature or accepted by EPA as being reliable test organisms for the anticipated impact on the ecosystem at the disposal site. Bioassays, except on phytoplankton or zooplankton, shall be run for a minimum of 96 hours under temperature, salinity, and dissolved oxygen conditions representing the extremes of environmental stress at the disposal site. Bioassays on phytoplankton or zooplankton may be run for shorter periods of time as appropriate for the organisms tested at the discretion of EPA.

§ 227.28 Release zone.

The release zone is the area swept out by the locus of points constantly 100 meters from the perimeter of the conveyance engaged in dumping activities, beginning at the first movement in which dumping is scheduled to occur and ending at the last moment in which dumping is scheduled to occur. No release zone shall exceed the total surface area of the dumpsite.

§ 227.29 Initial mixing.

(a) Initial mixing is defined to be that dispersion or diffusion of a waste which occurs within four hours after dumping. The limiting permissible concentration shall not be exceeded at any point in the marine environment after initial mixing.
(b) The maximum concentration of a dumped material after initial mixing shall be estimated by one of these methods, in order of preference:
(1) When field data on the proposed dumping are adequate to predict initial dispersion and diffusion of the waste, these shall be used in conjunction with an appropriate mathematical model ac-

ceptable to EPA or the District Engineer, as appropriate.

(2) When field data on the dispersion and diffusion of a waste of characteristics similar to that proposed for discharge are available, these shall be used in conjunction with an appropriate mathematical model acceptable to EPA or the District Engineer, as appropriate.

(3) When no field data are available, theoretical oceanic turbulent diffusion relationships may be applied to known characteristics of the waste and the disposal site.

(4) When no other means of estimation are feasible, the dumped waste may be assumed to be evenly distributed after four hours over a column of water 20 meters deep bounded on the surface by the release zone.

§ 227.30 High-level radioactive material.

High-level radioactive material means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels or irradiatcd fuel from nuclear power reactors.

10. Part 228 is added to read as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

Sec.

228.1 Applicability.
228.2 Definitions.
228.3 Disposal site management responsibilities.
228.4 Procedures for designation of sites.
228.5 General criteria for the selection of sites.
228.6 Specific criteria for site selection.
228.7 Regulation of disposal site use.
228.8 Limitations on times and rates of disposal.
228.9 Disposal site monitoring.
228.10 Evaluating disposal impact.
228.11 Modification in disposal site use.
228.12 Delegation of management authority for interim ocean dumping sites.
228.13 Guidelines for ocean disposal site baseline and trend assessment surveys under section 102 of the Act.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 228.1 Applicability.

The criteria of this Part 228 are established pursuant to section 102 of the Act and apply to the evaluation of proposed ocean dumping under Title I of the Act. The criteria of this Part 228 deal with the evaluation of the proposed dumping of material in ocean waters in relation to continuing requirements for effective management of ocean disposal sites to prevent unreasonable degradation of the marine environment from all wastes being dumped in the ocean. This Part 228 is applicable to dredged material disposal sites only as specified in § 228.4(e).

§ 228.2 Definitions.

(a) The term "disposal site" means a designated and precise geographical area within which ocean dumping of wastes is permitted under conditions specified in permits issued under sections 102 and 103 of the Act. Such sites are identified by boundaries established by (1) coordinates of latitude and longitude for each corner, or by (2) coordinates of latitude and longitude for the center point and a radius in nautical miles from that point. Boundary coordinates shall be identified as precisely as is warranted by the accuracy with which the site can be located with existing navigational aids or by the implantation of transponders, buoys or other means of marking the site.

(b) The term "baseline" or "trend assessment" survey means the planned sampling or measurement of parameters at set stations or in set areas in and near disposal sites for a period of time sufficient to provide synoptic data for determining water quality, benthic, or biological conditions as a result of ocean disposal operations. The minimum requirements for such surveys are given in § 228.13.

(c) The term "disposal site evaluation study" means the collection, analysis, and interpretation of all pertinent information available concerning an existing disposal site, including but not limited to, data and information from trend assessment surveys, monitoring surveys, special purpose surveys of other Federal agencies, public data archives, and social and economic studies and records of affected areas.

(d) The term "disposal site designation study" means the collection, analysis and interpretation of all available pertinent data and information on a proposed disposal site prior to use, including but not limited to, that from baseline surveys, special purpose surveys of other Federal agencies, public data archives, and social and economic studies and records of areas which would be affected by use of the proposed site.

(e) The term "management authority" means the EPA organizational entity assigned responsibility for implementing the management functions identified in § 228.3.

(f) "Statistical significance" shall mean the statistical significance determined by using appropriate standard techniques of multivariate analysis with results interpreted at the 95 percent confidence level and based on data relating species which are present in sufficient numbers at control areas to permit a valid statistical comparison with the areas being tested.

(g) "Valuable commercial and recreational species" shall mean those species for which catch statistics are compiled on a routine basis by the Federal or State agency responsible for compiling such statistics for the general geographical area impacted, or which are under current study by such Federal or State agencies for potential development for commercial or recreational use.

(h) "Normal ambient value" means that concentration of a chemical species reasonably anticipated to be present in the water column, sediments, or biota in the absence of disposal activities at the disposal site in question.

§ 228.3 Disposal site management responsibilities.

(a) Management of a site consists of regulating times, rates, and methods of disposal and quantities and types of materials disposed of; developing and maintaining effective ambient monitoring programs for the site; conducting disposal site evaluation and designation studies; and recommending modifications in site use and/or designation (e.g., termination of use of the site for general use or for disposal of specific wastes).

(b) Each site, upon interim or continuing use designation, will be assigned to either an EPA Regional office or to EPA Headquarters for management. These designations will be consistent with the delegation of authority in § 220.4. The designated management authority is fully responsible for all aspects of the management of sites within the general requirements specified in § 220.4 and this Section. Specific requirements for meeting the management responsibilities assigned to the designated management authority for each site are outlined in §§ 228.5 and 228.6.

§ 228.4 Procedures for designation of sites.

(a) *General Permits.* Geographical areas or regions within which materials may be dumped under a general permit will be published as part of the promulgation of each general permit.

(b) *Special and Interim Permits.* Areas where ocean dumping is permitted subject to the specific conditions of individual special or interim permits, will be designated by promulgation in this Part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of waste disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dumping sites will be conducted in accordance with the requirements of §§ 228.5 and 228.6. The Administrator may, from time to time, designate specific locations for temporary use for disposal of small amounts of materials under a special permit only without disposal site designation studies when such materials satisfy the Criteria and the Administrator determines that the quantities to be disposed of at such sites will not result in significant impact on the environment. Such designations will be done by promulgation in this Part 228, and will be for a specified period of time and for specified quantities of materials.

(c) *Emergency Permits.* Dumping sites for materials disposed of under an emergency permit will be specified by the Administrator as a permit condition and will be based on an individual appraisal of the characteristics of the waste and the safest means for its disposal.

(d) *Research Permits.* Dumping sites for research permits will be determined by the nature of the proposed study. Dumping sites will be specified by the Administrator as a permit condition.

(e) *Dredged Material Disposal.* Dredged material disposal sites may be used only for the disposal of dredged material being dumped under Dredged Material Permits issued by the U.S. Army Corps of Engineers. Site selection will be made based on historic uses of the site, and on historic knowledge of the impact of disposal in areas similar in physical, chemical and biological characteristics. Studies for the evaluation and potential selection of dumping sites will be conducted in accordance with the requirements of §§ 228.5 and 228.6(a), except that:

(1) Baseline and trend assessment requirements may be developed on a case-by-case basis from the results of research, including that now in progress by the Corps of Engineers.

(2) A joint environmental impact assessment for all sites within a particular geographic area may be prepared based on complete disposal site designation or evaluation studies on a typical site or sites in that area. In such cases, sufficient studies to demonstrate the generic similarity of all sites within such a geographic area will be conducted.

(3) Disposal sites will be areas where benthic life which might be damaged by the dumping is minimal.

(4) Disposal sites will be located such that disposal operations will cause no unacceptable adverse effects to known nursery or productive fishing areas. Where prevailing currents exist, the currents should be such that any suspended or dissolved matter would not be carried into known nursery or productive fishing areas or populated or protected shoreline areas.

(5) Disposal sites will be selected whose physical environmental characteristics are most amenable to the type of dispersion desired.

(6) To minimize the possibility of any harmful effects, disposal conditions must be carefully set, with particular attention being given to the following factors:

(i) Times of dumping, where applicable, should be chosen, where possible, to avoid interference with the seasonal reproductive and migratory cycles of aquatic life in the disposal area.

(ii) If the type of material involved and the environmental characteristics of the disposal site should make either maximum or minimum dispersion desirable, the discharge from and movement of the vessel during dumping should be in such a manner as to obtain the desired result to the fullest extent feasible.

§ 228.5 General criteria for the selection of sites.

(a) The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

(b) Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

(c) If at anytime during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in §§ 228.5-228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

(d) The sizes of ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

(e) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites that have been historically used.

§ 228.6 Specific criteria for site selection.

(a) In the selection of disposal sites, in addition to other necessary or appropriate factors determined by the Administrator, the following factors will be considered:

(1) Geographical position, depth of water, bottom topography and distance from coast;

(2) Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases;

(3) Location in relation to beaches and other amenity areas;

(4) Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any;

(5) Feasibility of surveillance and monitoring;

(6) Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any;

(7) Existence and effects of current and previous discharges and dumping in the area (including cumulative effects);

(8) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean;

(9) The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys as described in § 228.13;

(10) Potentiality for the development or recruitment of nuisance species in the disposal site;

(11) Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

(b) The results of a disposal site evaluation and/or designation study based on the criteria stated in paragraphs (a)(1)-(11) of this section will be presented in support of the site designation promulgation as an environmental assessment of the impact of the use of the site for disposal, and will be used in the preparation of an environmental impact statement for each site where such a statement is required by the National Environmental Policy Act or EPA policy. By publication of a notice in accordance with this Part 228, an environmental impact statement, in draft form, will be made available for public comment not later than the time of publication of the site designation as proposed rulemaking, and a final EIS will be made available at the time of final rulemaking.

§ 228.7 Regulation of disposal site use.

Where necessary, disposal site use will be regulated by setting limitations on times of dumping and rates of discharge, and establishing a disposal site monitoring program.

§ 228.8 Limitations on times and rates of disposal.

Limitations as to time for and rates of dumping may be stated as part of the promulgation of site designation. The times and the quantities of permitted material disposal will be regulated by the EPA management authority so that the limits for the site as specified in the site designation are not exceeded. This will be accomplished by the denial of permits for the disposal of some materials, by the imposition of appropriate conditions on other permits and, if necessary, the designation of new disposal sites under the procedures of § 228.4. In no case may the total volume of material disposed of at any site under special or interim permits cause the concentration of the total materials or any constituent of any of the materials being disposed of at the site to exceed limits specified in the site designation.

§ 228.9 Disposal site monitoring.

The monitoring program, if deemed necessary by the Regional Administrator or the District Engineer, as appropriate, may include baseline or trend assessment surveys by EPA, NOAA, other Federal agencies, or contractors, special studies by permittees, and the analysis and interpretation of data from remote or automatic sampling and/or sensing devices. The primary purpose of the monitoring program is to evaluate the impact of disposal on the marine environment by referencing the monitoring results to a set of baseline conditions. When disposal sites are being used on a continuing basis, such programs may consist of the following components:

(a) Trend assessment surveys conducted at intervals frequent enough to assess the extent and trends of environmental impact. Until survey data or other information are adequate to show that changes in frequency or scope are necessary or desirable, trend assessment

and baseline surveys should generally conform to the applicable requirements of § 228.13. These surveys shall be the responsibility of the Fedreal government.

(b) Special studies conducted by the permittee to identify immediate and short-term impacts of disposal operations.

These surveys may be supplemented, where feasible and useful, by data collected from the use of automatic sampling buoys, satellites or in situ platforms, and from experimental programs. EPA will require the full participation of permittees, and encourage the full participation of other Federal and State and local agencies in the development and implementation of disposal site monitoring programs. The monitoring and research programs presently supported by permittees may be incorporated into the overall monitoring program insofar as feasible.

§ 228.10 Evaluating disposal impact.

(a) Impact of the disposal at each site designated under section 102 of the Act will be evaluated periodically and a report will be submitted as appropriate as part of the Annual Report to Congress. Such reports will be prepared by or under the direction of the EPA management authority for a specific site and will be based on an evaluation of all data available from baseline and trend assessment surveys, monitoring surveys, and other data pertinent to conditions at and near a site.

(b) The following types of effects, in addition to other necessary or appropriate considerations, will be considered in determining to what extent the marine environment has been impacted by materials disposed of at an ocean disposal site:

(1) Movement of materials into estuaries or marine sanctuaries, or onto oceanfront beaches, or shorelines;

(2) Movement of materials toward productive fishery or shellfishery areas;

(3) Absence from the disposal site of pollution-sensitive biota characteristic of the general area;

(4) Progressive, non-seasonal, changes in water quality or sediment composition at the disposal site, when these changes are attributable to materials disposed of at the site;

(5) Progressive, non-seasonal, changes in composition or numbers of pelagic, demersal, or benthic biota at or near the disposal site, when these changes can be attributed to the effects of materials disposed of at the site;

(6) Accumulation of material constituents (including without limitation, human pathogens) in marine biota at or near the site.

(c) The determination of the overall severity of disposal at the site on the marine environment, including without limitation, the disposal site and adjacent areas, will be based on the evaluation of the entire body of pertinent data using appropriate methods of data anlysis for the quantity and type of data available. Impacts will be categorized according to the overall condition of the environment of the disposal site and adjacent areas based on the determination by the EPA managment authority assessing the nature and extent of the effects identified in § 228.10(b) in additional to other necessary or appropriate considerations. The following categories shall be used:

(1) *Impact Category I:* The effects of activities at the disposal site shall be categorized in Impact Category I when one or more of the following conditions is present:

(i) There is identifiable progressive movement or accumulation, in detectable concentrations above normal ambient values, of any waste or waste constituent from the disposal site within 12 nautical miles of any shoreline, marine sanctuary designated under Title III of the Act, or critical area designated under section 102(c) of the Act; or

(ii) The biota, sediments, or water column of the disposal site, or of any area outside the disposal site where any waste or waste constituent from the disposal site is present in detectable concentrations above normal ambient values, are adversely affected to the extent that there are statistically significant decreases in the populations of valuable commercial or recreational species, or of specific species of biota essential to the propagation of such species, within the disposal site and such other area as compared to populations of the same organisms in comparable locations outside such site and area; or

(iii) Solid waste material disposed of at the site has accumulated at the site or in areas adjacent to it, to such an extent that major uses of the site or of adjacent areas are significantly impaired and the Federal or State agency responsible for regulating such uses certifies that such significant impairment has occurred and states in its certificate the basis for its determination of such impairment; or

(iv) There are adverse effects on the taste or odor of valuable commercial or recreational species as a result of disposal activities; or

(v) When any toxic waste, toxic waste constituent, or toxic byproduct of waste interaction, is identified in toxic concentrations above normal ambient values outside the disposal site more than four hours after disposal.

(2) *Impact Category II:* The effects of activities at the disposal site which are not categorized in Impact Category I shall be categorized in Impact Category II.

§ 228.11 Modification in disposal site use.

(a) Modifications in disposal site use which involve the withdrawal of designated disposal sites from use or permanent changes in the total specified quantities or types of wastes permitted to be discharged to a specific disposal site will be made through promulgation of an amendment to the disposal site designation set forth in this Part 228 and will be based on the results of the analyses of impact described in § 228.10 or upon changed circumstances concerning use of the site.

(b) Modifications in disposal site use promulgated pursuant to paragraph (a) of this section shall not automatically modify conditions of any outstanding permit issued pursuant to this Subchapter H, and provided further that unless the EPA management authority for such site modifies, revokes or suspends such perimt or any of the terms or conditions of such permit in accordance with the provisions of § 223.2 based on the results of impact analyses as described in § 228.10 or upon changed circumstances concerning use of the site, such permit will remain in force until its expiration date.

(c) When the EPA management authority determines that activities at a disposal site have placed the site in Impact Category I, the Administrator or the Regional Administrator, as the case may be, shall place such limitations on the use of the site as necessary to reduce the impacts to acceptable levels.

(d) The determination of the Administrator as to whether to terminate or limit use of a disposal site will be based on the impact of disposal at the site itself and on the Criteria.

§ 228.12 Delegation of management authority for interim ocean dumping sites.

The following sites are approved for dumping the indicated materials on an interim basis pending completion of baseline or trend assessment surveys and designation for continuing use or termination of use. Management authority for all sites is delegated to the EPA organizational entity under which each site is listed. The sizes and use specifications are based on historical usage and do not necessarily meet the criteria stated in this Part. This list of interim sites will remain in force for a period not to exceed three years from the date of final promulgation of this Part 228, except for those sites approved for continuing use or disapproved for use by promulgation in this Part during that period of time.

Present location (latitude, longitude)	Proposed location (latitude, longitude)	Loran-C time delay, lines of proposed site boundaries	EPA region	Primary use
43°33′ N., 69°55′ W., 1 nmi radius	43°33′44″ N., 69°54′40″ W.; 43°32′02″ N., 69°52′52″ W.; 43°31′09″ N., 69°54′51″ W.; 43°32′51″ N., 69°56′39″ W.	9930-X; 36720 to 36740; 9930-Z, 69415 to 69425.	I	Industrial wastes.
42°26′ N., 70°35′ W., 1 nmi radius	42°26′44″ N., 70°34′35″ W.; 42°25′09″ N., 70°32′51″ W.; 42°24′19″ N., 70°34′48″ W.; 42°25′54″ N., 70°36′34″ W.	9930-X, 37490 to 37510; 9930-Z, 69620 to 69630.	I	Do.
40°22′30″ N. to 40°25′00″ N.; 73°41′30″ W. to 73°45′00″ W.	40°25′28″ N., 73°42′35″ W.; 40°22′59″ N., 73°39′58″ W.; 40°21′41″ N., 73°42′57″ W.; 40°24′08″ N., 73°45′35″ W.	9930-Y, 50970 to 51000; 9930-Z, 69820 to 69840.	II	Sludge site.
40°16′00″ N. to 40°20′00″ N.; 73°36′00″ W. to 73°40′00″ W.	40°20′32″ N., 73°37′18″ W.; 40°17′27″ N., 73°33′58″ W.; 40°15′46″ N., 73°37′57″ W.; 40°18′49″ N., 73°41′16″ W.	9930-Y, 50970 to 51010; 9930-Z, 69860 to 69885.	II	Waste acid.
38°40′00″ N. to 39°00′00″ N.; 72°00′00″ W. to 72°30′00″ W.	39°04′03″ N., 72°11′00″ W.; 38°47′30″ N., 71°46′30″ W.; 38°40′38″ N., 72°17′00″ W.; 38°56′32″ N., 72°40′24″ W.	9930-Y, 51050 to 51300; 9930-Z, 70440 to 70560.	II	Chemical wastes.
40°23′00″ N., 73°49′00″ W., 0.6 nmi radius	40°28′25″ N., 73°49′14″ W.; 40°22′50″ N., 73°48′33″ W.; 40°22′23″ N., 73°49′34″ W.; 40°22′59″ N., 73°50′13″ W.	9930-Y, 51030 to 51040; 9930-Z, 69815 to 69820.	II	Cellar dirt.
40°13′00″ N., 73°46′00″ W., 0.6 nmi radius	40°10′00″ N., 73°42′00″ W., 0.5 nmi radius		II	Wrecks.
19°10′00″ N. to 19°20′00″ N., 66°35′00″ W. to 66°45′00″ W.			II	Chemical wastes.
38°30′00″ N. to 38°35′00″ N., 74°15′00″ W. to 74°25′00″ W.	38°36′00″ N., 74°22′54″ W.; 38°29′26″ N., 74°13′30″ W.; 38°27′45″ N., 74°19′06″ W.; 38°34′15″ N., 74°28′12″ W.	9930-Y, 52150 to 52200; 9930-Z, 70380 to 70440.	III	Waste acid.
38°20′00″ N. to 38°25′00″ N., 74°10′00″ W. to 74°20′00″ W.	38°25′34″ N., 74°15′56″ W.; 38°18′54″ N., 74°06′20″ W.; 38°17′15″ N., 74°11′40″ W.; 38°23′50″ N., 74°21′15″ W.	9930-Y, 52200 to 52250; 9930-Z, 70460 to 70520.	III	Sludge.
31°46′00″ N. to 80°30′00″ W., 31°47′06″ N. to 80°29′00″ W., 31°48′00″ N. to 80°30′30″ W., 31°46′30″ N. to 80°32′00″ W.	31°48′00″ N., 80°30′00″ W.; 31°46′50″ N., 80°26′15″ W.; 31°44′30″ N., 80°26′30″ W.; 31°45′40″ N., 80°30′20″ W.	9930-W, 14275 to 14300; 9930-Z, 71050 to 71075.	IV	Industrial wastes.
27°12′00″ N. to 27°28′00″ N., 94°28′00″ W. to 94°44′00″ W.	27°29′14″ N., 94°31′37″ W.; 27°14′24″ N., 94°25′30″ W.; 27°11′28″ N., 94°41′00″ W.; 27°26′11″ N., 94°46′33″ W.	(1)	VI	Do.
28°00′00″ N. to 28°10′00″ N., 89°15′00″ W. to 89°30′00″ W.	28°08′28″ N., 89°32′49″ W.; 27°59′48″ N., 89°23′42″ W.; 28°03′30″ N., 89°10′00″ W.; 28°12′00″ N., 89°19′00″ W.	(1)	VI	Do.
26°20′00″ N. to 27°00′00″ N., 93°20′00″ W. to 94°00′00″ W.	27°04′00″ N., 93°24′15″ W.; 26°29′10″ N., 93°12′30″ W.; 26°19′30″ N., 93°54′00″ W.; 26°56′10″ N., 94°08′45″ W.	(1)	VI	Ocean incineration.

[1] Loran-C coordinates for proposed sites in Gulf of Mexico to be developed upon implementation of the Gulf Coast Loran-C chain.

§ 228.13 Guidelines for ocean disposal site baseline and trend assessment surveys under section 102 of the Act.

The purpose of a baseline or trend assessment survey is to determine the physical, chemical, geological, and biological structure of a proposed or existing disposal site at the time of the survey. A baseline or trend assessment survey is to be regarded as a comprehensive synoptic and representative picture of existing conditions; each such survey is to be planned as part of a continual monitoring program through which changes in conditions at a disposal site can be documented and assessed. Surveys will be planned in coordination with the ongoing programs of NOAA and other Federal, State, local, or private agencies with missions in the marine environment. The field survey data collection phase of a disposal site evaluation or designation study shall be planned and conducted to obtain a body of information both representative of the site at the time of study and obtained by techniques reproducible in precision and accuracy in future studies. A full plan of study which will provide a record of sampling, analytical, and data reduction procedures must be developed, documented and approved by the EPA management authority. Plans for all surveys which will produce information to be used in the preparation of environmental impact statements will be approved by the Administrator or his designee. This plan of study also shall be incorporated as an appendix into a technical report on the study, together with notations describing deviations from the plan required in actual operations. Relative emphasis on individual aspects of the environment at each site will depend on the type of wastes disposed of at the site and the manner in which such wastes are likely to affect the local environment, but no major feature of the disposal site may be neglected. The observations made and the data obtained are to be based on the information necessary to evaluate the site for ocean dumping. The parameters measured will be those indicative, either directly or indirectly, of the immediate and long-term impact of pollutants on the environment at the disposal site and adjacent land or water areas. An initial disposal site evaluation or designation study should provide an immediate baseline appraisal of a particular site, but it should also be regarded as the first of a series of studies to be continued as long as the site is used for waste disposal.

(a) *Timing.* Baseline or trend assessment surveys will be conducted with due regard for climatic and seasonal impact on stratification and other conditions in the upper layers of the water column. Where a choice of season is feasible, trend assessment surveys should be made during those months when pollutant accumulation within disposal sites is likely to be most severe, or when pollutant impacts within disposal sites is likely to be most noticeable.

(1) Where disposal sites are near large riverine inflows to the ocean, surveys will be done with due regard for the seasonal variation in river flow. In some cases several surveys at various river flows may be necessary before a site can be approved.

(2) When initial surveys show that seasonal variation is not significant and surveys at greater than seasonal intervals are adequate for characterizing a site, resurveys shall be carried out in climatic conditions as similar to those of the original surveys as possible, particularly in depths less than 200 meters.

(b) *Duration.* The actual duration of a field survey will depend upon the size and depth of the site, weather conditions during the survey, and the types of data to be collected. For example, for a survey of an area of 100 square miles on the continental shelf, including an average dump site and the region contiguous to it, an on-site operation would be scheduled for completion within one week of weather suitable for on-site operations. More on-site operating time may be scheduled for larger or highly complex sites.

(c) *Numbers and Locations of Sampling Stations.* The numbers and locations of sampling stations will depend in part on the local bathymetry with minimum numbers of stations per site fixed as specified in the following sections. Where the bottom is smooth or evenly sloping, stations for water column measurements and benthic sampling and collections, other than trawls, shall be spaced throughout the survey area in a manner planned to provide maximum coverage of both the disposal site and contiguous control areas, considering known water movement characteristics. Where there are major irregularities in the bottom topography, such as canyons or gullies, or in the nature of the bottom, sampling stations for sediments and benthic communities shall be spaced to provide representative sampling of the major different features. Sampling shall be done within the dump site itself and in the contiguous area. Sufficient control stations outside a disposal site shall be occupied to characterize the control area environment at least as well as the disposal site itself. Where there are known persistent currents, sampling in contiguous areas shall include at least two stations downcurrent of the dump site, and at least two stations upcurrent of the site.

(d) *Measurements in the Water Column at and Near the Dump Site.*

(1) *Water Quality Parameters Measured.* These shall include the major indicators of water quality, particularly those likely to be affected by the waste proposed to be dumped. Specifically included at all stations are measurements of temperature, dissolved oxygen, salinity, suspended solids, turbidity, total organic carbon, pH, inorganic nutrients, and chlorophyll *a*.

(i) At one station near the center of the disposal site, samples of the water column shall be taken for the analysis of

the following parameters: mercury, cadmium, copper, chromium, zinc, lead, arsenic, selenium, vanadium, beryllium, nickel, pesticides, petroleum hydrocarbons, and persistent organohalogens. These samples shall be preserved for subsequent analysis by or under the direct supervision of EPA laboratories in accordance with the approved plan of study.

(ii) These parameters are the basic requirements for all sites. For the evaluation of any specific disposal site additional measurements may be required, depending on the present or intended use of the site. Additional parameters may be selected based on the materials likely to be in wastes dumped at the site, and on parameters likely to be affected by constituents of such wastes. Analysis for other constituents characteristic of wastes discharged to a particular disposal site, or of the impact of such wastes on water quality will be included in accordance with the approved plan of study.

(2) *Water Quality Sampling Requirements.* The number of samples collected from the water column should be sufficient to identify representative changes throughout the water column such as to avoid short-term impact due to disposal activities. The following key locations should be considered in selecting water column depths for sampling:

(i) Surface, below interference from surface waves;

(ii) Middle of the surface layer;

(iii) Bottom of the surface layer;

(iv) Middle of the thermocline or halocline, or both if present;

(v) Near the top of the stable layer beneath a thermocline or halocline;

(vi) Near the middle of the stable layer;

(vii) As near the bottom as feasible;

(viii) Near the center of any zone showing pronounced biological activity or lack thereof.

In very shallow waters where only a few of these would be pertinent, as a minimum, surface, mid-depth and bottom samples shall be taken, with samples at additional depths being added as indicated by local conditions. At disposal sites far enough away from the influence of major river inflows, ocean or coastal currents, or other features which might cause local perturbations in water chemistry, a minimum of 5 water chemistry stations should be occupied within the boundaries of a site. Additional stations should be added when the area to be covered in the survey is more than 20 square miles or when local perturbations in water chemistry may be expected because of the presence of one of the features mentioned above. In zones where such impacts are likely, stations shall be distributed so that at least 3 stations are occupied in the transition from one stable regime to another. Each water column chemistry station shall be replicated a minimum of 3 times during a survey except in waters over 200 meters deep. This may be done by three separate casts during one occupation of a station.

(3) *Water Column Biota.* Sampling stations for the biota in the water column shall be as near as feasible to stations used for water quality; in addition at least two night-time stations in the disposal site and continguous area are required. At each station vertical or oblique tows with appropriately-meshed nets shall be used to assess the microzooplankton, the nekton, and the macrozooplankton, and a bottom trawl shall be used to assess demersal biota. Towing times and distances shall be sufficient to obtain representative samples of organisms near water quality stations. Organisms shall be sorted and identified to taxonomic levels necessary to identify dominant organisms, sensitive or indicator organisms, and organism diversity. Tissue samples of representative species shall be analyzed for pesticides, persistent organohalogens, and heavy metals. Discrete water samples shall also be used to quantitatively assess the phytoplankton at each station. These requirements are the minimum necessary in all cases. Where there are discontinuities present, such as thermoclines, haloclines, convergences, or upwelling, additional tows shall be made in each water mass as appropriate.

(e) *Measurements of the Benthic Region.* (1) *Bottom Sampling.* Samples of the bottom shall be taken for both sediment composition and structure, and to determine the nature and numbers of benthic biota.

(i) At each station sampling may consist of core samples, grab samples, dredge samples, trawls, and bottom photography or television, where available and feasible, depending on the nature of the bottom and the type of disposal site. Each type of sampling shall be replicated sufficiently to obtain a representative set of samples. The minimum numbers of replicates of successful samples at each continental shelf station for each type of device mentioned above are as follows:

Cores	3
Grabs	5
Dredge	3
Trawl	[1] 20
Phototrawl	[1] 60

[1] Minute tow.

Lesser numbers of replicates may be allowed in water deeper than 200 meters, at those sites where pollution impacts on the bottom are unlikely in the judgment of the EPA management authority.

(ii) Selection of bottom stations will be based to a large extent on the bottom topography and hydrography as determined by the bathymetric survey. On the continental shelf, where the bottom has no significant discontinuities, a bottom station density of at least three times the water column stations shall be used, depending on the type of site being evaluated. Where there are significant differences in bottom topography, additional stations shall be occupied near the discontinuity and on each side of it. Beyond the continental shelf, lesser densities may be used.

(2) *Bathymetric Survey.* Sufficient tracklines shall be run to develop complete bottom coverage of bathymetry with assurance, with trackline direction and spacing as close as available control allows. The site itself is to be developed at the greatest density possible, with data to be collected to a suitable distance about the site as is required to identify major changes in bathymetry which might affect the site. Specifications for each bathymetric survey will vary, depending on control, bottom complexity, depths, equipment, and map scale required. In most cases, a bathymetric map at a scale of 1:25,000 to 1:10,000 will be required, with a minimum of 1–5 meter contour interval except in very flat areas. When the foregoing bathymetric detail is available from recent surveys of the disposal site, bathymetry during a baseline or trend assessment survey may be limited to sonar profiles of bathymetry on transects between sampling stations.

(3) *Nature of Bottom.* The size distribution of sediments, mineral character and chemical quality of the bottom will be determined to a depth appropriate for the type of bottom. The following parameters will be measured at all stations: particle size distribution, major mineral constituents, texture, settling rate, and organic carbon.

(i) At several stations near the center of the disposal site, samples of sediments shall be taken for the analysis of the following parameters: mercury, cadmium, copper, chromium, zinc, lead, arsenic, selenium, vanadium, beryllium, nickel, pesticides, persistent organohalogens, and petroleum hydrocarbons. These samples shall be preserved for subsequent analysis by or under the direct supervision of EPA laboratories in accordance with the approved plan of study.

(ii) These parameters are the basic requirements for all sites. For the evaluation of any specific disposal site additional measurements may be required, depending on the present or intended use of the site. Additional parameters may be selected based on the materials likely to be in wastes dumped at the site, and on parameters likely to be affected by constituents of such wastes. Such additional parameters will be selected by the EPA management authority.

(4) *Benthic Biota.* This shall consist of a quantitative and qualitative evaluation of benthic communities including macrobenthos, meiobenthos, and microbenthos, and should include an appraisal, based on existing information, of the sensitivity of indigenous species to the waste proposed to be discharged. Organisms shall be sorted and identified to taxonomic levels necessary to identify dominant organisms, sensitive or indicator organisms, and organism diversity. Tissue samples of representative species shall be analyzed for persistent organohalogens, pesticides, and heavy metals.

(f) *Other Measurements.* (1) *Hydrodynamic Features.* The direction and speed of water movement shall be characterized at levels appropriate for the site and type of waste to be dumped. Where depths and climatic conditions are great enough for a thermocline or halocline to exist, the relationship of

water movement to such a feature shall be characterized.

(i) *Current Measurements.* When current meters are used as the primary source of hydrodynamic data, at least 4 current meter stations with at least 3 meters at depths appropriate for the observed or expected discontinuities in the water column should be operated for as long as possible during the survey. Where feasible, curent meters should be deployed at the initiation of the survey and recovered after its completion. Stations should be at least a mile apart, and should be placed along the long axis of the dumping site. For dumping sites more than 10 miles along the long axis, one current meter station every 5 miles should be operated. Where there are discontinuities in surface layers, e.g., due to land runoff, stations should be operated in each water mass.

(ii) *Water Mass Movement.* Acceptable methods include: dye, drogues, surface drifters, side scan sonar, bottom drifters, and bottom photography or television. When such techniques are the primary source of hydrodynamic data, coverage should be such that all significant hydrodynamic features likely to affect waste movement are measured.

(2) *Sea State.* Observations of sea state and of standard meteorological parameters shall be made at 8-hour intervals.

(3) *Surface Phenomena.* Observations shall be made of oil slicks, floating materials, and other visible evidence of pollution; and, where possible, collections of floating materials shall be made.

(g) *Survey Procedures and Techniques.* Standard procedures for oceanographic surveys and sampling methods are given in the H.O. 607, "Instruction Manual for Obtaining Oceanographic Date," 3rd Ed., 1968, reprint 1970. These are to be used as guidance for general procedures, but it is recognized that survey techniques must be flexible in order to accommodate advances in technology, differences in local conditions, and equipment malfunctions. Special considerations in water and sediment sampling are discussed in the EPA "Analytical Methods Manual for the Ocean Disposal Permit Program" of EPA. When more stringent requirements are specified in the EPA Manual, these take precedence over those in the H.O. 607 publication. Techniques for sampling and analysis in the benthic region are found in the Ocean Disposal Manual, which supplements procedures in the IBP Handbook, No. 16, "Methods for the Study of the Marine Benthos," edited by N. A. Holme and A. D. McIntyre.

(i) Standard oceanographic laboratory procedures as found in the H.O. 607 publication should be used for shipboard analyses. Samples to be run at a later time should be preserved as described in the Ocean Disposal Manual to prevent decay, extraction, or contamination.

(ii) Samples analyzed in shore-based laboratories will be analyzed in accordance with procedures in the Ocean Disposal Methods Manual.

(h) *Quality Assurance.* The EPA management authority may require that certain samples be submitted on a routine basis to EPA laboratories for analysis as well as being analyzed by the surveyor, and that EPA personnel participate in some field surveys.

11. Part 229 is added to read as follows:

PART 229—GENERAL PERMITS

Sec.
229.1 Burial at sea.
229.2 Transport of target vessels.
229.3 Transportation and disposal of vessels.

AUTHORITY: 33 U.S.C. 1421 and 1418.

§ 229.1 Burial at sea.

(a) All persons subject to Title I of the Act are hereby granted a general permit to transport human remains from the United States and all persons owning or operating a vessel or aircraft registered in the United States or flying the United States flag and all departments, agencies, or instrumentalities of the United Sttaes are hereby granted a general permit to transport human remains from any location for the purpose of burial at sea and to bury such remains at sea subject to the following conditions:

(1) Except as herein otherwise provided, human remains shall be prepared for burial at sea and shall be buried in accordance with accepted practices and requirements as may be deemed appropriate and desirable by the United States Navy, United States Coast Guard, or civil authority charged with the responsibility for making such arrangements;

(2) Burial at sea of human remains which are not cremated shall take place no closer than three nautical miles from land and in water no less than one hundred fathoms (six hundred feet) deep and all necessary measures shall be taken to ensure that the remains sink to the bottom rapidly and permanently; and

(3) Cremated remains shall be buried in or on ocean waters without regard to the depth limitations specified in paragraph (a)(2) of this section provided that such burial shall take place no closer than three nautical miles from land.

(b) For purposes of this section and § 229.2, "land" means that portion of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone, which is in closest proximity to the proposed disposal site.

(c) Flowers and wreaths consisting of materials which are readily decomposable in the marine environment may be disposed of under the general permit set forth in this Section at the site at which disposal of human remains is authorized.

§ 229.2 Transport of target vessels.

(a) The United States Navy is hereby granted a general permit to transport vessels from the United States or from any other location for the purpose of sinking such vessels in ocean waters in testing ordnance and providing related data subject to the following conditions:

(1) Such vesesls may be sunk at times determined by the appropriate Navy official;

(2) Necessary measures shall be taken to ensure that the vessel sinks to the bottom rapidly and permanently, and that marine navigation is not otherwise impaired by the sunk vessel;

(3) All such vessel sinkings shall be conducted in water at least 1000 fathoms (6000 feet) deep and at least 50 nautical miles from land, as defined in § 229.1(b); and

(4) Before sinking, appropriate measures shall be taken by qualified personnel at a Navy or other certified facility to remove to the maximum extent practicable all materials which may degrade the marine environment, including without limitation, (i) emptying of all fuel tanks and fuel lines to the lowest point practicable, flushing of such tanks and lines with water, and again emptying such tanks and lines o the lowest point practicable so that such tanks and lines are essentially free of petroleum, and (ii) removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution.

(b) An annual report will be made to the Administrator of the Environmental Protection Agency setting forth the name of each vessel used as a target vessel, its approximate tonnage, and the location and date of sinking.

§ 229.3 Transportation and disposal of vessels.

(a) All persons subject to Title I of the Act are hereby granted a general permit to transport vessels from the United States, and all departments, agencies, or instrumentalities of the United States are hereby granted a general permit to transport vessels from any location for the purpose of disposal in the ocean subject to the following conditions:

(1) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, the person desiring to dispose of a vessel under this general permit shall, no later than one month prior to the proposed disposal date, provide the following information in writing to the EPA Regional Administrator for the Region in which the proposed disposal will take place:

(i) A statement detailing the need for the disposal of the vessel;

(ii) Type and description of vessel(s) to be disposed of and type of cargo normally carried;

(iii) Detailed description of the proposed disposal procedures;

(iv) Information on the potential effect of the vessel disposal on the marine environment; and

(v) Documentation of an adequate evaluation of alternatives to ocean disposal (i.e., scrap, salvage and reclamation).

(2) Transportation for the purpose of ocean disposal may be accomplished under the supervision of the District Commander of the U.S. Coast Guard or his designee.

(3) Except in emergency situations, as determined by the U.S. Army Corps of

Engineers and/or the District Commander of the U.S. Coast Guard, appropriate measures shall be taken, prior to disposal, by qualified personnel to remove to the maximum extent practicable all materials which may degrade the marine environment, including without limitation, (i) emptying of all fuel lines and fuel tanks to the lowest point practicable, flushing of such lines and tanks with water, and again emptying such lines and tanks to the lowest point practicable so that such lines and tanks are essentially free of petroleum, and (ii) removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution.

(4) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, the dumper shall notify the EPA Regional Administrator and the District Commander of the U.S. Coast Guard that the vessel has been cleaned and is available for inspection; the vessel may be transported for dumping only after EPA and the Coast Guard agree that the requirements of paragraph (a)(3) of this section have been met.

(5) Disposal of these vessels shall take place in a site designated on current nautical charts for the disposal of wrecks or no closer than twenty-two kilometers (twelve miles) from the nearest land and in water no less than fifty fathoms (three hundred feet) deep, and all necessary measures shall be taken to ensure that the vessels sink to the bottom rapidly and that marine navigation is not otherwise impaired.

(6) Disposal shall not take place in established shipping lanes unless at a designated wreck site, nor in a designated marine sanctuary, nor in a location where the hulk may present a hazard to commercial trawling or national defense (see 33 CFR 205).

(7) Except in emergency situations, as determined by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard, disposal of these vessels shall be performed during daylight hours only.

(8) The Captain-of-the-Port (COTP), U.S. Coast Guard, and the EPA Regional Administrator shall be notified forty-eight (48) hours in advance of the proposed disposal. In addiiton, the COTP and the EPA Regional Administrator shall be notified by telephone at least twelve (12) hours in advance of the vessel's departure from port with such details as the proposed departure time and place, disposal site location, estimated time of arrival on site, and the name and communication capability of the towing vessel. Schedule changes are to be reported to the COTP as rapidly as possible.

(9) The National Ocean Survey, NOAA, 6010 Executive Blvd., Rockville, MD 20852, shall be notified in writing, within one week, of the exact coordinates of the disposal site so that it may be marked on appropriate charts.

(b) For purposes of this Section, "land" means that portion of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone, which is in closest proximity to the proposed disposal site.

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