ORDER

I. *It is ordered,* That, subject to the prior approval of the Federal Trade Commission, respondent, through its officers, directors, agents, representatives and employees shall, as soon as possible, and in any event within two (2) years from the date of service upon it of this Order, divest absolutely and in good faith, all assets, properties, rights and privileges, tangible and intangible, presently owned or controlled by or hereafter assigned to Systems Wire and Cable, Inc. (excluding, however, receivables and inventories and any equipment, machinery, or other property presently located at Rome, New York) including but not limited to the plant operated by respondent and located at 3500 S. 30th Street, Phoenix, Arizona (hereinafter the "Plant") and all machinery, equipment and other property of whatever description located at the Plant and all customer lists, trade names, trademarks and good will acquired as a result of its acquisition of Systems Wire and Cable, Inc., and all additions and improvements thereto of whatever description (hereinafter "Systems"), to a person, firm or corporation willing and able to operate the business now operated by Systems as a separate, independent and viable going concern in the manufacture and sale of semiflexible coaxial cable; *Provided however,* That if by the end of said two (2) year period respondent, after having made bona fide efforts to do so, has been unable to make such divestiture to a person, firm or corporation acceptable to the Federal Trade Commission then respondent shall be relieved of its obligation hereunder to make such divestiture, and shall be free to dismantle the Plant and dispose of it or any part thereof.

II. *It is further ordered,* That, if respondent is unable to sell or dispose of Systems for cash, nothing in this Order shall be deemed to prohibit respondent from retaining, accepting and enforcing in good faith any security interest therein, not to exceed five (5) years in duration, for the sole purpose of securing to respondent full payment of the price, with interest, at which Systems is sold or disposed of; *Provided, however,* That if after a good faith divestiture of Systems pursuant to this Order, respondent reacquires any of the divested assets by virtue of such security interest, respondent shall redivest such assets within six (6) months subject to the terms of Paragraph I of this Order.

III. *It is further ordered,* That none of the assets, rights or privileges to be divested pursuant to Paragraph I above, shall be transferred, directly or indirectly, to anyone who at the time of such divestiture is an officer, director, employee, or agent of, or under the control, direction or influence of respondent or any of its subsidiaries or affiliated corporations, or who owns or controls more than one (1) per cent of the outstanding shares of respondent's capital stock.

IV. *It is further ordered,* That pending divestiture, respondent shall not make any changes, other than in the ordinary course of business, or permit any deterioration in Systems which may impair its capacity for the manufacture, distribution or sale of semiflexible coaxial cable; *Provided, however,* That nothing in this Order shall prevent respondent from exercising reasonable business judgment with respect to conducting the business and operations of Systems pending divestiture, including the discontinuance of all operations at the Plant.

V. *It is further ordered,* That respondent shall cease and desist for the period beginning on the date of service of this Order and ending ten (10) years thereafter from acquiring, directly or indirectly, without prior approval of the Federal Trade Commission, one (1) percent or more of the stock or other share capital, of any domestic concern, corporate or non-corporate, which is engaged in the manufacture in the United States of semiflexible coaxial cable, or capital assets from such a concern pertaining to the manufacture of such cable.

VI. *It is further ordered,* That respondent shall within sixty (60) days after date of service of this Order, and every sixty (60) days thereafter until respondent has fully complied with the provisions of Paragraphs I and IV of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent has endeavored to comply with such provisions. All compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the property and assets specified in Paragraph I of this Order and the identity of all such persons and copies of all written communications to and from such persons. Respondent shall within one (1) year from the date of service of this Order, and every year thereafter until respondent has fully complied with the provisions of Paragraph V of this Order, submit in writing to the Federal Trade Commission a verified report setting forth the manner and form in which respondent has complied with Paragraph V of this Order.

VII. *It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation, which may affect compliance obligations arising out of this Order.

The Divestiture Order was issued by the Commission Jan. 23, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-6950 Filed 3-10-76;8:45 am]

[Docket No. C-2740]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Stereo Equipment Sales, Inc. t/a Baltimore Stereo Wholesalers, Etc., Et Al.

Codification under 16 CFR Part 13 appears at 40 FR 53552, Nov. 19, 1975.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Stereo Equipment Sales, Inc., a Corporation, Doing Business as Baltimore Stereo Wholesalers, Stereo Wholesalers and Stereo Discounters, and Benjamine Shumate, Individually and as an Officer of Said Corporation

Order modifying an earlier order dated Nov. 19, 1975, 87 F.T.C. ——, 40 FR 53552, by permitting respondents to omit the shipping weights of advertised items as long as respondents charge a flat percentage of the order price for shipping and handling.

The Order Reopening Proceeding and Modifying Order to Cease and Desist, is as follows: [1]

By petition dated December 18, 1975, respondents have requested the Commission to modify its order of October 21, 1975 to permit respondents to omit the shipping weights of advertised items as long as respondents charge a flat percentage of the order price for shipping and handling. The Bureau of Consumer Protection has filed an answer wherein it advises that it does not oppose respondents' request.

The Commission has duly considered respondents' request and has determined that it should be granted.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist be, and it hereby is, modified by striking Paragraph Four and substituting therefor the following:

4. Failing to disclose, in any brochures, flyers, catalogs, letters, oral representations or or other solicitations of orders which provide the purchaser with the means to order merchandise from respondents, with shipping weight of any of any of the items of merchandise offered; *Provided, however,* That the shipping weight need not be set forth on any items of merchandise for which the respondents charge a flat percentage of the order price for shipping and handling if that fact is clearly disclosed in accordance with Paragraph 5 of this Order.

The Order Reopening Proceeding and Modifying Order to Cease and Desist was issued by the Commission February 17, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-6951 Filed 3-10-76;8:45 am]

[1] Copies of the Order Reopening Proceeding and Modifying Order to Cease and Desist, filed with the original document.

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket Nos. R-411 and RM74-4]

PART 154—RATE SCHEDULES AND TARIFFS

Order on Rehearing Clarifying and Amending Prior Order and Granting Petition To Intervene

FEBRUARY 27, 1976.

In the matter of Accounting and Rate Treatment of Advances Included in Account No. 166, Advances for Gas Exploration, Development and Production.

On December 31, 1975, the Commission issued an order in this docket, which, inter alia, terminated the advance payment program in the lower 48 states, subject to conditions, and terminated the Alaskan advance payment program under Order No. 499 and ordered refunds of all amounts collected by the pipelines from their customers relating to Order No. 499 Alaskan advances.[1]

Applications for rehearing of the December 31, 1975, order were filed on January 28, 1976, by Calpetco[2] and Mobil Oil Corporation (Mobil); on January 29, 1976, by the Public Service Commission of the State of New York (New York); and on January 30, 1976, by Texas Eastern Transmission Corporation and Transwestern Pipeline Company (Texas Eastern and Transwestern), United Gas Pipe Line Company (United), Panhandle Eastern Pipe Line Company and Trunkline Gas Company (Panhandle and Trunkline), Atlantic Richfield Company (Arco) and Cities Service Gas Company (Cities). This order shall treat the issues raised in these pleadings on an issue-by-issue basis.

ISSUES RELATED TO TREATMENT OF ADVANCES MADE IN THE LOWER 48 STATES UNDER ORDERS 465 AND 499

Arco and Calpetco question the Commission's decision to end the advance payment program onshore in the lower 48 States. Specifically they argue that the Commission's order stated that the evidence in the investigation showed that the onshore portion of the program met the test of the Court in *Public Service Commission of the State of New York* v. *Federal Power Commission*, 511 F. 2d 338 (CADC 1975). They argue that in light of this finding by the Commission, it is irrational, and not within the ambit of Court's requirement of "reasoned decision making", for the Commission to then decide to terminate the onshore portion of the advance payment program. Arco and Calpetco also argue that it is no answer for the Commission to point to alternatives such as: Opinion No. 742[3] (which permits small producers, most of whom operate onshore, to collect a just and reasonable rate equal to 130% of the applicable area or national rate for large producers); the proposal in Docket No. RM75-14 to review new gas rates for producers; Order No. 749[4] which raised the flowing gas rates for producers; and the Commission's special relief procedures for producers. These alternatives, it is alleged, are insufficient to secure dedication of onshore reserves to the interstate market because of the price disparity between interstate and intrastate prices.

It should be noted that the primary issue raised by the Court's decision in this proceeding was whether or not the Commission acted properly in extending the advance payment program for one year in Order No. 465 and for two more years in Order No. 499. Thus, for the Commission to find, as it did in the December 31, 1975, order, that the onshore portion of the program met the Court's test in *New York, supra.*, for the contracts executed during the three years covered by Order Nos. 465 and 499 is not inconsistent with a decision to: (1) terminate that portion of the program with conditions and (2) not elect to extend the onshore advance payment program to contracts executed after the time and date of the December 31, 1975, order.

The Commission decided that the advance payments "experiment" onshore, while beneficial in enhancing the supply of natural gas to the interstate market, had served its purpose and that, as a matter of public policy, it was now necessary to return to more traditional means of capital formation for producers such as raising producer rates, rather than using capital advanced by pipelines. The Commission also noted that while its interpretation of the Court's test, and its evaluation of the evidence in light thereof, indicated that the onshore program was a critical and necessary factor in securing natural gas reserves for the interstate market, the inherent speculative nature of this type of evaluation casts serious doubts about the propriety of extending the onshore program, as suggested by Arco and Calpetco. For these reasons, as well as those stated in the December 31, 1975, order, it is found that the treatment of the onshore portion of the advance payment program in the lower 48 states in the December 31, 1975, order was reasonable and appropriate.

Arco argues that the Commission erred in terminating the offshore portion of the program in the lower 48 states. In support of its allegation, Arco notes that the December 31, 1975, order states (mimeo, p. 7) that producer responses showed that:

> * * * 1,020,244,370 Mcf of proven reserves out of a total of 7,827,619,800 Mcf associated with offshore advances could be said, with a high degree of certainty, to have reached the interstate market sooner as a result of advance payments made to offshore producers. * * *

Based upon this evidence, Arco questions how the Commission could determine that the offshore portion of the program failed to meet the Court test of showing sufficient quantificable acceleration of exploration, development, and production of offshore reserves.[5]

Arco's arguments are not persuasive. On the face of the producer responses discussed by Arco, it is clear that only about 1 out of every 7.8 Mcf of proven reserves from offshore areas dedicated to the interstate market were "accelerated" by the advance payment program. While the Commission, as stated in the December 31, 1975, order found that the offshore portion of the program was beneficial in several respects, it certainly was well within the bounds of reason for the Commission to find that the evidence resulting from the investigation of the offshore portion of the program, especially that cited by Arco as set forth above, was not sufficient to "meet the test laid down by the Court of Appeals for these proceedings" (mimeo, p. 9). This finding as well as the inherently speculative nature of the evidence adduced in this proceeding, which must be evaluated in light of the vigorous standards of the Court of Appeals tests, supports the reasonableness and propriety of the Commission's basic conclusion with respect to the offshore portion of the advance payments program in the lower 48 states, as set forth in the December 31, 1975, order.

In a related argument, Calpetco urges the Commission to either clarify, and if necessary, amend the December 31, 1975, order to permit rate base treatment of monies advanced under contracts executed after the time and date of issuance of the December 31, 1975, order if such monies were in the form of "prepayments," as opposed to "advance payments." Calpetco defines "advance payments" as monies advanced to producers for exploration and development, whereas "prepayments" are monies advanced by a pipeline to a producer for proven reserves prior to the date deliveries commence. Calpetco argues that rate base treatment for "prepayments" under new contracts must be allowed to, inter alia, allow interstate pipelines to compete with intrastate purchasers for onshore gas, especially that sold by small producers such as Calpetco.

Calpetco's definition of "prepayments" is indentical to the Commission's definition of advances for production, or proven reserves. Advances for produc-

[1] On December 31, 1975, the Commission also issued an order in Docket No. RP76-49 requiring pipelines which made pre-Order No. 499 Alaskan advances to show cause why the treatment given Order No. 499 Alaskan advances should not also be accorded pre-Order No. 499 Alaskan advances.

[2] On January 28, 1975, Calpetco also filed a late petition to intervene.

[3] —— FPC —— issued August 28, 1975, in Docket No. R-393.

[4] —— FPC —— issued December 31, 1975, in Docket No. R-478.

[5] As indicated in the December 31, 1975, order, because of the scope of the Commission's jurisdiction over offshore production, the question of whether or not the offshore reserves would be dedicated to the interstate market would not be relevant.

tion, as well as for exploration and development, were clearly the subject of Orders 465 and 499, as well as the Commission's investigation on remand from the Court of Appeals. Clearly the findings of the Court, in its Opinion, as well as those of this Commission in its December 31, 1975, order were intended to, and did in fact cover advances for production which Calpetco terms "prepayments."

We do note, however, that rate base treatment will continue for prepayments as defined by the Uniform System of Accounts. These payments were permitted rate base treatment prior to the issuance of Order 410 in October 2, 1970, in Docket No. R-380 [6] and have been considered separately from advance payments. Thus, the accounting and ratemaking treatment accorded to prepayments, as defined in Account 165 below, remain unchanged by the Commission's December 31, 1975, order:

165 Prepayments

A. This account shall include payments for undelivered gas and other prepayments of rents, taxes, insurance, interest and like disbursements made prior to the period to which they apply. Prepayments for gas are those amounts paid to a seller of gas under "take or pay" provisions of a gas purchase contract for a sale *certified by the Commission* where future make-up of gas not taken in the current periods is provided for by the contract. (emphasis added)

B. As the periods covered by such prepayments expire, credit this account and charge the proper operating expense or other appropriate account with the amount applicable to the period.

C. This account shall be kept or supported in such a manner as to disclose the amount of each class of prepayments.

Mobil requests clarification of the condition in the December 31, 1975, order which prohibits addition of new tracts or prospects to Order Nos. 465 and 499 advance payments contracts in the lower 48 states after the time and date of issuance of the December 31, 1975, order in this proceeding. Mobil is concerned that this condition might be construed to prohibit additional advances on unexplored lands covered by an advance payment contract.

The Commission's intent in attaching that condition to Order Nos. 465 and 499 advances made in the lower 48 states was to prohibit the addition of acreage or lands not already covered by the advance payment contract to the contract after the time and date of the December 31, 1975, order. It was not intended to prohibit advances on acreage, land, prospects or tracts covered by the contract.

Mobil and United argue that the Commission erred in prohibiting rate base treatment for advances made after December 31, 1980, pursuant to advance payments contracts which are subject to Order Nos. 465 and 499. Mobil argues that such a "retroactive" change should not be imposed on pipelines who executed "lawfully documented agreements" with producers. Moreover, Mobil argues that certain pipelines may lose "first call" rights on the gas covered by the contract if the contract calls for the pipeline to advance money after December 31, 1980, and the pipeline, because of the prospect of no rate base treatment for such advance, declines to advance the money. United concurs with Mobil's assertions and alleges further that although certain pipelines (such as United) opposed the advance payment program, they were compelled to make advances to compete with other interstate pipelines for gas. United further argues that: there is no rational basis for the cutoff; the "open-ended" type contracts which would require advances to be made after December 31, 1980, were entered into by the pipelines to meet the requirement of the Commission Staff that advances be reasonably related to producer costs; and that advance payments costs, like capital costs for utility plant, "must" be recovered.

In contrast to these allegations that the December 31, 1975, order is unduly harsh in its impact on the pipelines, as well as on the producer industry, New York argues that the Commission should require all independent producers who have received advances from pipelines pursuant to Order Nos. 465 and 499 contracts in the lower 48 states, to repay with interest on any advance payments balances outstanding as of January 1, 1976, as well as any advances made after that date pursuant to Order Nos. 465 and 499 contracts in the lower 48 states. New York states that this is necessary to prevent, in effect, unjust enrichment of the producers through the advance payment program.

The Commission's December 31, 1975, order represents an attempt to terminate an ongoing program in such a manner so as to balance the interests of consumers with the interests of the pipelines and the producers. Consumers were protected from paying excessive costs related to a terminated program by the conditions relating to the 5 year cutoff and to the limitation with respect to addition of new lands to existing contracts. On the other hand, the Commission recognized that abrupt termination of the program in the lower 48 states might cause severe hardship to the pipelines. As to the producers, they may continue to receive advances through December 31, 1980, and the Commission has recognized that alternate regulatory methods are available to elicit necessary gas supplies. The Commission in issuing the December 31, 1975, order correctly weighed the equities involved in ending the program in the lower 48 states and acted accordingly. In light of this, the suggestions of Mobil, United and New York discussed above will not be adopted.

In a related matter, Mobil suggests that the Commission firmly reject the position taken by the Commission Staff in several pipeline rate cases that in order for advances under Order Nos. 465 and 499 to be considered reasonable and appropriate for rate base treatment, they must be shown to be reasonably related to costs incurred by the producer within 30 days of the date the pipeline makes the advance. Mobil argues that 30 days is too short a period of time and does not comport with the practice of the industry. Mobil suggests use of a 1 year time period in lieu of Staff's 30 day period.

Based upon the record before the Commission in this investigation, there is insufficient evidence to indicate what period of time would be reasonable in all cases, or even in most cases, involving this issue. Accordingly, the time period for "reasonableness and appropriateness" of advance payments will continue to be evaluated on a case by case basis.

New York alleges that the Commission erred in not changing the rate treatment accorded advances made by a pipeline where either the pipeline or pipeline affiliate acquire a working interest as a result of an advance payment. Under Order Nos. 465 and 499, advances resulting in the acquisition of a working interest by a pipeline-affiliate would receive rate base treatment and under Order No. 499, advances resulting in the acquisition of a working interest by the pipeline itself would also receive rate base treatment. Furthermore, under both orders, the pipeline or its affiliate, as applicable, were permitted to keep all revenues received as a result of the working interest. New York argues that the Commission has failed to explain the continuation of this treatment of working interests resulting from advance payments, as required by the Court's opinion. New York therefore urges the Commission to amend the December 31, 1975, order to credit the revenues received from such working interests to the pipeline's cost of service so as to reduce consumers' costs related thereto.

Further review of the record in this investigation, including the pleadings filed by New York herein, indicates that the December 31, 1975, order should be amended to provide for the crediting of revenues received from a working interest [7] acquired by a pipeline or a pipeline affiliate as a result of an advance payment made by the pipeline; *Provided, that,* such revenues are received after the date of issuance of the instant order. The record evidence does not support continuation of the treatment prescribed in Order Nos. 465 and 499. However, it would be inequitable to require refunds of revenues received for past periods when the parties acted in good faith reliance upon the then existing rules. Accordingly, we shall amend our December 31, 1975, order to provide that any revenues received after February 27, 1976, by a pipeline or its affiliate from a working interest acquired as a result of an advance payment shall be credited to the cost of service, as would the benefits received from an economic interest,[8] consistent with the accounting treatment prescribed in Paragraph G of Account 166 in Order No. 499 for advances sub-

[6] 44 FPC 1142 (1970).

[7] See page 5, footnote 4 of the December 31, 1975, order for the definition of a working interest.

[8] See December 31, 1975, order, mimeo p. 5, footnote 4.

ject to that order and Paragraph G of Order No. 465 for advances subject to that order.

New York also urges that the December 31, 1975, order be amended to provide for some form of refund to the consumer where a pipeline makes an advance payment to its affiliated producer. New York argues that this type of transaction is analogous to the situation discussed above where a pipeline or its affiliate acquire a working interest as a result of an advance payment, and therefore an appropriate refund to consumers should be ordered.

New York's argument is not persuasive. To adopt New York's position would be to treat pipeline affiliated producers differently from independent producers, contrary to Opinion No. 568.[9] It can be argued, as New York has successfully done in the U.S. Court of Appeals in this proceeding, that allowing a pipeline or its affiliate to retain the benefits of a working interest in a venture with an independent producer acquired as a result of an advance payment is improper, and may in fact give some advantage to the pipeline affiliated producer, as compared with the independent producer in a more traditional advance payment arrangement. However, to require some sort of crediting to cost of service of benefits received from an advance payment made to an affiliate would be discriminatory vis-a-vis independent producers receiving advances from pipelines.

The effect of granting New York's request would be to, in effect, terminate the advance payment program insofar as it relates to rate base treatment for advances made by pipelines to their affiliates. In view of the discriminatory aspects of this proposal, as discussed above, as well as the late juncture of the Commission's investigation at which New York has raised this novel construction of the Court's decision regarding treatment of advances resulting in working interests, and the fact that the program has now been terminated, New York's proposal on this matter will not be adopted.

Cities Service argues that there is an inconsistency between the cutoff of addition of new prospects and tracts as of midnight December 31, 1975 whereas the cutoff regarding contracts is as of the time and date of issuance of the order. Cities argues that the cutoff for both should be as of midnight, December 31, 1975. Cities notes that on December 31, 1975, several onshore contracts were executed with producers which will yield an estimated 1 trillion cubic feet of gas for Cities feet system. Cities argues that the Commissions' language referring to allowing the advance payment program in the lower 48 states to "expire by its own terms * * *" envinces an intent to permit rate base treatment for advances made pursuant to contracts executed up to midnight, December 31, 1975, rather than cutting off the program as of the time and date of the order.

The intent of the December 31, 1975, order was to terminate the advance program as of the time and date of the order such that advances made pursuant to contracts executed after the time and date of the December 31, 1975, order would be denied rate base treatment. Furthermore, it was the intent of that order to deny rate base treatment to advances made on prospects or tracts added to the contract after the time and date of the order. The purpose of these two provisions was to prevent a last minute execution of new contracts and contract amendments by parties after such parties had read the Commission's order. As Cities correctly argues, the time for both provisions should be the same. Attached as Appendix A hereto is a copy of the December 31, 1975, order which was posted in the Commission's Office of Public Information at 10:49 a.m., e.s.t. on December 31, 1975.

In light of the above, Ordering Paragraph (C) of the December 31, 1975, order should be clarified and amended to read as follows:

(C) Except as provided in Ordering Paragraph (B) above with respect to Alaskan advances, the advance payments program shall expire as of 10:49 a.m., e.s.t. on December 31, 1975, the time and date of this order such that rate base treatment shall not be permitted for advances made pursuant to contracts executed after the time and date of issuance of this order, *Provided, further,* That no rate base treatment will be accorded to advances under contracts subject to Order Nos. 465 and 499 in the prospects or tracts added to the advance payment contract on or after 10:49 a.m. lower 48 states which advances are for e.s.t. on December 31, 1975, the time and date of issuance of this order; and *Provided, further,* That rate base treatment shall be denied for advances made under contracts under Order Nos. 465 and 499 where such advances are made after December 31, 1980.

Alaskan Advances Subject to Order No. 499

Texas Eastern and Transwestern, Panhandle and Trunkline, and Arco allege that the Commission erred in terminating and ordering refunds with respect to the advance payment program in Alaska under Order No. 499. They argue that the Commission should amend the December 31, 1975, order to permit rate base treatment for advances made pursuant to contracts which are subject to Order No. 499 because, inter alia, the pipelines involved need the Alaskan gas to offset curtailments from domestic suppliers, and large amounts of capital are needed to develop Alaskan reserves. Arco argues that as a consequence of the December 31, 1975, order, one of the "interest payments" arrangements between Arco and Pacific Lighting Gas Development Company has been terminated and the Exxon-Pacific Gas & Electric (PG&E) "interest payments" arrangement will probably be reconsidered by the California Public Utilities Commission (CPUC).

Arco also alleges that the Commission's decision to terminate and order refunds with respect to the Alaskan advance payment program under Order No. 499 was not based upon a reasoned analysis of the evidence submitted in the Commission's investigation and therefore is not consistent with the Court's decision. They state that Appendix B, Schedules I and II, show that of the 9,361,600,000 Mcf of proven reserves attributable to Alaskan advances, 6,030,800,000 Mcf or 64.42% were "accelerated by advances"; 3,300,000,000 Mcf or 32.25% were developed because advance payments offset insufficient amounts of capital resources on the part of the producers; and that the remaining 30,800,000 Mcf or .33% of the proven reserves would not have been developed absent the advances because of low gas prices, marginal well productivity and the high risks associated with the project. Thus, Arco states that "Staff's own analysis" indicates that the Alaskan advance payment program either "accelerated or was a vital and necessary factor in securing dedication to the interstate market of 100% of the reported Alaskan proved reserves."

Furthermore, Arco states that the Commission cannot use the argument that all, or almost all, of the Alaskan gas will go to the interstate market even without advances because the aforementioned evidence shows that approximately 36% of the proven reserves would not have been developed absent advance payments.

Arco also challenges the Commission statement that the recipients of Alaskan advances under Order No. 499, specifically Exxon and Arco, have already demonstrated their ability to raise capital on their own by the fact that both of the recipients have entered into "interest payments" arrangements whereby they would not receive advance payments, but would raise the capital on their own, and charge the respective future purchasers the interest on such capital in return for gas to be delivered at a future date. Arco alleges that in its "interest payment" agreement with PLGD it had to sell a "portion of its own assets in the form of a production payment to supply the funds which PLGD could not provide."

New York has responded to these arguments stating that the evidence averted to by Arco is based upon a compilation of producer responses which are self-serving and must be looked upon as establishing the "outer limits of the claims for the program which upon any detailed analysis would obviously be substantially reduced." New York states (pleadings, pp. 1–2, footnote 1) that a comparison of Schedule VI, page I of Appendix C with Schedule I of Appendix B (which is cited by Arco) indicates that a majority (6,000,000,000 Mcf) of the 6,030,800,000 Mcf of Alaskan proven reserves said to be accelerated by the Alaskan advance payment program are related to a $175,000,000 advance made by Columbia Gas Transmission Corporation (Columbia) to Sohio Petroleum Company

[9] 42 FPC 743, 752 (1969), *reh. denied*, 42 FPC 1089, *aff'd. City of Chicago* v. *F.P.C.* 458 F. 2d 731 (1971).

(Sohio) for casinghead gas in Prudhoe Bay being developed in conjunction with exploration for oil. There is no indication, New York continues, that Sohio could or would delay deliveries of this gas absent advance payments when the gas pipeline is finally constructed.

The arguments of Arco, Texas Eastern and Transwestern, and Panhandle and Trunkline are not persuasive. As New York points out, the claim that over 6 million Mcf of proven reserves have been should be viewed in a skeptical manner. Moreover, we note that the number of Alaskan respondents is much less than the number for the onshore and offshore areas in the lower 48 states. Moreover, the Commission remains convinced that, in any event, it is not in the public interest to allow certain pipelines and distributors to tie up Alaskan reserves to the exclusion of others. Furthermore, as indicated in the December 31, 1975, order, all of the Alaskan contracts have "escape clauses" which protect the parties to the contracts from adverse financial consequences. In light of the above, no change will be made in the December 31, 1975, order regarding Alaskan advances.

Panhandle and Trunkline argue that the Commission is without legal authority to order Panhandle to remove Alaskan advances from its rate base because the Alaskan advance included in Panhandle's rates complies with Order No. 499 and the provisions of Panhandle's settlement agreement approved by order issued August 30, 1974, in Docket No. RP73–108 which permitted tracking of advance payments. Panhandle argues that Article V of the settlement agreement in Docket No. RP73–108 requires a hearing prior to removing an advance from Panhandle's rate base. Panhandle thus argues that the $16.4 million advance payment to Arco which was permitted to be included in Panhandles rate base by order issued July 31, 1975, in Docket No. RP73–108 cannot simply be removed from rate base because (1) an order on rehearing was issued October 9, 1975, in Docket No. RP 73–108 conditioning final approval of the advance on the outcome of the investigation in Docket Nos. 8–411 and RM74–4 and (2) the December 31, 1975, order requires removal from rate base and refunds related to all Order No. 499 Alaskan advances. Panhandle states that it is entitled to a hearing under the governing settlement agreement prior to the removal of the advance from rate base to assure Panhandle due process of law.

Panhandle's allegations are not convincing. Panhandle's authority to include Alaskan advances in its rate base under contracts executed on or after December 28, 1973, came primarily from Order No. 499, which has never become final and non-appealable because of the Court's opinion remanding that order (as well as Order No. 465) to the Commission for further investigation. The Commission found that the Alaskan portion of the program under Order No. 499 did not meet the Court's test and ordered termination of rate base treatment and refunds related to all Alaskan advances made under Order No. 499, including those made by Panhandle. Panhandle was afforded due process in that it was given notice in the Notice of Oral Argument issued September 16, 1975, which indicated that the Commission was considering, inter alia, refunds by pipeline to their customers of amounts collected related to all Orders Nos. 465 and 499 advances, including Alaskan advances under Order No. 499. Panhandle was represented by counsel at the oral argument which was held before the Commission on Thursday, October 23, 1975.[10] Furthermore, Panhandle filed comments as a respondent in the overall investigation. Therefore, Panhandle has been accorded due process with respect to its Alaskan advances and its request for rehearing will therefore be denied.

Finally, Arco argues that the Commission erred in ordering refunds of amounts collected relating to Order No. 499 Alaskan advances. Arco states that the Commission action represents retroactive ratemaking contrary to *F.P.C.* v. *Hope Natural Gas Company*, 320 U.S. 591, 618 (1944) and contrary to *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 233 (1965). Even if the Commission had the authority to order refunds, Arco argues that the Commission did not act in an equitable manner, as required by *F.P.C.* v. *Sunray, et al.*, 391 U.S. 9, 41–42 (1968).

The Commission does not concur with Arco's allegations. The Commission stated in the December 31, 1975, order:

> We agree with New York and Louisiana Land that the appropriate test for deciding whether or not to order refunds is a balancing of the equities, rather than a *per se* legal test.[10] However, based upon a review of the equities, we do not find that refunds from either the pipelines or the producers would be in the public interest. First of all, as we noted above, there was evidence filed which shows that the program was in part a success, as for some of the offshore advances, as well as a higher proportion of the onshore advances. Moreover, ordering the pipelines to make refunds would impose a tremendous financial hardship on the pipelines because there is no guarantee whatsoever that the pipelines would be reimbursed by the producers for the carrying charges the pipelines would have to refund to their customers. Furthermore, we note that the U.S. Court of Appeals turned down the suggestion of the New York Commission that rate base treatment for advance payments be terminated and permitted the advance payment program to remain in effect pending the Commission's investigation of the program on remand. For all of the aforestated reasons, we find that using the *Consumers'* test, the equities weigh against requiring refunds of carrying charges related to advances made under Orders 465 and 499.

Upon review of the December 31, 1975, order, as well as the cases and arguments, set forth by Arco, it has been determined that the Commission correctly balanced the equities in ordering refunds for Alaskan advances, while not ordering refunds for lower 48 states advances.

[10] See Transcript of Oral Agreement, Volume No. 1 (Part 1 of 2), pp. 72–98.

[10] See: *Consumer Federation* v. *F.P.C.*, 515 F. 2d 347 (CADC 1975).

The Commission finds: (1) Good cause exists to amend the December 31, 1975, order as hereinafter provided, and to deny the applications for rehearing filed herein to the extent not specifically granted by this order.

(2) Participation by Calpetco in this proceeding may be in the public interest.

The Commission orders: (A) Ordering Paragraph (C) of the Commission's December 31, 1975, are in Docket Nos. R–411 is amended to read as follows:

(C) Except as provided in Ordering Paragraph (B) above with respect to Alaskan advances, the advance payments program shall expire as of 10:49 a.m., e.s.t. on December 31, 1975, the time and date of this order such that rate base treatment shall not be permitted for advances made pursuant to contracts executed after the time and date of issuance of this order, *Provided, further,* That no rate base treatment will be accorded to advances under contracts subject to Order Nos. 465 and 499 in the lower 48 states which advances are for prospects or tracts added to the advance payment contract on or after 10:49 a.m., e.s.t. on December 31, 1975, the time and date of issuance of this order; and *Provided, further,* That rate base treatment shall be denied for advances made under contracts under Order Nos. 465 and 499 where such advances are made after December 31, 1980.

(B) The December 31, 1975, order is further amended to provide for the addition of the following ordering paragraph:

(E) Any revenues received after February 27, 1976, by a pipeline or its affiliate from a working interest acquired as a result of an advance payment shall be credited to the cost of service, as would the benefits received from an economic interest, as defined by footnote 4 of the December 31, 1975, order issued in Docket Nos. R–411 and RM74–4, consistent with the accounting treatment prescribed in Paragraph G of Account 166 in Order No. 499 for advances subject to that order and Paragraph G of Order No. 465 for advances subject to that order.

(C) The December 31, 1975, order is further amended to provide for the addition of the following ordering paragraph:

(F) *Statement E—Working Capital,* in paragraph (f) *Description of Statements,* of § 154.63 in part 154, Rates Schedules and Tariffs, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising the date following the words "prior to" in item (b) in the first sentence of the second paragraph from "January 1, 1976," to "10:49 A.M., e.s.t. on December 31, 1975." As amended, this portion of Statement E reads:

§154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(f) *Description of Statements.* * * *

Statement E—Working Capital. * * *

The components or working capital may include (a) * * * (b) an allowance for the average of 13 monthly balances of material and supplies, prepayments, the unre-

covered portion of advances to supplies in Account made under contracts executed prior to 10:49 A.M. E.S.T. on December 31, 1975, and gas for current delivery from underground storage. * * *

* * * * *

(D) To the extent not granted in Ordering Paragraphs (A) and (B) above, the applications for rehearing of our December 31, 1975, orders are hereby denied.

(E) The above-named petitioner, is permitted to intervene in this proceeding as hereinbefore discussed, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that he might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission. Commissioner Watt, concurring in part and dissenting in part, filed a separate statement, as a part of the original document.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-6892 Filed 3-10-76;8:45 am]

Title 20—Employees, Benefits

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

[Reg. No. 10]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS (1969 .....)

Representation of Parties, Time Limit for Petitioning for Approval of Attorney Fees

On November 5, 1975, there was published in the FEDERAL REGISTER (40 FR 51475) a Notice of Proposed Rule Making with proposed amendments to Subpart F, Regulations No. 10. The proposed amendments would provide: (1) for administrative review of initial approvals of attorney fees subsequent to the expiration of the time limitation for requesting such review, and (2) for the establishment of a time limitation on filing of petitions for approval of fees when past-due benefits are being withheld. These amendments will make treatment of attorneys' fees in "black lung" claims consistent with treatment of attorneys' fees in social security claims.

The present regulations preclude any administrative review of a fee determination upon failure on the part of either the representative or the claimant to request such review within the prescribed 30-day time limit under any circumstances. The proposed amendment makes this provision more flexible and permits review upon showing of good cause for not filing the request timely. Examples of what constitutes "good cause" are also included.

The present regulations do not provide a time limitation for filing a petition for approval of a fee so that, technically, a portion of past-due benefits must be withheld indefinitely. The proposed amendment remedies this by providing that, if a petition is not filed within 60 days of the notice of a favorable determination, the attorney representing the claimant will be notified that, if he does not file a petition or a request for extension of time within 20 days of the date of such notice, the funds being withheld will be released to the claimant. If no such petition is filed upon the expiration of the 20-day period or the period for which an extension of time was granted, the Social Security Administration may release the funds.

Interested parties were given the opportunity to submit, within 30 days, any data, views, or arguments with regard to the proposed changes. The comment period has expired and no comments were received. The changes in the regulations are made to correct typographical errors and omissions which occurred in their printing on November 5, 1975.

Accordingly, the proposed amendments are hereby adopted as set forth below.

(Secs. 411(a), 413(b), 426(a), and 508 of the Federal Coal Mine Health and Safety Act of 1969, as amended, 83 Stat. 793, as amended; 83 Stat. 794, as amended, 83 Stat. 798; 83 Stat. 803, 30 U.S.C. 921(a), 923(b), 936(a), and 957)

Effective date: The amendments shall be effective March 11, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.806, Special Benefits for Disabled Coal Miners)

Dated: February 17, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 5, 1976.

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

Part 410 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 410.686b is amended by revising paragraph (e) to read as follows:

§ 410.686b Fee for services performed for an individual before the Social Security Administration.

* * * * *

(e) *Administrative review of fee determination.* (1) *Request timely filed.* Administrative review of a fee determination will be granted if either the representative or the claimant files a written request for such review at an office of the Social Security Administration within 30 days after the date of the notice of the fee determination. The party requesting the review shall send a copy of the request to the other party. An authorized official of the Social Security Administration who did not participate in the fee determination in question will review the determination. Written notice of the decision made on the administrative review shall be mailed to the representative and the claimant at their last known addresses.

(2) *Request not timely filed.* Where the representative or the claimant files a request for administrative review, in accordance with paragraph (e) (1) of this subsection, but files such request more than 30 days after the date of the notice of the fee determination, the person making the request shall state in writing the reasons why it was not filed within the 30-day period. The Social Security Administration will grant the review only if it determines that there was good cause for not filing the request timely. For purposes of this section, "good cause" is defined as any circumstance or event which would prevent the representive or the claimant from filing the request for review within such 30-day period or would impede his efforts to do so. Examples of such circumstances include the following:

(i) The representative or claimant was seriously ill or had a physical or mental impairment and such illness prevented him from contacting the Social Security Administration in person or in writing;

(ii) There was a death or serious illness in the individual's family;

(iii) Pertinent records were destroyed by fire or other accidental cause;

(iv) The representative or claimant was furnished incorrect or incomplete information by the Social Security Administration about his right to request review;

(v) The individual failed to receive timely notice of the fee determination;

(vi) The individual transmitted the request to another government agency in good faith within such 30-day period and the request did not reach the Social Security Administration until after such period had expired.

2. Section 410.686c is amended by adding paragraph (c) to read as follows:

§ 410.686c Petition for approval of fee.

* * * * *

(c) *Time limit for filing petition for approval of attorney fee.* In order for an attorney to receive direct payment of a fee authorized by the Social Security Administration from a claimant's past-due benefits (see § 410.686d(b)), the petition for approval of a fee, or written notice of the intent to file a petition, should be filed with the Social Security Administration within 60 days of the date the notice of the determination favorable to the claimant is mailed. Where no such petition is filed within 60 days after the date such notice is mailed, written notice shall be sent to the attorney and the claimant, at their last known addresses, that the Social Security Administration will certify for payment to the claimant all the past-due benefits unless the attorney files within 20 days from the date of such notice a written petition for approval of a fee pursuant to paragraphs (a) and (b) of this section, or a written request for an extension of time. The attorney shall send to the claimant a copy of any request for an extension of time. Where the petition is not filed within this time, or by the last day of any extension approved, the Social Security Administra-

tion may certify the funds for payment to the claimant. Any fee charged thereafter remains subject to Social Security Administration approval but collection of any such approved fee shall be a matter between the attorney and his client.

3. Section 410.686d is amended by revising paragraph (b)(1) and adding new paragraph (c) to read as follows:

§ 410.686d Payment of fees.

* * * * *

(b) *Fees authorized by the Social Security Administration.*

(1) *Attorneys.* Except as provided in § 410.686c(c), in any case where the Social Security Administration makes a determination favorable to a claimant who was represented by an attorney as defined in § 410.685(a) in a proceeding before the Social Security Administration and as a result of such determination past-due benefits, as defined in § 410.686b (c), are payable, the Social Security Administration shall certify for payment to the attorney, out of such benefits, whichever of the following is the smallest:

(i) Twenty-five percent of the total of such past-due benefits;

(ii) The amount of attorney's fee set by the Social Security Administration, or

(iii) The amount agreed upon between the attorney and the claimant.

* * * * *

(c) *Responsibility of the Social Security Administration.* The Social Security Administration assumes no responsibility for the payment of a fee based on a revised determination where the request for administrative review was not filed timely. (See paragraph (b) of this section for payment of attorney fees authorized by the Social Security Administration.)

[FR Doc.76-6971 Filed 3-10-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Furosemide Injection

The Food and Drug Administration is amending the new animal drug regulation (21 CFR 522.1010) to state the proper dosages of furosemide injection for use in horses and cattle, effective March 11, 1976. In this regulation published in the FEDERAL REGISTER of December 31, 1975 (40 FR 60051), the dosages of the drug were incorrectly reflected.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 522 is amended in § 522.1010 by revising paragraph (c) to read as follows:

§ 522.1010 Furosemide injection.

* * * * *

(c) *Conditions of use*—(1) *Dogs and cats.* (i) It is used for the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(ii) The drug is administered intramuscularly or intravenously at a dosage of 12.5 to 25 milligrams per 10 pounds of body weight; once or twice daily after a 6- to 8-hour interval. The lower dosage is suggested for cats. The dosage should be adjusted to the individual animal's response. In refractory or severe edematous cases, the dosage may be doubled or increased by increments of 1 milligram per pound of body weight to establish the effective dose. The established effective dose should be administered once or twice daily on an intermittent daily schedule. Diuretic therapy should be discontinued after reduction of edema, or when necessary, maintained after determining a programmed dosage schedule to prevent recurrence.

(2) *Horses.* (i) It is used for the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(ii) The drug is administered intramuscularly or intravenously at a dosage of 250 to 500 milligrams per animal once or twice daily at 6- to 8-hour intervals until desired results are achieved.

(iii) Do not use in horses intended for food.

(3) *Cattle.* (i) It is used for the treatment of physiological parturient edema of the mammary gland and associated structures.

(ii) The drug is administered intramuscularly or intravenously at a dosage of 500 milligrams per animal once daily or 250 milligrams per animal twice daily at 12-hour intervals, treatment not to exceed 48 hours postparturition.

(iii) Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food.

(iv) Cattle must not be slaughtered for food within 48 hours following last treatment.

(4) The drug if given in excessive amounts may result in dehydration and electrolyte imbalance.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment shall become effective March 11, 1976.

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

Dated: March 5, 1976.

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

[FR Doc.76-6901 Filed 3-10-76;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Virginiamycin; Correction

In FR Doc. 76-1755 published in the FEDERAL REGISTER of January 21, 1976 (41 FR 3079), the use of the term "feed products" is incorrect. The term should read "feed supplements." This document corrects the regulations to insert the term "feed supplements," effective March 11, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), § 558.635 *Virginiamycin* is corrected in paragraph (e)(3) by changing "feed product" to read "feed supplements."

Dated: March 5, 1976.

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

[FR Doc.76-6902 Filed 3-10-76;8:45 am]

[FAP4H5053/T10; FRL 502-4]

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

2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-Benzofuranyl Methanesulfonate

On February 11, 1975, the Environmental Protection Agency (EPA) announced (40 FR 6325) that, in response to a petition (FAP 4H5053) submitted by Fisons Corp., Agricultural Chemicals Div., Two Preston Court, Bedford MA 01730, a food additive regulation had been established to permit the experimental use of the herbicide 2-ethoxy-2,3-dimethyl-5-benzofuranyl methanesulfonate on growing sugar beets with a tolerance of 0.5 part per million (ppm) for residues of the herbicide and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in sugar beet molasses, in accordance with a temporary permit that was issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Fisons Corp. has subsequently requested a two month extension of this tolerance, which expired February 4, 1976.

The scientific data provided in the petition and other relevant material have been evaluated. Residues of the herbicide will result in sugar beet molasses from the uses as provided for by the temporary permit issued under FIFRA, and it has been determined, therefore, that the extension of the tolerance requested by the petitioner will protect the public health, and that 21 CFR 561.235 should

be amended by extending the expiration date of the tolerance as requested.

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

Effective on March 11, 1976.

Dated: March 5, 1976.

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

AUTHORITY: Section 409(c) (1) and (4) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(c) (1) and (4)].

Section 561.235 is revised by extending the expiration date of the tolerance of 0.5 part per million in sugar beet molasses to April 4, 1976, as follows:

§ 561.235 2-ethoxy-2,3 - dihydro - 3,3-dimethyl-5-benzofuranyl methanesulfonate.

A tolerance of 0.5 part per million is established for combined residues of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl - 5 - benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in sugar beet molasses. Such residues may be present therein only as a result of application of the herbicide in accordance with the temporary permit which expires April 4, 1976. Residues not in excess of this tolerance remaining after expiration of this temporary permit will not be considered actionable if the herbicide has been legally applied during the term of and in accordance with the provisions of the temporary permit and feed additive tolerance.

[FR Doc.76-7024 Filed 3-10-76;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0181]

AMENDMENTS TO CLARIFY AND UPDATE CERTAIN REGULATIONS

The Food and Drug Administration (FDA) is conducting a review of the existing regulations governing biological products to assure that the criteria of safety, purity, potency, and efficacy established by the regulations are updated to remain consistent with the judgment of the scientific community. Incidental to the review, the Commissioner of Food and Drugs finds that a number of nonsubstantive amendments should be made to update and clarify certain regulations, effective March 11, 1976.

A discussion of the amendments follows:

1. Paragraph (b) of § 600.11 *Physical establishment, equipment, animals, and care* (21 CFR 600.11(b)) requires that all surfaces that come in contact with products shall be clean and free of extraneous material. The Director, Bureau of Biologics, Food and Drug Administration, considers "extraneous material" to be surface solids, leachable contaminants, and other materials that will hasten deterioration of the product or otherwise render it less suitable for the intended use. This wording is used in paragraph (h) of § 600.11, which refers to cleanliness of final containers and closures. Because it affords manufacturers and the general public a better description of the standards of cleanliness that manufacturers are expected to maintain with regard to equipment used to produce biological products, the Commissioner is amending § 600.11(b) to delete "extraneous material" and substitute the wording used in § 600.11(h).

2. By an order published in the FEDERAL REGISTER of August 1, 1974 (39 FR 27795), certain biological products were deleted from § 610.53 *Dating periods for specific products* (21 CFR 610.53) because the licenses for these products had been revoked in response to the manufacturers' notices of intent to discontinue manufacture. However, a number of the products deleted from § 610.53 remain listed under other sections in 21 CFR Parts 600 and 610. Since licenses for the products have been revoked and the products are no longer being manufactured, nor are they intended for manufacture in the foreseeable future, references to the products should be deleted. Accordingly, the Commissioner concludes that the following items should be deleted wherever they appear in §§ 600.13, 610.12, 610.13, 610.20 and 610.21 (21 CFR 600.13, 610.12, 610.13, 610.20 and 610.21): Antihemophilic Plasma (Human), Anti-Hemophilus Influenza Type b Serum, Anti-Influenza Virus Serum for the Hemagglutination Inhibition Test, Dysentery Antitoxin (Shiga), Normal Human Plasma, Normal Rabbit Serum, Scarlet Fever Streptococcus Antitoxin and Scarlet Fever Streptococcus Toxin.

3. The sterility of most biological products must be demonstrated as prescribed in § 610.12. Pursuant to § 610.12(a), final container material not containing a mercurial preservative (nonmercurial material) must be tested in each of two media: Fluid Thioglycollate Medium and Soybean-Casein Digest Medium. Final container materials containing a mercurial preservative (mercurial material) must be tested in Fluid Thioglycollate Medium at each of two incubation temperatures. If the nonmercurial material fails in either medium, or the mercurial material fails at either incubation temperature, up to two repeat tests are permitted to rule out the possibility that faulty test procedures are affecting the test results. These repeat tests, pursuant to § 610.12(b), must repeat the procedure for nonmercurial materials in both media, even if the material failed in only one medium. Likewise, the procedure for mercurial materials must be repeated at both incubation temperatures, even if the material failed at only one temperature.

The Commissioner has learned that a number of manufacturers have misinterpreted the procedures for repeat testing and are repeating the test only in the medium or only at the incubation temperature that the material failed to pass. Therefore, the Commissioner is revising paragraph (b) of § 610.12 to make clear that the repeat test must include both media or both incubation temperatures, according to whether the material contains a mercurial preservative.

Also, the provisions of § 610.12(d)(2), regarding final container test samples and volumes for final containers, require that tests be conducted on no less than 20 final containers from each filling of each lot; the fillings are selected to represent all stages of filling from the bulk vessel. If there are more than 2 filling machines, no less than 10 filled containers shall be tested from each filling machine. It is the Commissioner's intention that the prescribed number of samples be used for each test medium or for each incubation temperature, whichever is appropriate. However, the Commissioner has learned that a number of manufacturers have been dividing the prescribed number of samples into two groups, one group for each medium or incubation temperature. In view of this misinterpretation, the Commissioner is amending paragraph (d)(2) of § 610.12 to indicate clearly the number and manner in which final container samples are to be used in repeat testing.

4. The additional standards for Poliovirus Vaccine, Live, Oral (21 CFR Part 630, Subpart B), currently require in § 630.17(e)(2) (21 CFR 630.17(e)(2)) that manufacturers of the product submit a 500-milliliter bulk sample of each final monovalent pool to the Director, Bureau of Biologics, Food and Drug Administration, for testing. The additional standards for Mumps Virus Vaccine, Live (21 CFR Part 630, Subpart F), currently require in § 630.56(f)(2) (21 CFR 630.56(f)(2)) that manufacturers of the product submit for testing a total of no less than a 500-milliliter sample of the bulk vaccine. The additional standards for Measles Virus Vaccine, Live, Attenuated (21 CFR Part 630, Subpart D) in § 630.36(h)(2) (21 CFR 630.36(h)(2)) and Rubella Virus Vaccine, Live (21 CFR Part 630, Subpart G) in § 630.66(e)(2) (21 CFR 630.66(e)(2)), require, in part, that for each lot of vaccine manufactured, samples consisting of a total of no less than 120 milliliters in 10-milliter volumes of preclarification bulk vaccine be submitted for testing. The Commissioner has reviewed these provisions and finds that the volume of bulk sample required for submission to FDA exceeds that which is needed to test each product. He has determined that the present requirements are wasteful, unnecessarily increase the cost to FDA in processing, storing, and disposing of samples, and impose an undue hardship on manufacturers. Accordingly, the Commissioner

concludes that the volumes of bulk sample required for submission for testing should be reduced. Therefore, paragraph (e)(2) of § 630.17 is being amended to reduce the amount of bulk sample to be submitted from 500 milliliters to 200 milliliters. Paragraph (f)(2) of § 630.56 is being amended to reduce the amount of bulk sample to be submitted from 500 milliliters to a total of no less than two 25-milliliter volumes. Sections 630.36(h)(2) and 630.66(e)(2), which are being redesignated as §§ 630.36(h)(1)(ii) and 630.66(e)(1)(ii) respectively, are being amended to require a total of no less than two 25-milliliter volumes of sample, rather than 120 milliliters in 10-milliliter volumes as is presently required.

5. Paragraph (f) of § 630.36 *General requirements*, for Measles Virus Vaccine, Live, Attenuated and paragraph (d) of § 630.56 *General requirements*, for Mumps Virus Vaccine, Live, provide that these products may be dried immediately after completion of processing to final bulk material and stored in the dried state. The Director, Bureau of Biologics, Food and Drug Administration, has contacted by telephone all manufacturers of these products and learned that none store these products in the dried state before placement in final containers. Storage in dried bulk form would necessitate reconstituting and drying the product again before it could be completely processed. All manufacturers agreed this would be both impractical and inefficient. Therefore, the Commissioner concludes that paragraph (f) of § 630.36 and paragraph (d) of § 630.56 are superfluous and should be deleted.

6. The additional standards for Measles Virus Vaccine, Live, Attenuated, in § 630.36(h)(2), and Rubella Virus Vaccine, Live, in § 630.66(e)(2) require, in part, that for each lot of vaccine manufactured, frozen samples consisting of no less than 100 milliliters in 10-milliliter volumes of postclarification bulk vaccine be submited to FDA for testing. Similarly, the additional standards for Measles-Smallpox Vaccine, Live, in § 630.86(e)(2) require, in part, that for each lot of vaccine manufactured, frozen samples consisting of no less than one 10-milliliter volume of postclarification bulk measles component be submitted to FDA for testing. These postclarification bulk vaccines are used by FDA for the neurovirulence safety test to confirm the absence of neurotropic properties of the seed strain of the virus used in the manufacture of the vaccine. The neurovirulence safety test, however, is conducted only when the manufacturer introduces a new production seed lot or reestablishes and recertifies the source of cell culture substrate (see 21 CFR 630.30(c)(4), 630.60(e)(3) and 630.80(c)). The requirement that the sample be submited for each lot of vaccine produced is therefore unnecessary and imposes an undue hardship on manufacturers.

Accordingly, the Commissioner is revising and reorganizing §§ 630.36(h)(2), 630.66(e)(2) and 630.86(e)(2) to indicate clearly that samples of postclarification bulk vaccine containing stabilizer but no preservative or adjuvant taken from five consecutive lots of bulks vaccine must be submitted only when a new production seed lot is introduced or when the source of cell culture substrate must be reestablished and recertified.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and the Administrative Procedure Act (secs. 4, 10, 80 Stat. 238, 243, as amended (5 U.S.C. 553, 702 et seq.)), and under authority delegated to the Commissioner (21 CFR 2.120), Subchapter F of Title 21 of the Code of Federal Regulations is amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. Part 600 is amended:

a. In § 600.11 by revising paragraph (b) to read as follows:

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

* * * * * *

(b) *Equipment.* Apparatus for sterilizing equipment and the method of operation shall be such as to insure the destruction of contaminating microorganisms. The effectiveness of the sterilization procedure shall be no less than that achieved by an atained temperature of 121.5° C maintained for 20 minutes by saturated steam or by an attained temperature of 170° C maintained for 2 hours with dry heat. Processing and storage containers, filters, filling apparatus, and other pieces of apparatus and accessory equipment, including pipes and tubing, shall be designed and constructed to permit thorough cleaning and, where possible, inspection for cleanliness. All surfaces that come in contact with products shall be clean and free of surface solids, leachable contaminants, and other materials that will hasten the deterioration of the product or otherwise render it less suitable for the intended use. For products for which sterility is a factor, equipment shall be sterile, unless sterility of the product is assured by subsequent procedures.

* * * * *

b. By revising § 600.13 to read as follows:

§ 600.13 Retention samples.

Manufacturers shall retain for a period of at least 6 months after the expiration date, unless a different time period is specified in additional standards, a quantity of representative material of each lot of each product, sufficient for examination and testing for safety and potency, except Whole Blood (Human), Cryoprecipitated Antihemophilic Factor (Human), Platelet Concentrate (Human), Red Blood Cells (Human), Single Donor Plasma (Human), Source Plasma (Human), and Allergenic Products prepared to physician's prescription. Samples so retained shall be selected at random from either final container material, or from bulk and final containers, provided they include at least one final container as a final package, or package-equivalent of such filling of each lot of the product as intended for distribution. Such sample material shall be stored at temperatures and under conditions which will maintain the identity and integrity of the product. Samples retained as required in this section shall be in addition to samples of specific products required to be submitted to the Bureau of Biologics. Exceptions may be authorized by the Director, Bureau of Biologics, when the lot yields relatively few final containers and when such lots are prepared by the same method in large number and in close succession.

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

2. Part 610 is amended:

a. In § 610.12 by revising paragraphs (b), (d)(2) and (g)(7) to read as follows:

§ 610.12 Sterility.

* * * * *

(b) *Repeat tests.* If growth appears in any of the test media during testing of either bulk or final container material, the test may be repeated to rule out faulty test procedures as follows:

(1) *Repeat bulk test.* The volume of inoculum to be used for the repeat bulk test shall be as prescribed in paragraph (d)(1) of this section. The repeat test shall be performed using the procedure prescribed in paragraph (a)(1)(i) of this section.

(2) *First repeat final container test.* The number of test samples and the volumes of product used for the first repeat test shall be as prescribed in paragraph (d)(2) of this section. For products that do not contain a mercurial preservative, the repeat test shall be performed, using both Fluid Thioglycollate Medium and Soybean-Casein Digest Medium, following the procedures prescribed in paragraphs (a)(1)(i) and (a)(2), respectively, of this section. If the product contains a mercurial preservative, the repeat test shall be performed using Fluid Thioglycollate Medium and the procedures prescribed in paragraph (a)(1)(i) and (ii) of this section.

(3) *Second repeat final container test.* If growth appears in any of the first repeat final container tests, all tests of the first repeat final container test shall be repeated, provided there was no evidence of growth in any test of the bulk material. The test samples used for the second repeat final container test shall be twice the number used for the first repeat final container test.

* * * * *

(d) * * *

(2) *Final containers.* The sample used for each test medium or each incubation temperature of a test medium for the final container and first repeat final container test shall be no less than 20 final containers from each filling of each lot, selected to represent all stages of filling from the bulk vessel. If the amount of material in the final container is 1.0 milliliter or less, the entire contents shall be tested. If the amount of ma-

terial in the final container is more than 1.0 milliliter, the volume tested shall be the largest single dose recommended by the manufacturer or 1.0 milliliter, whichever is larger, but no more than 10 milliliters of material or the entire contents from a single final container need be tested. If more than 2 filling machines, each with either single or multiple filling stations, are used for filling one lot, no less than 10 filled containers shall be tested from each filling machine for each test medium or each incubation temperature condition, but no more than 100 containers of each lot need be tested. The items tested shall be representative of each filling assembly and shall be selected to represent all stages of the filling operation. (Note exceptions in paragraph (g) of this section.)

* * * * *

(g) * * *

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

* * * * *

b. In § 610.13 by revising paragraph (a) (2), the introductory text of paragraph (b), and paragraph (b) (1) to read as follows:

§ 610.13 Purity.

* * * * *

(a) * * *

(2) *Test results; standard to be met.* The residual moisture and other volatile substances shall not exceed 1 percent except that, (i) they shall not exceed 1.5 percent for BCG Vaccine; (ii) they shall not exceed 2 percent for Measles Virus Vaccine, Live, Attenuated; Measles-Smallpox Vaccine, Live; Rubella Virus Vaccine, Live; and Antihemophilic Factor (Human); (iii) they shall not exceed 3 percent for Modified Plasma (Bovine); Thrombin; Fibrinogen; Streptokinase; and Streptokinase-Streptodornase; and (iv) they shall not exceed 4.5 percent for Antibody to Hepatitis B Surface Antigen for the Reversed Passive Hemagglutination Test.

(b) *Test for pyrogenic substances.* Each lot of any product intended for use by injection shall be tested for pyrogenic substances by intravenous injection into rabbits as provided in paragraph (b) (1) and (2) of this section: *Provided,* That notwithstanding any other provision of Subchapter F of this chapter, the test for pyrogenic substances is not required for the following products: Products containing formed blood elements; Cryoprecipitated Antihemophilic Factor (Human); Single Donor Plasma (Human); Source Plasma (Human); Normal Horse Serum; bacterial, viral, and rickettsial vaccines and antigens; toxoids; toxins; allergenic extracts; venoms; diagnostic substances and trivalent organic arsenicals.

(1) *Test dose.* The test dose for each rabbit shall be at least 3 milliliters per kilogram of body weight of the rabbit and also shall be at least equivalent proportionately, on a body weight basis, to the maximum single human dose recommended, but need not exceed 10 milliliters per kilogram of body weight of the rabbit, except that: (i) Regardless of the human dose recommended, the test dose per kilogram of body weight of each rabbit shall be at least 1 milliliter for immune globulins derived from human blood and at least 30 milligrams for Fibrinogen (Human); (ii) for Streptokinase, Streptokinase-Streptodornase, Aggregated Radio-Iodinated (I^{131}) Albumin (Human), Radio-Chromated (Cr^{51}) Serum Albumin (Human), Radio-Iodinated (I^{125}) Serum Albumin (Human), and Radio-Iodinated (I^{131}) Serum Albumin (Human), the test dose shall be at least equivalent proportionately, on a body weight basis, to the maximum single human dose recommended.

* * * * *

c. In § 610.20 by revising paragraph (a) to read as follows:

§ 610.20 Standard preparations.

* * * * *

(a) *Potency standards.* Potency standards shall be applied in testing for potency all forms of the following:

ANTIBODIES

Botulism Antitoxin, Type A.
Botulism Antitoxin, Type B.
Botulism Antitoxin, Type E.
Diphtheria Antitoxin.
Histolyticus Antitoxin.
Oedematiens Antitoxin.
Perfringens Antitoxin.
Antipertussis Serum.
Antirabies Serum.
Sordellii Antitoxin.
Staphylococcus Antitoxin.
Tetanus Antitoxin.
Vibrion Septique Antitoxin.

ANTIGENS

Diphtheria Toxin for Schick Test.
Pertussis Vaccine.
Tuberculin, Old.
Tuberculin, Purified Protein Derivative.
Typhoid Vaccine.

BLOOD DERIVATIVE

Thrombin.

* * * * *

d. By revising § 610.21 to read as follows:

§ 610.21 Limits of potency.

The potency of the following products shall be not less than that set forth below and products dispensed in the dried state shall represent liquid products having the stated limitations.

ANTIBODIES

Diphtheria Antitoxin, 500 units per milliliter.
Tetanus Antitoxin, 400 units per milliliter.
Tetanus Immune Globulin (Human), 50 units of tetanus antitoxin per milliliter.

ANTIGENS

Pertussis Vaccine, 12 units per total human immunizing dose.
Typhoid Vaccine, 8 units per milliliter.

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

3. Part 630 is amended:

a. In § 630.17 by revising paragraph (e) (2) to read as follows:

§ 630.17 General requirements.

* * * * *

(e) * * *

(2) A 200-milliliter bulk sample of each final monovalent pool having a virus titer of no less than $10^{7.5}$ $TCID_{50}$ per milliliter, except that if the titer is greater, a correspondingly smaller volume may be submitted.

* * * * *

b. In § 630.36 by deleting and reserving paragraph (f) and revising paragraph (h) to read as follows:

§ 630.36 General requirements.

* * * * *

(f) [Reserved]

* * * * *

(h) *Sample and protocols.* The following materials shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Bldg. 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(1) For each lot of vaccine:

(i) A protocol which consists of a summary of the history of the manufacture of the lot, including all results of each test for which test results are requested by the Director, Bureau of Biologics.

(ii) A total of no less than two 25-milliliter volumes in a frozen state (−60° C) of preclarification bulk vaccine containing no preservative or adjuvant.

(iii) A total of no less than 30 containers of the vaccine from each filling of each bulk lot of single-dose containers. A total of no less than six 50-dose containers or ten 10-dose containers of the vaccine from each filling of each bulk lot of multiple-dose containers.

(2) In addition to the requirements of paragraph (h) (1) of this section, whenever a new production seed lot is introduced, or whenever the source of cell culture substrate must be reestablished and recertified, samples consisting of no less than 100 milliliters in 10 milliliter volumes, in a frozen state (−60° C), of postclarification bulk vaccine containing stabilizer but no preservative or adjuvant, taken from each of 5 consecutive lots of the bulk vaccine.

c. In § 630.56 by deleting and reserving paragraph (d) and revising paragraph (f) (2) to read as follows:

§ 630.56 General requirements.

* * * * *

(d) [Reserved]

* * * * *

(f) * * *

(2) A total of no less than two 25-milliliter volumes, in a frozen state

(−60° C), of preclarification bulk vaccine containing no preservative, stabilizer, or adjuvant.

* * * * *

d. In § 630.66 by revising paragraph (e) to read as follows:

§ 630.66 General requirements.

* * * * *

(e) *Samples; protocols; official release.* The following shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Bldg. 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(1) For each lot of vaccine:

(i) A protocol, which consists of a summary of the history of the manufacture of the lot, including all results of each test for which test results are requested by the Director, Bureau of Biologics.

(ii) A total of no less than two 25-milliliter volumes, in a frozen state (−60° C), of preclarification bulk vaccine containing no preservative or adjuvant.

(iii) A total of no less than 30 containers of the vaccine from each filling of each bulk lot of single-dose containers. A total of no less than six 50-dose containers or ten 10-dose containers of the vaccine from each filling of each bulk lot of multiple-dose containers.

(2) In addition to the requirements of paragraph (e)(1) of this section, whenever a new production seed lot is introduced, or whenever the source of cell culture substrate must be reestablished and recertified, samples consisting of no less than 100 milliliters in 10-milliliter volumes, in a frozen state (−60° C), of postclarification bulk vaccine containing stabilizer but no preservative or adjuvant, taken from each of 5 consecutive lots of the bulk vaccine.

(3) Rubella Virus Vaccine, Live shall not be issued by the manufacturer until notification of official release of the lot is received from the Director, Bureau of Biologics.

e. In § 630.86 by revising paragraph (e) to read as follows:

§ 630.86 General requirements.

* * * * *

(e) *Samples; protocols; official release.* The following materials shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Bldg. 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(1) For each lot of vaccine:

(i) A protocol, which consists of a summary of the history of manufacture of each filling, including all results of each test for which test results are requested by the Director, Bureau of Biologics.

(ii) A total of no less than two 25-milliliter volumes, in a frozen state (−60° C), of preclarification bulk measles component containing no preservative or adjuvant.

(iii) A frozen 5-milliliter sample of the smallpox component prior to any dilution or filtration.

(iv) A sample consisting of no less than sixteen 10-dose vials, or twelve 25-dose vials, or ten 50-dose vials of vaccine in final labeled containers, plus sufficient diluent in final labeled containers to reconstitute the vaccine.

(2) In addition to the requirements of paragraph (e)(1) of this section, whenever a new measles production seed lot is introduced, or whenever the source of measles cell culture subtrate must be reestablished and recertified, samples consisting of no less than 100 milliliters in 10-milliliter volumes, in a frozen state (−60° C), of the bulk measles component after clarification and containing stabilizer but no preservative or adjuvant, taken from each of 5 consecutive lots of the bulk vaccine.

(3) Measles-Smallpox Vaccine, Live shall not be issued by the manufacturer until notification of official release of the filling is received from the Director, Bureau of Biologics.

Pursuant to the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the promulgation of this regulation as it is of a minor nature and does not impose an additional duty or burden on any person, but rather relieves unnecessary requirements and clarifies the intent prescribed in the regulations. Comments are nevertheless requested on or before April 12, 1976, and they may justify further modification of these provisions.

Effective date. This regulation shall become effective on March 11, 1976.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).)

Dated: March 4, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-6900 Filed 3-10-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Miscellaneous Changes to Chapter

• Purpose. The purpose of these amendments is to correct certain citations in this chapter so that they refer to current sections of this chapter. •

Chapter I of title 23 of the Code of Federal Regulations is amended as follows:

PART 130—ADVANCE OF FUNDS

§ 130.403 [Amended]

In § 130.403, the words "Volume 7, Chapter 2, Section 7 of the Federal-Aid Highway Program Manual," are amended to read "Part 712, Subpart G of this Chapter."

PART 140—REIMBURSEMENT

§§ 140.603, 140.604, 140.606, 140.607 and 140.802 [Amended]

In § 140.604(c), the words "the Federal-Aid Highway Program Manual Volume 6, Chapter 3, Section 2, Subsection 7" are amended to read "Part 635, Subpart A of this Chapter."

In § 140.604(d), the words "the Federal-Aid Highway Program Manual Volume 6, Chapter 4, Section 1, Subsection 6" are amended to read "Part 635, Subpart A of this Chapter."

In § 140.606, the words "Volume 6, Chapter 4, Section 2, Subsection 8 of the Federal-Aid Highway Program Manual" are amended to read "Part 637, Subpart A of this Chapter."

In § 140.607(a), the words "under paragraph 9" are amended to read "in § 140.608 of this Subpart."

In § 140.603, the words "the Federal-Aid Highway Program Manual Volume 6, Chapter 3, Section 2, Subsection 2" are amended to read "Part 630, Subpart A of this Chapter."

In § 140.802, the words "the Federal-Aid Highway Program Manual Volume 1, Chapter 7, Section 2" are amended to read "Part 170 of this Chapter."

PART 420—PROGRAM MANAGEMENT AND COORDINATION

§ 420.104 [Amended]

In § 420.104(a), the words "Volume 4, Chapter 4, Section 7, paragraph 3" are amended to read "§ 450.200(b) of this Chapter."

PART 642—SECONDARY ROAD PLAN

§ 642.7 [Amended]

In § 642.7(a), the words "23 CFR 1.6" are amended to read "Part 470, Subpart A of this Chapter."

In § 642.7(c), the words "23 CFR 1.8" are amended to read "Part 630, Subpart A of this Chapter."

PART 655—TRAFFIC OPERATIONS

§§ 655.205, 655.506, 655.608 [Amended]

In § 655.205(d)(1), the words "Policy and Procedure Memorandum 21-6.2" are amended to read "Part 635, Subpart B of this Chapter." The footnote accompanying those words is deleted.

In § 655.506(b)(3), the words "Federal-Aid Highway Program Manual, Volume 4, Chapter 4, Section 2" are amended to read "Part 450, Subpart A of this Chapter."

In § 655.506(b)(4), the words "Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 2" are amended to read "Part 771 of this Chapter."

In § 655.506(b)(5), the words "PPM 20-8 (Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 5 and part of 6)" are amended to read "part 790 of this Chapter" and the words "Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 7," are amended to read "Part 795 of this Chapter."

In § 655.608(d), the words "23 CFR 1.22" are amended to read "§ 635.117 of this Chapter."

These amendments are entirely editorial in nature, therefore, no purpose

would be served by following the public rulemaking process.

Issued on: March 3, 1976.

NORBETT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76-6968 Filed 3-10-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-931]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of the Town of Bradenton Beach, Florida, Base Flood Elevations

On January 8, 1976, at 41 FR 1472, the Federal Insurance Administrator published a list of communities with Flood Insurance Rate Maps for portions of the Town of Bradenton Beach, Florida.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Bradenton Beach, Florida. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 125091A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mayor A. K. Leach, P.O. Box 730, Town Hall, Bradenton Beach, Florida 33506.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Bradenton Beach Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Bradenton Beach map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968)), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-6935 Filed 3-10-76;8:45 am]

[Docket No. FI-932]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of the Town of Longboat Key, Florida, Base Flood Elevations

On January 8, 1976, at 41 FR 1473, the Federal Insurance Administrator published a list of communities with Flood Insurance Rate Maps for portions of the Town of Longboat Key, Florida.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Longboat Key, Florida. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 125126A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. G. Wayne Allgire, Town Manager, Box 107, Town Hall, Longboat Key, Florida 33548

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Longboat Key Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Longboat Key map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-6936 Filed 3-10-76;8:45 am]

[Docket No. FI-933]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Sarasota County, Florida, Base Flood Elevations

On January 8, 1976, at 41 FR 1473, the Federal Insurance Administrator published a list of communities with Flood Insurance Rate Maps for portions of Sarasota County, Florida.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Sarasota County, Florida. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.